

**United States
Securities and Exchange Commission**
Washington, D.C. 20549

FORM 20-F

(Mark One)

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) OR (g) OF THE SECURITIES EXCHANGE ACT OF 1934

OR

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

For the fiscal year ended: December 31, 2008

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

Commission file number: 000-29714

ICON public limited company

(Exact name of Registrant as specified in its charter)

Ireland

(Jurisdiction of incorporation or organization)

South County Business Park, Leopardstown, Dublin 18, Ireland.

(Address of principal executive offices)

Ciaran Murray, CFO
South County Business Park Leopardstown, Dublin 18, Ireland.
Ciaran.Murray@iconplc.com
0011-353-1-291-2000

(Name, telephone number, email and/or facsimile number and address of Company contact person)

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

Title of each class	Name of exchange on which registered
American Depository Shares, representing Ordinary Shares, par value €0.06 each Ordinary Shares, par value €0.06 each	NASDAQ Global Select Market

Securities registered or to be registered pursuant to Section 12(g) of the Act:

Title of each class

None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:

None

(Title of Class)

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report:
58,518,195 Ordinary Shares.

Indicate by check mark if the registrant is a well-known seasoned issuer, as determined in Rule 405 of the Securities Act.

Yes x

No o

If this report is an annual or transition report, indicate by check mark if registrant is not required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

Yes o

No x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days:

Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer

Large Accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP International Financial Reporting Standards as Other
issued
by the International Accounting Standards Board

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17 Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act)

Yes No

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General

As used herein, “ICON plc”, “ICON”, the “Company” and “we” or “us” refer to ICON public limited company and its consolidated subsidiaries, unless the context requires otherwise.

Unless otherwise indicated, ICON plc’s financial statements and other financial data contained in this Form 20-F are presented in United States dollars (“\$”) and are prepared in accordance with generally accepted accounting principles in the United States (“U.S. GAAP”).

In this Form 20-F, references to “U.S. dollars”, “U.S.\$” or “\$” are to the lawful currency of the United States, references to “pounds sterling”, “sterling”, “£”, “pence” or “p” are to the lawful currency of the United Kingdom, references to “Euro” or “€” are to the European single currency adopted by sixteen members of the European Union (including the Republic of Ireland, France, Germany, Spain, Italy, Finland and the Netherlands). ICON publishes its consolidated financial statements in U.S. dollars.

On July 21, 2008, the Company’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on August 8, 2008 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on August 11, 2008, to Ordinary Shareholders and on August 12, 2008, to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on August 13, 2008. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

On September 29, 2006, ICON’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on October 13, 2006 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on October 16, 2006, to ordinary shareholders and on October 23, 2006 to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on October 24, 2006. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

Cautionary Statement

Statements included herein which are not historical facts are forward looking statements. Such forward looking statements are made pursuant to the safe harbor provisions of the U.S. Private Securities Litigation Reform Act of 1995 (the “PSLRA”). The forward looking statements involve a number of risks and uncertainties and are subject to change at any time. In the event such risks or uncertainties materialize, our results could be materially affected. The risks and uncertainties include, but are not limited to, dependence on the pharmaceutical industry and certain clients, the need to regularly win projects and then to execute them efficiently, the challenges presented by rapid growth, competition and the continuing consolidation of the industry, the dependence on certain key executives and other factors identified in the Company’s Securities and Exchange Commission filings. The Company has no obligation under the PSLRA to update any forward looking statements and does not intend to do so.

Part I

Item 1. Identity of Directors, Senior Management and Advisors.

Not applicable.

Item 2. Offer Statistics and Expected Timetable.

Not applicable.

Item 3. Key Information.

Selected Historical Consolidated Financial Data for ICON plc

The following selected financial data set forth below are derived from ICON's consolidated financial statements and should be read in conjunction with, and are qualified by reference to, Item 5 "Operating and Financial Review and Prospects" and ICON's consolidated financial statements and related notes thereto included elsewhere in this Form 20-F.

	Year ended May 31, 2004	Year ended May 31, 2005	7 month Period ended December 31, 2005	Year ended December 31, 2006	Year ended December 31, 2007	Year ended December 31, 2008
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(in thousands, except share and per share data)

Statement of Operations Data:

Gross revenue	\$ 443,875	\$ 469,583	\$ 275,586	\$ 649,826	\$ 867,473	\$ 1,209,451
Reimbursable expenses (1)	(146,952)	(142,925)	(73,636)	(194,229)	(236,751)	(344,203)
Net revenue	296,923	326,658	201,950	455,597	630,722	865,248
Costs and expenses:						
Direct costs	162,562	179,661	114,004	256,263	354,479	489,238
Selling, general and administrative	88,807	103,784	62,276	136,569	187,993	248,778
Depreciation and amortization	11,171	13,331	8,094	14,949	19,008	27,728
Share based compensation (2)	—	—	6,024	—	—	—
Other charges (4)	—	11,275	—	—	—	—
Total costs and expenses	262,540	308,051	190,398	407,781	561,480	765,744
Income from operations	34,383	18,607	11,552	47,816	69,242	99,504
Net interest income / (expense)	288	979	1,272	3,640	2,738	(1,224)
Income before provision for income taxes	34,671	19,586	12,824	51,456	71,980	98,280
Provision for income taxes	(8,929)	(5,852)	(5,396)	(12,924)	(15,830)	(19,967)
Minority interest	—	(189)	(10)	(228)	(187)	(193)
Net income	\$ 25,742	\$ 13,545	\$ 7,418	\$ 38,304	\$ 55,963	\$ 78,120

Net income per ordinary share (3):

Basic	\$ 0.49	\$ 0.24	\$ 0.13	\$ 0.68	\$ 0.97	\$ 1.34
Diluted	\$ 0.47	\$ 0.24	\$ 0.13	\$ 0.66	\$ 0.94	\$ 1.30

Weighted average number of ordinary shares outstanding:

Basic	53,070,124	55,440,812	55,880,424	56,629,970	57,410,544	58,245,240
Diluted	54,812,652	56,613,780	56,990,168	57,726,668	59,495,928	60,221,587

	As of May 31,			As of December 31,		
	2004	2005	2005	2006	2007	2008
	(in thousands)					
Balance Sheet Data:						
Cash and cash equivalents	\$ 55,678	\$ 56,341	\$ 59,509	\$ 63,039	\$ 76,881	\$ 58,378
Short term investments	23,085	22,034	22,809	39,822	41,752	42,726
Working capital	113,813	125,288	132,312	160,321	193,271	185,957
Total assets	335,323	347,553	349,067	476,341	693,138	867,285
Total debt	—	—	4,856	5,000	94,829	105,379
Long term government grants	1,411	1,257	1,160	1,170	1,179	1,386
Shareholders' equity	\$ 216,760	\$ 233,066	\$ 241,558	\$ 302,738	\$ 388,400	\$ 456,366

- (1) Reimbursable expenses are comprised of investigator payments and certain other costs reimbursed by clients under terms specific to each of ICON's contracts. See Note 2 (d) to the Audited Consolidated Financial Statements.
- (2) \$6.0 million share-based compensation expensed during the period ended December 31, 2005, was recorded in relation to the transfer of 576,000 shares from the founders of the Company to the Chief Executive Officer.
- (3) Net income per ordinary share is based on the weighted average number of outstanding ordinary shares. Diluted net income per share includes potential ordinary shares from the exercise of options.
- (4) Other operating charges of \$11.3 million were recorded in the year ended May 31, 2005. These charges related to the recognition of an impairment in the carrying value of our investment in the central laboratory, a write-down of certain fixed assets and the lease termination and exit costs associated with the consolidation of some of our office facilities in the US.

Risk Factors

We are dependent on the continued outsourcing of research and development by the pharmaceutical, biotechnology and medical device industries.

We are dependent upon the ability and willingness of the pharmaceutical, biotechnology and medical device companies to continue to spend on research and development and to outsource the services that we provide. We are therefore subject to risks, uncertainties and trends that affect companies in these industries. We have benefited to date from the tendency of pharmaceutical, biotechnology and medical device companies to outsource clinical research projects. Any downturn in these industries or reduction in spending or outsourcing could adversely affect our business. For example, if these companies expanded upon their in-house clinical or development capabilities, they would be less likely to utilize our services. In addition, if governmental regulations were changed, they could affect the ability of our clients to operate profitably, which may lead to a decrease in research spending and therefore this could have a material adverse effect on our business.

The current economic and financial downturn may have a material adverse effect on our results.

Many of the world's largest economies and financial institutions currently face extreme financial difficulty, including a decline in asset prices, liquidity problems and limited availability of credit. It is uncertain how long this downturn will last, but many countries are concerned that their economies may enter a deep and prolonged recession. Such difficult economic times may have a material adverse effect on our revenues, results of operations, financial condition and ability to raise capital.

We depend on a limited number of clients and a loss of or significant decrease in business from them could affect our business.

We have in the past and may in the future derive a significant portion of our net revenue from a relatively limited number of clients. A loss of, or a significant decrease in business from any one or more of such clients could have a material adverse effect on our business. During the year ended December 31, 2008, 29% of our net revenue was derived from our top five clients. During 2008, no client contributed more than 10% of net revenues. During the year ended December 31, 2007, 30% of our net revenue was derived from our top five clients. During 2007, no client contributed more than 10% of net revenues. During the year ended December 31, 2006, 35% of our net revenue was derived from our top five clients. During 2006, no client contributed more than 10% of net revenues.

If our clients discontinue using our services, or cancel or discontinue projects, our revenue will be adversely affected and we may not receive their business in the future or may not be able to attract new clients.

Our clients may discontinue using our services completely or cancel some projects either without notice or upon short notice. The termination or delay of a large contract or of multiple contracts could have a material adverse effect on our revenue and profitability. Historically, clients have cancelled or discontinued projects and may in the future cancel their contracts with us for reasons including:

- the failure of products being tested to satisfy safety or efficacy requirements;
- unexpected or undesired clinical results of the product;
- a decision that a particular study is no longer necessary;
- poor project performance, insufficient patient enrollment or investigator recruitment; or
- production problems resulting in shortages of the drug.

If we lose clients, we may not be able to attract new ones, and if we lose individual projects, we may not be able to replace them.

We compete against many companies and research institutions that may be larger or more efficient than we are. This may preclude us from being given the opportunity to bid, or may prevent us from being able to competitively bid on and win new contracts.

The market for Contract Research Organizations (“CROs”) is highly competitive. We primarily compete against in-house departments of pharmaceutical companies and other CROs including Covance Inc., i3 Research (United Health Group Incorporated), Kendle International Inc., MDS Inc., Omnicare Inc., PAREXEL International Corporation, Pharmaceutical Product Development Inc., PharmaNet Development Group Inc., PRA International Inc. and Quintiles Transnational Corporation. Some of these competitors have substantially greater capital, research and development capabilities and human resources than we do. As a result, they may be selected as preferred vendors of our clients or potential clients for all projects or for significant projects, or they may be able to price projects more competitively than us. Any of these factors may prevent us from getting the opportunity to bid on new projects or prevent us from being competitive in bidding on new contracts.

Our quarterly results are dependent upon a number of factors and can fluctuate from quarter to quarter.

Our results of operations in any quarter can fluctuate depending upon, among other things, the number and scope of ongoing client projects, the commencement, postponement, variation and cancellation or termination of projects in the quarter, the mix of revenue, cost overruns, employee hiring and other factors. Our net revenue in any period is directly related to the number of employees and the percentage of these employees who were working on projects and billed to the client during that period. We may be unable to compensate for periods of underutilization during one part of a fiscal period by augmenting revenues during another part of that period. We believe that operating results for any particular quarter are not necessarily a meaningful indication of future results.

Approximately 71% of our net revenue is earned from long-term fixed-fee contracts. We would lose money in performing these contracts if the costs of performance exceed the fixed fees for these projects.

Approximately 71% of our net revenue is earned from long-term fixed fee contracts. Revenues on these contracts are agreed on contract initiation between the Company and the customer and are based on estimated time inputs to the contract. Factors considered in estimating time requirements include the complexity of the study, the number of geographical sites where trials are to be conducted and the number of patients to be recruited at each site. The Company regularly reviews the estimated hours on each contract to determine if the budget accurately reflects the agreed tasks to be performed taking into account the state of progress at the time of review. The Company further ensures that changes in scope are appropriately monitored and change orders for additional revenue are promptly negotiated for the additional work. If we were to fail to recognise and negotiate change orders for changes in the resources required or the scope of the work to be performed the Company could lose money if the costs of performance of these contracts exceeded their fixed fees.

If we fail to attract or retain qualified staff, our performance may suffer.

Our business, future success and ability to expand operations depends upon our ability to attract, hire, train and retain qualified professional, scientific and technical operating staff. We compete for qualified professionals with other CROs, temporary staffing agencies and the in-house departments of pharmaceutical, biotechnology and medical device companies. Although we have not had any difficulty attracting or retaining qualified staff in the past, there is no guarantee that we will be able to continue to attract a sufficient number of clinical research professionals at an acceptable cost.

We are highly dependent on information technology. If our systems fail or are unreliable our operations may be adversely impacted.

The efficient operation of our business depends on our information technology infrastructure and our management information systems. Our information technology infrastructure includes both third party solutions and applications designed and maintained internally. Since our Company operates on multiple platforms, the failure of our information technology infrastructure and/or our management information systems to perform could severely disrupt our business and adversely affect our results of operation. In addition, our information technology infrastructure and/or our management information systems are vulnerable to damage or interruption from natural or man-made disasters, terrorist attacks, computer viruses or hackers, power loss, or other computer systems, Internet telecommunications or data network failures. Any such interruption could adversely affect our business and results of operations.

Failure to comply with the regulations of the U.S. Food and Drug Administration and other regulatory authorities could result in substantial penalties and/or loss of business.

The U.S. Food and Drug Administration, or FDA, and other regulatory authorities inspect us from time to time to ensure that we comply with their regulations and guidelines, including environmental and health and safety matters. In addition, we must comply with the applicable regulatory requirements governing the conduct of clinical trials in all countries in which we operate. If we fail to comply with any of these requirements we could suffer:

- the termination of any research;
- the disqualification of data;
- the denial of the right to conduct business;
- criminal penalties; and
- other enforcement actions.

Our exposure to exchange rate fluctuations could adversely affect our results of operations.

We derived approximately 56% of our consolidated net revenue in the year ended December 31, 2008, from our operations outside of the United States. Our financial statements are presented in U.S. dollars. Accordingly, changes in exchange rates between the U.S. dollar and other currencies in which we report local results, including the pound sterling and the euro, will affect the translation of a subsidiary's financial results into U.S. dollars for purposes of reporting our consolidated financial results.

In addition, our contracts with our clients are sometimes denominated in currencies other than the currency in which we incur expenses related to such contracts. Where expenses are incurred in currencies other than those in which contracts are priced, fluctuations in the relative value of those currencies could have a material adverse effect on our results of operations. This risk is partially mitigated by clauses in certain of our contracts which allow for price renegotiation with our clients if changes in the relative value of those currencies exceed predetermined tolerances. We regularly review our currency exchange exposure and on occasion hedge a portion of this exposure using forward exchange contracts.

Liability claims brought against us could result in payment of substantial damages to plaintiffs and decrease our profitability.

We contract with physicians who serve as investigators in conducting clinical trials to test new drugs on their patients. This testing creates the risk of liability for personal injury to or death of the patients. Although investigators are generally required by law to maintain their own liability insurance, we could be named in lawsuits and incur expenses arising from any professional malpractice actions against the investigators with whom we contract. To date, we have not been subject to any liability claims that are expected to have a material effect on us.

Indemnifications provided by our clients against the risk of liability for personal injury to or death of the patients vary from client to client and from trial to trial and may not be sufficient in scope or amount or the providers may not have the financial ability to fulfill their indemnification obligations. Furthermore, we would be liable for our own negligence and that of our employees.

In addition, we maintain an appropriate level of worldwide Professional Liability/Error and Omissions Insurance. The amount of coverage we maintain depends upon the nature of the trial. We may in the future be unable to maintain or continue our current insurance coverage on the same or similar terms. If we are liable for a claim that is beyond the level of insurance coverage, we may be responsible for paying all or part of any award.

We may lose business opportunities as a result of health care reform and the expansion of managed care organizations.

Numerous governments, including the U.S. government and governments outside of the U.S., have undertaken efforts to control growing health care costs through legislation, regulation and voluntary agreements with medical care providers and drug companies. If these efforts are successful, pharmaceutical, biotechnology and medical device companies may react by spending less on research and development and therefore this could have a material adverse effect on our business.

For instance, in the past the U.S. Congress has entertained several comprehensive healthcare reform proposals. The proposals were generally intended to expand healthcare coverage for the uninsured and reduce the growth of total healthcare expenditures. While the U.S. Congress has not yet adopted any comprehensive reform proposals, members of Congress may raise similar proposals in the future. We are unable to predict the likelihood that healthcare reform proposals will be enacted into law.

In addition to healthcare reform proposals, the expansion of managed care organizations in the healthcare market may result in reduced spending on research and development. Managed care organizations' efforts to cut costs by limiting expenditures on pharmaceuticals and medical devices could result in pharmaceutical, biotechnology and medical device companies spending less on research and development. If this were to occur, we would have fewer business opportunities and our revenues could decrease, possibly materially.

We may lose business as a result of changes in the regulatory environment

Various regulatory bodies throughout the world may enact legislation which could introduce changes to the regulatory environment for drug development and research. The adoption and implementation of such legislation is difficult to predict and therefore could have a material adverse effect on our business.

We may not be able to successfully develop and market or acquire new services.

We may seek to develop and market new services that complement or expand our existing business or expand our service offerings through acquisition. If we are unable to develop new services and/or create demand for those newly developed services, or expand our service offerings through acquisition, our future business, results of operations, financial condition, and cash flows could be adversely affected.

We rely on third parties for important services.

We depend on third parties to provide us with services critical to our business. The failure of any of these third parties to adequately provide the required services could have a material adverse effect on our business.

We may make acquisitions in the future, which may lead to disruptions to our ongoing business.

We have made a number of acquisitions and will continue to review new acquisition opportunities. If we are unable to successfully integrate an acquired company, the acquisition could lead to disruptions to the business. The success of an acquisition will depend upon, among other things, our ability to:

- assimilate the operations and services or products of the acquired company;
- integrate acquired personnel;
- retain and motivate key employees;
- retain customers; and
- minimize the diversion of management's attention from other business concerns.

Acquisitions of foreign companies may also involve additional risks, including assimilating differences in foreign business practices and overcoming language and cultural barriers.

In the event that the operations of an acquired business do not meet our performance expectations, we may have to restructure the acquired business or write-off the value of some or all of the assets of the acquired business.

Failure to raise sufficient finance may affect our ability to sustain future development of the business

We have financed our operations and growth since inception primarily with cash flows from operations, net proceeds of \$49.1 million raised in our initial public offering in May 1998, net proceeds of \$44.3 million raised in our public offering in August 2003 and net borrowings of \$105.4 million. Although we have not had difficulty in raising finance in the past, there is no guarantee that we will be able to raise sufficient capital, at an appropriate cost to the Company, to sustain future development of the business.

We rely on our interactive voice response systems to provide accurate information regarding the randomization of patients and the dosage required for patients enrolled in the trials.

We develop and maintain computer run interactive voice response systems to automatically manage the randomization of patients in trials, assign the study drug, and adjust the dosage when required for patients enrolled in trials we support. An error in the design, programming or validation of these systems could lead to inappropriate assignment or dosing of patients which could give rise to patient safety issues, invalidation of the trial, liability claims against the Company or all three.

We rely on various control measures to mitigate the risk of a serious adverse event resulting from healthy volunteer Phase I trials.

We conduct healthy volunteer Phase I trials including first-into-man trials for new clinical entities in the UK and the US. Due to the experimental nature of these studies, serious adverse events may arise. We mitigate such events by following Good Clinical Practice and ensuring appropriately trained and experienced clinical physicians are managing these trials and that internal Standard Operating Procedures and client protocols are rigorously adhered to. We also ensure that a signed contract is in place with the client in advance of clinical dosing with appropriate indemnifications and insurance coverage. We maintain our own no-faults clinical trial insurance. Following our internal review and submission, an Independent Ethics committee approves the study protocol and appropriate approval is obtained from the relevant regulatory body.

Item 4. Information on the Company.

General

We are a contract research organization (“CRO”), providing outsourced development services on a global basis to the pharmaceutical, biotechnology and medical device industries. We specialize in the strategic development, management and analysis of programs that support Clinical Development - from compound selection to Phase I-IV clinical studies.

In a highly fragmented industry, we are one of a small number of companies with the capability and expertise to conduct clinical trials in all major therapeutic areas on a global basis. At December 31, 2008, we had 6,975 employees, in 71 locations in 38 countries, providing Phase I - IV Clinical Trial Management, Drug Development Support Services, Data Management and Biostatistical, Central Laboratory and Imaging Services. We have the operational flexibility to provide development services on a stand-alone basis or as part of an integrated “full service” solution.

Headquartered in Dublin, Ireland, we began operations in 1990 and have expanded our business through internal growth and strategic acquisitions. For the year ended December 31, 2008, we derived approximately 43.8%, 47.8 % and 8.4 % of our net revenue in the United States, Europe and Rest of World, respectively.

During the year ended December 31, 2008, we commenced operations in Edinburgh, Scotland; Bogota, Colombia and New Dehli, India.

On February 11, 2008, the Company acquired 100% of the common stock of Healthcare Discoveries Inc., for an initial cash consideration of \$10.9 million, excluding costs of acquisition. Healthcare Discoveries, located in San Antonio, Texas, is engaged in the provision of Phase I clinical trial management services. Certain performance milestones were built into the acquisition agreement requiring payment of additional consideration of up to \$10.0 million if these milestones were achieved during the year ended December 31, 2008. No amounts have been accrued at December 31, 2008, as the milestones have not been achieved.

On November 14, 2008, the Company acquired 100% of the common stock of Prevalere Life Sciences Inc. (“Prevalere”), for an initial cash consideration of \$36.8 million, excluding costs of acquisition. Prevalere, located in Whitesboro, New York, is a leading provider of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies. Certain performance milestones were built into the acquisition agreement requiring potential additional consideration of up to \$8.2 million if these milestones are achieved during the years ended December 31, 2008 and 2009. Additional consideration of \$5.0 million has been accrued at December 31, 2008, in respect of the milestones for the year ended December 31, 2008. No amounts have been accrued for additional consideration potentially payable in respect of the milestones for the year ended December 31, 2009.

On July 1, 2004, the Company acquired 70% of the common stock of Beacon Biosciences Inc. (“Beacon”), a leading specialist CRO, which provides a range of medical imaging services to the pharmaceutical, biotechnology and medical device industries, for an initial cash consideration of \$9.9 million, excluding costs of acquisition. On December 31, 2008, the remaining 30% of the common stock was acquired by the Company for \$17.4 million, excluding costs of acquisition. Certain performance milestones were built into the acquisition agreement for the remaining 30% of Beacon requiring potential additional consideration of up to \$3.0 million if these milestones are achieved during the year ended December 31, 2009. At December 31, 2008, no amounts have been accrued in respect of the potential additional consideration.

On July 9, 2007, ICON plc entered into a five year committed multi-currency facility agreement for €35 million (\$48.9 million) with The Governor and Company of the Bank of Ireland. Our obligations under the facility are secured by certain composite guarantees, indemnities and pledges in favor of the bank. The facility bears interest at an annual rate equal to EURIBOR plus a margin. On July 10, 2007, the Company drew down €29.5 million (\$41.2 million) of the facility to fund the acquisition of DOCS International. On October 15, 2007, the remaining €5.5 million (\$7.7 million) of the facility was drawn down to fund expenditure on the expansion of the Company’s facility in Dublin, Republic of Ireland.

On January 2, 2009, an additional four year committed credit facility was negotiated with The Governor and Company of the Bank of Ireland for \$25 million. The facility bears interest at LIBOR plus a margin and is secured by certain composite guarantees, indemnities and pledges in favor of the bank.

On October 17, 2007, an uncommitted credit facility was negotiated with Allied Irish Banks plc, for €30 million (\$41.9 million). Interest is calculated at the EUR interbank rate plus a margin. The facility is secured by the same composite guarantees and indemnities in place for the Bank of Ireland committed facility. The funds were used to refinance overdraft facilities in place to fund expenditure on the expansion of the Dublin facility. On January 8, 2008, the facility with Allied Irish Banks plc was increased to €50 million (\$69.9 million).

On December 22, 2008, committed credit facilities were negotiated with Allied Irish Bank plc for \$75 million. The facilities comprise a one year Euro facility of approximately €20 million (\$28.0 million), with the balance comprising a three year US dollar facility. The Euro facility bears interest at EURIBOR plus a margin and the US dollar facility bears interest at LIBOR plus a margin. Both facilities are secured by certain composite guarantees and pledges in favour of the bank. These facilities replace the uncommitted facilities negotiated on January 8, 2008. \$28.4 million of these facilities were used to fund the acquisition of Prevalere with the remaining balance used to refinance the previous drawn uncommitted facilities.

On February 4, 2008, an uncommitted credit facility was negotiated with Citibank N.A, for \$30 million. Interest is calculated at the London Interbank Market rate plus a margin. \$12.0 million of this facility was drawn down in February 2008 to fund the acquisition of Healthcare Discoveries. On September 30, 2008, the \$12.0 million previously drawn was repaid in full. At December 31, 2008, this facility remained un-drawn and available to the Company.

The average margin payable on the above mentioned facilities is 1.70 per cent.

On July 21, 2008, the Company’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on August 8, 2008 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on August 11, 2008, to Ordinary Shareholders and on August 12, 2008, to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on August 13, 2008. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

On September 29, 2006, ICON’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on October 13, 2006 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on October 16, 2006, to Ordinary Shareholders and on October 23, 2006, to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on October 24, 2006. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

ICON plc's principal executive office is located at: South County Business Park, Leopardstown, Dublin 18, Republic of Ireland. The contact telephone number of this office is 353 (1) 291 2000.

Industry Overview

The CRO industry provides independent product development services for the pharmaceutical, biotechnology and medical device industries. Companies in these industries outsource product development services to CROs in order to manage the drug development process more efficiently and to cost-effectively maximize the profit potential of both patent-protected and generic products. The CRO industry has evolved since the 1970s from a small number of companies that provided limited clinical services to a larger number of CROs that offer a range of services that encompass the entire research and development process, including pre-clinical development, clinical trials management, clinical data management, study design, biostatistical analysis, post marketing surveillance, central laboratory and regulatory affairs services. CROs are required to provide these services in accordance with good clinical and laboratory practices, as governed by the applicable regulatory authorities.

The CRO industry is highly fragmented, consisting of several hundred small, limited-service providers and a limited number of medium-sized and large CROs with global operations. Although there are few barriers to entry for small, limited-service providers, we believe there are significant barriers to becoming a CRO with global capabilities. Some of these barriers include the infrastructure and experience necessary to serve the global demands of clients, the ability to manage simultaneously complex clinical trials in numerous countries, broad therapeutic expertise and the development and maintenance of the complex information technology systems required to integrate these capabilities. In recent years, the CRO industry has experienced consolidation, resulting in the emergence of a select group of CROs that have the capital, technical resources, integrated global capabilities and expertise to conduct multiple phases of clinical trials on behalf of pharmaceutical, biotechnology and medical device companies. We believe that some large pharmaceutical companies, rather than utilizing many CRO service providers, are selecting a limited number of CROs who are invited to bid for projects. We believe that this trend will further concentrate the market share among CROs with a track record of quality, speed, flexibility, responsiveness, global capabilities and overall development experience and expertise.

New Drug Development – Ethical Pharmaceuticals and Biologics - An Overview

Before a new drug or biologic may be marketed, it must undergo extensive testing and regulatory review in order to determine that it is safe and effective. The following discussion primarily relates to the FDA approval process for such products. Similar procedures must be followed for product development with global regulatory agencies. The stages of this development process are as follows:

Preclinical Research (approximately 1 to 3.5 years). “In vitro” (test tube) and animal studies must be conducted in accordance with applicable regulations to establish the relative toxicity of the drug over a wide range of doses and to detect any potential to cause birth defects or cancer. If results warrant continuing development of the drug or biologic, the manufacturer will file for an Investigational New Drug Application, or IND, which must become effective by the FDA before starting the proposed clinical studies.

Clinical Trials (approximately 3.5 to 6 years).

Phase I (6 months to 1 year). Consists of basic safety and pharmacology testing in 20 to 80 human subjects, usually healthy volunteers, and includes studies to determine how the drug works, if it is safe, how it is affected by other drugs, where it goes in the body, how long it remains active and how it is broken down and eliminated from the body.

Phase II (1 to 2 years). Includes basic efficacy (effectiveness) and dose-range testing in a limited patient population (usually) 100 to 200 patients to help determine the best effective dose, confirm that the drug works as expected, and provide additional safety data. If the Phase II results are satisfactory and no clinical hold is enforced by the FDA, the Sponsor may proceed to Phase III studies.

Phase III (2 to 3 years). Efficacy and safety studies in hundreds or thousands of patients at many investigational sites (hospitals and clinics). These studies can be placebo-controlled trials, in which the new drug is compared with a “sugar pill”, or studies comparing the new drug with one or more drugs with established safety and efficacy profiles in the same therapeutic category.

TIND (may span late Phase II, Phase III, and FDA review). When results from Phase II or Phase III show special promise in the treatment of a serious condition for which existing therapeutic options are limited or of minimal value, the FDA may allow the Sponsor to make the new drug or biologic available to a larger number of patients through the regulated provision of a Treatment Investigational New Drug, or TIND. Although less scientifically rigorous than a controlled clinical trial, a TIND may enroll and collect a substantial amount of data from tens of thousands of patients.

NDA or BLA Preparation and Submission. Upon completion of Phase III trials, the Sponsor assembles the statistically analyzed data from all phases of development into a single large submission along with the Chemistry and Manufacturing and preclinical data and the proposed labeling into the New Drug Application (NDA), or Biologics License Application (BLA) which today comprises, on average, approximately 100,000 pages.

FDA Review & Approval of NDA or BLA (1 to 1.5 years). Data from all phases of development (including a TIND) is scrutinized to confirm that the manufacturer has complied with all applicable regulations and that the drug or biologic is safe and effective for the specific use (or “indication”) under study. The FDA may refuse to accept the NDA or BLA if the Sponsor’s application has certain administrative or content criteria which do not meet FDA standards. The FDA may also deny approval of the drug or biologic product if applicable regulatory requirements are not satisfied.

Post-Marketing Surveillance and Phase IV Studies. Federal regulation requires the Sponsor to collect and periodically report to the FDA additional safety and efficacy data on the drug or biologic for as long as the Sponsor markets it (post-marketing surveillance). If the product is marketed outside the U.S., these reports must include data from all countries in which the drug is sold. Additional studies (Phase IV) may be undertaken after initial approval to find new uses for the drug, to test new dosage formulations, or to confirm selected non-clinical benefits, e.g., increased cost-effectiveness or improved quality of life. Additionally, FDA and other regulatory agencies are requiring Sponsors of marketed drugs or biologics to prepare Risk Management plans which are aimed at assessing areas of product risk and plans for managing such risk should they occur. The FDA Amendment Act of 2007 has imposed additional regulatory requirements on Sponsors which address product safety, to conduct post-marketing surveillance studies and to submit the clinical trial information, including clinical study results, of investigational and marketed products to a databank managed and maintained by the National Institutes of Health. The information is accessible to the public via the worldwide web. This action was taken as a result to increase “public transparency” of Sponsor’s clinical studies and respective clinical results.

Key Trends Affecting the CRO Industry

CROs derive substantially all of their revenue from the research and development expenditures of pharmaceutical, biotechnology and medical device companies. Based on industry surveys and investment analyst research, we estimate that clinical development expenditures outsourced by pharmaceutical and biotechnology companies worldwide in 2007 was approximately \$18 billion. We believe that the following trends create further growth opportunities for global CROs, although there is no assurance that growth will materialize.

Innovation driving new Drug Development activity.

Technologies such as combinational chemistry and high throughput screening, together with improved understanding of disease pathology (driven by scientific advances such as the mapping of the human genome) have greatly increased the number of new drug candidates being investigated in early development and greatly broadened the number of biological mechanisms being targeted by such candidates. Arising from this innovation, funding for research and development, particularly by biotechnology companies, grew strongly in recent years. This led to significant increased activity in both Preclinical and Phase I development which we believe will lead to more treatments in Phase II-III clinical trials. As the number of trials that need to be performed increases, we believe that drug developers will increasingly rely on CROs to manage these trials in order to continue to focus on drug discovery. However, this growth in Preclinical and Phase I development activity in the near term may be impacted by the current global economic downturn and the reduction in the availability of funding for research and development activities, in particular for smaller biotech companies.

Declining productivity within Research and Development programs.

Whilst the total number of compounds that have entered clinical development has risen over the last few years, the number of novel drugs that have successfully been approved for marketing has remained relatively stable. Pharmaceutical and biotechnology companies have responded in a number of ways including looking to extend the product life cycle of existing drugs and initiating programs to drive efficiency in the development process. One example of this has been the efforts to achieve a more seamless transition across development phases, particularly Phase I-III. In parallel regulatory initiatives such as the FDA's "Critical Path" and the emergence of techniques such as adaptive trial design are focused on ensuring unsafe or ineffective drugs are eliminated from the development process earlier, allowing effective treatments to get to patients quicker at potentially reduced development costs.

Pressure to Accelerate Time to Markets; Globalization of the Marketplace.

Reducing product development time maximizes the client's potential period of patent exclusivity, which in turn maximizes potential economic returns. We believe that clients are increasingly using CROs that have the appropriate expertise to improve the speed of product development to assist them in improving economic returns. In addition, applying for regulatory approval in multiple markets and for multiple indications simultaneously, rather than sequentially, reduces product development time and thereby maximizes economic returns. We believe that CROs with global operations and experience in a broad range of therapeutic areas are a key resource to support a global regulatory approval strategy. Alongside this, the increasing need to access pools of "treatment naive" patients is leading to the conduct of clinical trials in new "emerging regions" such as Eastern Europe, Latin America, South America and India. We believe that having access to both traditional and emerging clinical research markets gives global CROs a competitive advantage.

Emergence of the Biotechnology Sector

The nature of the drugs being developed is changing. Biotechnology is enabling the development of targeted drugs with diagnostic tests to determine a priori whether a drug will be effective given a patient's genomic profile. An increasing proportion of research and development ("R&D") expenditure is being spent on the development of highly technical drugs to treat very specific therapeutic areas. Much of this discovery expertise is found in smaller biotechnology firms. We believe that it is to these organizations that the large pharmaceutical companies will look for an increasing proportion of their new drug pipelines. Whether it is through licensing agreements, joint ventures or equity investment, we believe we will see the emergence of more strategic relationships between small discovery firms and the larger pharmaceutical groups. As the majority of these biotechnology companies do not have a clinical development infrastructure, we believe that the services offered by CROs will continue to be in demand from such companies.

Funding of Research and Development Activities of the Biotechnology Sector

The emergence of the Biotechnology sector and the increasing number of highly technical drugs being developed by these companies has resulted in increased funding for research and development in recent years. Much of this funding was aimed at small biotechnology companies who do not derive revenues from the sale of other product lines and are dependent on external funding and investment to support their research activities. The current global downturn has reduced the availability of funding to support research and development activities which may reduce the number of treatments in Phase II-III clinical trials in future years. As many of these companies are dependent on the CRO industry to manage their trials the reduction in funding may impact demand for such activities.

Cost Containment Pressures.

Over the past several years, drug companies have sought more efficient ways of conducting business due to margin pressures stemming from patent expirations, greater acceptance of generic drugs, pricing pressures caused by the impact of managed care, purchasing alliances and regulatory consideration of the economic benefit of new drugs. Consequently, drug companies are centralizing research and development, streamlining their internal structures and outsourcing certain functions to CROs, thereby converting previously fixed costs to variable costs. The CRO industry, by specializing in clinical trials management, is often able to perform the needed services with greater focus and at a lower cost than the client could perform internally.

Increasing Number of Large Long-Term Studies

We believe that to establish competitive claims, to obtain reimbursement authorization from bodies such as the National Institute for Health and Clinical Excellence in the UK, and to encourage drug prescription by physicians in some large and competitive categories, more clients need to conduct outcome studies to demonstrate, for example, that mortality rates are reduced by certain drugs. To verify such outcomes, very large patient numbers are required and they must be monitored over long time periods. We believe that as these types of studies increase there will be a commensurate increase in demand for the services of CROs who have the ability to quickly assemble large patient populations, globally if necessary, and manage this complex process throughout its duration.

A focus on long-term product safety

In the wake of a number of high profile recalls of previously approved drugs, regulatory authorities, such as the FDA and EMEA, are increasingly demanding that sponsors make arrangements to track the long-term safety of their products. The clinical trial approval process can only detect major and common adverse side effects of drugs; less common but no less serious effects may only become apparent after many years of use. As a result, there is an increase in the number of drugs given “conditional approvals” where further ‘post-approval’ studies are being mandated. In addition, prudent sponsors undertake similar studies to detect early warning signs of any potential problems with their products. Such studies may take the form of prospective long-term safety studies, simpler observational studies or registries where patients meeting specific criteria for disease or drug use are followed for long periods to detect any safety issues. CROs are well positioned to perform these studies on behalf of sponsors. Furthermore, a variety of healthcare databases containing medical and prescribing records can be “data mined” to collect patient data from very large populations in support of on-going safety and efficacy assessments. Again, this sort of data management and biostatistical activity is well performed by CROs.

Increasing Regulatory Demands.

We believe that regulatory agencies are becoming more demanding with regard to the data required to support new drug approvals and are seeking more evidence that new drugs are safer and more effective than existing products. As a result, the complexity of clinical trials and the size of regulatory submissions are driving the demand for services provided by CROs.

The ICON Strategy

ICON’s mission is to provide flexible, superior quality, global pharmaceutical development services, that enable clients to expedite development, reduce costs and establish the benefits of treatments that enhance people’s lives.

We provide these development services to clients on a stand-alone basis or as part of an integrated “full service” solution. Our primary approach is to use dedicated teams to achieve optimum results. While we believe that this operating model differentiates us from our competition in the CRO industry and enables us to deliver high quality services to our clients, we do retain the operational flexibility to implement a range of resourcing models to suit client requirements.

Our strategy is to continue to grow by penetrating further our existing client base and adding new clients within the Phase I-IV outsourced development services market; the aim being to ensure we will be considered by every company for every major Phase I – IV project.

We intend to implement our strategy by continuing to deliver high quality services, by increasing our geographic presence, expanding the scale and range of our services and, where appropriate, cross selling these services into clients. As needed, we intend to supplement our internal growth with strategic acquisitions.

- **Continue to Deliver High Quality Services and Customer Satisfaction.** ICON's core competency is project management, built up over the last eighteen years managing complex projects and underpinned by comprehensive and consistent processes which conform to the ISO9001:2000 quality standard.

We have extensive therapeutic and scientific knowledge residing in the organization and the capability to consistently solve the challenges that arise during clinical trials, each of which is the equivalent of a unique scientific study.

We believe our quality processes, extensive experience, customer focus and flexibility allow us to provide consistent high quality, timely and cost effective services. We believe that the resulting customer satisfaction and enhanced reputation in the industry will continue to enable us to penetrate our existing client base and add new clients.

- **Expand Geographic Presence.** In a highly fragmented industry, we are one of a small group of organizations with the capability and expertise to conduct clinical trials on a global basis. We believe that this capability to provide our services globally in most major and developing pharmaceutical markets enhances our ability to compete for new business from large multinational pharmaceutical, biotechnology and medical device companies. We have expanded geographically through the establishment of 71 offices in 38 countries and intend to continue expanding in regions that have the potential to increase our client base or increase our investigator and patient populations. We have most recently been expanding our presence in Eastern Europe and Latin America as well as parts of Asia including India and Japan.
- **Increase Scale and Range of Services.** We seek to enhance our competitive position by increasing the scale and range of our services. We intend to expand our clinical trials, central laboratory, digital imaging, IVRS (interactive voice recognition system), data management, statistical and consulting operations in order to capitalize further on the outsourcing opportunities currently available from our clients. The recent high profile withdrawal of several drugs from the market is also placing the spotlight on drug safety which will lead to greater emphasis, by all involved in drug development, on post-marketing safety monitoring. ICON's acquisition of Healthcare Discoveries and Prevalere have increased our capability in the early phase of clinical development and will enable ICON to offer integrated Phase I/Bioanalytical services to clients.
- **Cross Sell Services.** By building up a full range of development services, ICON can support clients through all stages of their product lifecycle. There are signs that certain client segments are looking to rationalize their supply base down to a small number of CROs who can provide this breadth of service. A core part of our business development strategy is to "cross sell" ICON's service portfolio. By developing and maintaining close relationships with clients, we gain repeat business and achieve lateral penetration of services with the client organization.
- **Strategic acquisitions.** Alongside organic growth, we will continue to seek strategic acquisitions that fall within and are complimentary to our existing service lines.

Services

ICON is a global provider of outsourced development services to the pharmaceutical, biotechnology and medical device industries. We specialize in the strategic development, management and analysis of programs that support Clinical Development - from compound selection to Phase I-IV clinical studies.

Our core Clinical Research business specializes in the planning, management, execution and analysis of Phase I – IV clinical trials, ranging from small studies to complex, multinational projects. Specific clinical research services offered include:

- Investigator Recruitment
- Study Monitoring and Data Collection
- Case Report Form (“CRF”) Preparation
- Patient Safety Monitoring
- Clinical Data Management
- IVR (Interactive Voice Response)
- Medical Reporting
- Patient Registries
- Outcomes Research
- Health Economics
- Strategic Analysis and Data Operations
- Clinical Pharmacology
- Bioanalysis
- Immunoassay development
- Pharmacokinetic and Pharmacodynamic analysis
- Study Protocol Preparation
- Regulatory Consulting
- Product Development Planning
- Strategic Consulting
- Medical Imaging
- Contract Staffing

An important element in monitoring patient safety during a clinical trial is the conduct of various laboratory tests on the patient’s blood, urine and other bodily fluids at appropriate intervals during the trial. The analysis of these samples must be standardized and the results must be promptly transmitted to the investigator. ICON Central Laboratories provides global central laboratory services dedicated exclusively to clinical trials. Specific services offered by ICON Central Laboratories include:

- Sample analyses
- Safety testing
- Microbiology
- Custom flow cytometry
- Electronic transmission of test results

Organizational Structure

<i>Name</i>	<i>Country of incorporation</i>	<i>Group ownership*</i>
ICON Clinical Research Limited	Republic of Ireland	100%
ICON Clinical Research Inc.	USA	100%
Ovation Healthcare Research 2, Inc.	USA	100%
ICON Clinical Research (UK) Limited	United Kingdom	100%
ICON Clinical Research GmbH	Germany	100%
ICON Clinical Research SARL	France	100%
ICON Clinical Research Israel Limited	Israel	100%
ICON Clinical Research Espana S.L.	Spain	100%
ICON Clinical Research Kft	Hungary	100%
ICON Clinical Research S.R.L.	Romania	100%
ICON Clinical Research LLC	Ukraine	100%
ICON Holdings	Republic of Ireland	100%
ICON Holdings Clinical Research International Limited	Republic of Ireland	100%
ICON Clinical Research S.R.O.	Czech Republic	100%
ICON Clinical Research (Canada) Inc.	Canada	100%
ICON Clinical Research Pty Limited	Australia	100%
ICON Clinical Research (New Zealand) Limited	New Zealand	100%
ICON Japan K.K.	Japan	100%
ICON Clinical Research Pte. Limited	Singapore	100%
ICON Clinical Research Korea Yuhan Hoesa	Korea	100%
ICON Clinical Research India Private Limited	India	100%
ICON Clinical Research S.A.	Argentina	100%
ICON Pesquisas Clinicas LTDA	Brazil	100%
ICON Clinical Research México, S.A. de C.V.	Mexico	100%
ICON Chile Limitada	Chile	100%
ICON Clinical Research Peru SA	Peru	100%
ICON Clinical Research Sucursal Colombia	Colombia	100%
ICON Development Solutions Limited	UK	100%
ICON Contracting Solutions, Inc.	USA	100%
DOCS International BV	Netherlands	100%
ICON Development Solutions Inc.	USA	100%
ICON Central Laboratories Inc.	USA	100%
Beacon Bioscience, Inc.	USA	100%
Healthcare Discoveries Inc	USA	100%
Prevalere Life Sciences Inc	USA	100%

* All shareholdings comprise ordinary shares.

Information Systems

Our information technology strategy is built around deploying IT systems to enable the delivery of our business services in a global environment. The focus is to provide ease of access to information for our staff and clients globally. Our current information systems are built on open standards and leading commercial business applications from vendors including Microsoft, Oracle, EMC, BEA, Phase Forward and Medidata. IT expenditure is authorized by strict IT Governance policies requiring senior level approval of all strategic IT expenditure. All critical business systems are formally delivered following a structured project management and systems delivery life cycle approach. Critical clinical information systems, which manage clinical data, are validated in accordance with FDA regulations and those of other equivalent regulatory bodies throughout the world.

In Clinical Operations, we have deployed a suite of software applications that assist in the management and tracking of our clinical trials activities. These software applications are both internally developed and commercially available applications from leading vendors in the industry. These include a clinical trials management application that tracks all relevant data in a trial and automates all management and reporting processes. In our Data Management function, we have deployed leading clinical data management solutions including Electronic Data Capture (EDC) solutions from leading industry vendors. Our state of the art workflow technology allows us to process clinical trials data seamlessly throughout the Company. We have also developed an interactive voice response system to increase the efficiency of clinical trials. This system provides features such as centralized patient randomization, drug inventory management, patient diary collection and provides our clients with a fully flexible data retrieval solution which can be utilized via telephone, internet browser or a WAP enabled device.

Recognizing that each client has its own requirements and systems, we seek to ensure an entirely flexible approach to client needs. An example of this flexibility is in the provision of portal solutions that allows clients access to study related information via a secure web based environment. We also provide secure remote access to client systems for clients who require us to utilize their internal platforms.

ICON's strategy of using technology to enhance our global processes can be seen in our deployment of a global SOP Document Management system and a WEB based training delivery solution.

In our central laboratory, we utilize a comprehensive suite of software, including a laboratory information management system (LIMS), a kit/sample management system and a web interface system to allow clients to review results online.

Our IT systems are operated from two centralized hubs in Philadelphia and Dublin. Other offices are linked to these hubs through a resilient network that is managed by a tier one global telecommunications provider. Traveling staff can also access all systems via secure remote dial up facilities. A global corporate intranet portal provides access to all authorized data and applications for our internal staff as well as providing an internal platform for company wide communication.

Sales and Marketing

Our global sales and marketing strategy is to focus our business development efforts on pharmaceutical, biotechnology and medical device companies whose development projects are advancing. By developing and maintaining close relationships with our clients, we gain repeat business, can leverage a full service portfolio and achieve lateral penetration into other therapeutic divisions where applicable. Simultaneously, we are actively establishing new client relationships.

While our sales and marketing activities are carried out locally by executives in each of the major locations, the sales and marketing process is coordinated centrally to ensure a consistent and differentiated market positioning for ICON and ongoing development of the ICON brand. In addition, all our business development professionals, senior executives and project team leaders share responsibility for the maintenance of key client relationships and business development activities.

Clients

In the year ended December 31, 2008, revenue was earned from over 400 clients, including all of the top 20 pharmaceutical companies as ranked by 2007 revenues.

We have in the past and may in the future derive a significant portion of our net revenue from a relatively limited number of major projects or clients. During the year ended December 31, 2008, 29% of our net revenue was derived from our top five clients and no one client contributed more than 10% of net revenues. During the year ended December 31, 2007, 30% of our net revenue was derived from our top five clients and no one client contributed more than 10% of net revenues. During the year ended December 31, 2006, 35% of our net revenue was derived from our top five clients and no one client contributed more than 10% of net revenues. We believe that the importance of certain clients reflects our success in penetrating our client base. The loss of, or a significant decrease in business from one or more of these key clients could result in a material adverse effect.

Contractual Arrangements

We are generally awarded contracts based upon our response to requests for proposals received from pharmaceutical, biotechnology and medical device industries.

Most of our revenues are earned from contracts which are fixed price, based on certain activities and performance specifications. Payment terms usually provide either for payments based on the achievement of certain identified milestones or activity levels or monthly payments according to a fixed payment schedule over the life of the contract. Where clients request changes in the scope of a trial or in the services to be provided by us, a change order or amendment is issued often resulting in additional revenues for us. We also contract on a “fee-for-service,” or “time and materials” basis, but this accounts for a small portion of overall project activities.

Contract terms may range from several weeks to several years depending on the nature of the work to be performed. In most cases, a portion of the contract fee, typically 10% to 20%, is paid at the time the study or trial is started. The balance of the contract fee payable is generally payable in installments over the study or trial duration and may be based on the achievement of certain performance targets or “milestones” or, to a lesser extent, on a fixed monthly payment schedule. For instance, installment payments may be based on patient enrollment or delivery of the database. Reimbursable expenses are typically estimated and budgeted within the contract and invoiced on a monthly basis. Reimbursable expenses include payments to investigators, travel and accommodation costs and various other direct costs incurred in the course of the clinical trial which are fully reimbursable by the client.

Most of our contracts are terminable immediately by the client with justifiable cause or with 30 to 90 days notice without cause. In the event of termination, we are entitled to all sums owed for work performed through the notice of termination and certain costs associated with termination of the study. Termination or delay in the performance of a contract occurs for various reasons, including, but not limited to, unexpected or undesired results, production problems resulting in shortages of the drug, adverse patient reactions to the drug, the client’s decision to de-emphasize a particular trial or inadequate patient enrollment or investigator recruitment.

Backlog

Our backlog consists of potential net revenue yet to be earned from projects awarded by clients.

At December 31, 2008, we had a backlog of approximately \$1.7 billion, compared with approximately \$1.3 billion at December 31, 2007. We believe that our backlog as of any date is not necessarily a meaningful predictor of future results, due to the potential for cancellation or delay of the projects underlying the backlog, and no assurances can be given that we will be able to realize this backlog as net revenue.

Competition

The CRO industry is highly fragmented, consisting of several hundred small, limited-service providers and a limited number of medium-sized and large CROs with global operations. We primarily compete against in-house departments of pharmaceutical companies and other CROs with global operations. Some of these competitors have substantially greater capital, technical and other resources than us. CROs generally compete on the basis of previous experience, the quality of contract research, the ability to organize and manage large-scale trials on a global basis, the ability to manage large and complex medical databases, the ability to provide statistical and regulatory services, the ability to recruit suitable investigators, the ability to integrate information technology with systems to improve the efficiency of contract research, an international presence with strategically located facilities, financial viability, medical and scientific expertise in specific therapeutic areas and price. We believe that we compete favorably in these areas. Our principal CRO competitors are Covance Inc., i3 Research (United Health Group Incorporated), Kendle International Inc., MDS Inc., Omnicare Inc., PAREXEL International Corporation, Pharmaceutical Product Development Inc., PharmaNet Development Group Inc., PRA International Inc. and Quintiles Transnational Corporation. The trend toward CRO industry consolidation has resulted in heightened competition among the larger CROs for clients and acquisition candidates.

Government Regulation

Regulation of Clinical Trials

The clinical investigation of new drugs is highly regulated by government agencies. The standard for the conduct of clinical research and development studies is Good Clinical Practice, which stipulates procedures designed to ensure the quality and integrity of data obtained from clinical testing and to protect the rights and safety of clinical subjects.

Regulatory authorities, including the FDA, have promulgated regulations and guidelines that pertain to applications to initiate trials of products, the approval and conduct of studies, report and record retention, informed consent, applications for the approval of drugs and post-marketing requirements. Pursuant to these regulations and guidelines, service providers that assume the obligations of a drug sponsor are required to comply with applicable regulations and are subject to regulatory action for failure to comply with such regulations and guidelines. In the United States and Europe, the trend has been in the direction of increased regulation by the applicable regulatory authority.

In providing our services in the United States, we are obligated to comply with FDA requirements governing such activities. These include ensuring that the study is approved by an appropriate independent review board (IRB)/Ethics Committee, obtaining patient informed consents, verifying qualifications of investigators, reporting patients' adverse reactions to drugs and maintaining thorough and accurate records. We must maintain critical documents for each study for specified periods, and such documents may be reviewed by the study sponsor and the FDA during audits.

The services we provide outside the United States are ultimately subject to similar regulation by the relevant regulatory authority, including the Medicines Control Agency in the United Kingdom and the Bundesinstitut für Arzneimittel und Medizinprodukte in Germany. In addition, our activities in Europe are affected by the European Medicines Evaluation Agency, which is based in London, England.

We must retain records for each study for specified periods for inspection by the client and by the applicable regulatory authority during audits. If such audits document that we have failed to comply adequately with applicable regulations and guidelines, it could result in a material adverse effect. In addition, our failure to comply with applicable regulation and guidelines, depending on the extent of the failure, could result in fines, debarment, termination or suspension of ongoing research or the disqualification of data, any of which could also result in a material adverse effect.

Potential Liability and Insurance

We contract with physicians who serve as investigators in conducting clinical trials to test new drugs on their patients. Such testing creates a risk of liability for personal injury to or death of the patients resulting from adverse reactions to the drugs administered. In addition, although we do not believe that we are legally accountable for the medical care rendered by third party investigators, it is possible that we could be subject to claims and expenses arising from any professional malpractice of the investigators with whom we contract. We also could be held liable for errors or omissions in connection with the services we perform.

From time to time, we are asked to act as the legal representative of a client in certain jurisdictions where the client does not itself have a legal entity but where legislation requires it to do so. As we believe that acting as legal representative of clients might expose us to a higher risk of liability, there is an entity within the ICON Group designated to provide this service in relevant jurisdictions subject to certain preconditions being met. The preconditions relate to obtaining protections such as specific insurance and indemnities from the client to cover the nature of the exposure.

We believe that the risk of liability to patients in clinical trials is mitigated by various regulatory requirements, including the role of institutional review boards and the need to obtain each patient's informed consent. The FDA requires each human clinical trial to be reviewed and approved by the institutional review board at each study site. An institutional review board is an independent committee that includes both medical and non-medical personnel and is obligated to protect the interests of patients enrolled in the trial. After the trial begins, the institutional review board monitors the protocol and measures designed to protect patients, such as the requirement to obtain informed consent.

We further attempt to reduce our risks through contractual indemnification provisions with clients and through insurance maintained by clients, investigators and us. However, the contractual indemnifications generally do not protect us against certain of our own actions such as negligence, the terms and scope of such indemnification vary from client to client and from trial to trial, and the financial performance of these indemnities is not secured. Therefore, we bear the risk that the indemnity may not be sufficient or that the indemnifying party may not have the financial ability to fulfill its indemnification obligations. We maintain worldwide professional liability insurance. We believe that our insurance coverage is adequate. There can be no assurance, however, that we will be able to maintain such insurance coverage on terms acceptable to us, if at all. We could be materially adversely affected if we were required to pay damages or bear the costs of defending any claim outside the scope of or in excess of a contractual indemnification provision or beyond the level of insurance coverage or in the event that an indemnifying party does not fulfill its indemnification obligations.

Description of Property

We lease all but one of our facilities under operating leases.

Our principal executive offices are located in South County Business Park, Leopardstown, Dublin, Republic of Ireland, where we own an office facility on approximately four and a half acres. In July 2008 we completed an expansion of this facility, extending the facility by approximately 12,900 square meters to approximately 15,800 square meters.

We maintain three offices in New York, two offices in each of the following US cities: Philadelphia, Chicago, San Antonio and San Francisco, and one office in each of the following US cities: Irvine, Nashville, Wilmington, Raleigh, Baltimore, Tampa, San Diego, Salt Lake City and Houston.

Our European operations maintain two offices in Manchester, Paris, Amsterdam, Stockholm and Warsaw, and one office in each of the following cities: Southampton, Cambridge, Marlow, Frankfurt, Munich, Berlin, Helsinki, Copenhagen, Milan, Barcelona, Riga, Budapest, Vilnius, Prague, Kiev, Bucharest, Moscow, Novosibirsk and Tel Aviv.

Our Rest of World offices are located in Auckland, Sydney, Tokyo, Osaka, Seoul, Beijing, Taipei, Hong Kong, Bangkok, Singapore, Chennai, Bangalore, New Delhi, Johannesburg, Montreal, Mexico City, Sao Paolo, Lima, Buenos Aires, Bogota and Santiago.

Unresolved Staff Comments

Not applicable.

Item 5. Operating and Financial Review and Prospects

The following discussion and analysis should be read in conjunction with our Consolidated Financial Statements, accompanying notes and other financial information, appearing in Item 18. The Consolidated Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States.

Overview

We are a contract research organization (“CRO”), providing outsourced development services on a global basis to the pharmaceutical, biotechnology and medical device industries. We specialize in the strategic development, management and analysis of programs that support Clinical Development - from compound selection to Phase I-IV clinical studies. We have the operational flexibility to provide development services on a stand-alone basis or as part of an integrated “full service” solution. Our preferred approach is to use dedicated teams to achieve optimum results, but we can implement a range of resourcing models to suit client requirements, and increasingly our teams are flexibly applied to minimize costs for our clients.

In a highly fragmented industry, we are one of a small number of companies with the capability and expertise to conduct clinical trials in all major therapeutic areas on a global basis. Currently, we have 6,975 employees, in 71 locations in 38 countries, providing Phase I - IV Clinical Trial Management, Drug Development Support Services, Data Management and Biostatistics and Central Laboratory and Imaging Services. For the year ended December 31, 2008, we derived approximately 43.8%, 47.8% and 8.4% of our net revenue in the United States, Europe and Rest of World, respectively.

Revenue consists primarily of fees earned under contracts with third-party clients. In most cases, a portion of the contract fee is paid at the time the study or trial is started, with the balance of the contract fee generally payable in installments over the study or trial duration, based on the achievement of certain performance targets or “milestones”. Revenue for contracts is recognized on a proportional performance method based on the relationship between time incurred and the total estimated duration of the trial or on a fee-for-service basis according to the particular circumstances of the contract. As is customary in the CRO industry, we contract with third party investigators in connection with clinical trials. All investigator fees and certain other costs, where reimbursed by clients, are, in accordance with industry practice, deducted from gross revenue to arrive at net revenue. As these costs vary from contract to contract, we view net revenue as our primary measure of revenue growth.

Direct costs consist primarily of compensation, associated fringe benefits and share based compensation expense for project-related employees and other direct project driven costs. Selling, general and administrative expenses consist of compensation, related fringe benefits and share based compensation expense for selling and administrative employees, professional services, advertising costs and all costs related to facilities and information systems.

Our backlog consists of potential net revenue yet to be earned from projects awarded by clients. At December 31, 2008, we had a backlog of approximately \$1.7 billion, compared with approximately \$1.3 billion at December 31, 2007. We believe that our backlog as of any date is not necessarily a meaningful predictor of future results, due to the potential for cancellation or delay of the projects underlying the backlog, and no assurances can be given that we will be able to realize this backlog as net revenue.

As the nature of ICON’s business involves the management of projects having a typical duration of one to three years, the commencement or completion of projects in a fiscal year can have a material impact on revenues earned with the relevant clients in such years. In addition, as we typically work with some, but not all, divisions of a client, fluctuations in the number and status of available projects within such divisions can also have a material impact on revenues earned from such clients from year to year.

Although we are domiciled in Ireland, we report our results in U.S. dollars. As a consequence the results of our non-U.S. based operations, when translated into U.S. dollars, could be materially affected by fluctuations in exchange rates between the U.S. dollar and the currencies of those operations.

In addition to translation exposures, we are also subject to transaction exposures because the currency in which contracts are priced can be different from the currencies in which costs relating to those contracts are incurred. We have 20 operations operating in U.S. dollars, 11 trading in Euros, 5 in pounds Sterling, 3 in Indian Rupee, 2 each in Russian Rouble, Japanese Yen, Swedish Krona and Polish Zloty, and 1 each in Australian dollars, Singapore dollars, Israeli New Shekels, Latvian Lats, Argentine Peso, South African Rand, Canadian dollar, Hungarian Forint, Danish Krone, Czech Koruna, Ukraine Hryvnia, Romanian New Leu, Hong Kong dollar, Taiwan dollar, Mexican Peso, Brazilian Real, Chilean Peso, South Korean Won, Thai Baht, Chinese Yuan Renminbi, Lithuanian Litas, Colombian Peso, Peruvian Neuvo Sol & New Zealand dollars. Our operations in the United States are not materially exposed to such currency differences as the majority of our revenues and costs are in U.S. dollars. However, outside the United States the multinational nature of our activities means that contracts are usually priced in a single currency, most often U.S. dollars, Euros or pounds Sterling, while costs arise in a number of currencies, depending, among other things, on which of our offices provide staff for the contract, and the location of investigator sites. Although many such contracts benefit from some degree of natural hedging due to the matching of contract revenues and costs in the same currency, where costs are incurred in currencies other than those in which contracts are priced, fluctuations in the relative value of those currencies could have a material effect on ICON's results of operations. We regularly review our currency exposures and, when appropriate, hedge a portion of these, using forward exchange contracts, where they are not covered by natural hedges. In addition, we usually negotiate currency fluctuation clauses in our contracts which allow for price negotiation if changes in the relative value of those currencies exceed predetermined tolerances.

As we conduct operations on a global basis, our effective tax rate has depended and will depend on the geographic distribution of our revenue and earnings among locations with varying tax rates. ICON's results of operations therefore may be affected by changes in the tax rates of the various jurisdictions. In particular, as the geographic mix of our results of operations among various tax jurisdictions changes, our effective tax rate may vary significantly from period to period.

Operating Results

The following table sets forth for the periods indicated certain financial data as a percentage of net revenue and the percentage change in these items compared to the prior comparable period. The trends illustrated in the following table may not be indicative of future results.

	Jan 1, 2007 to Dec 31, 2007	Jan 1, 2008 to Dec 31, 2008	Jan 1, 2007 to Dec 31, 2007	Jan 1, 2008 to Dec 31, 2008
	Percentage of Net Revenue		Percentage Increase	
Net revenue	100%	100%	38.4%	37.2%
Costs and expenses: Direct costs	56.2%	56.5%	38.3%	38.0%
Selling, general and administrative	29.8%	28.8%	37.6%	32.3%
Depreciation and amortization	3.0%	3.2%	27.2%	45.9%
Income from operations	11.0%	11.5%	44.8%	43.7%

Year ended December 31, 2008 compared to year ended December 31, 2007

Net revenue for the year increased by \$234.5 million, or 37.2%, from \$630.7 million for the year ended December 31, 2007 to \$865.2 million for the year ended December 31, 2008. Revenues in the United States, Europe and the Rest of World increased by 20.0%, 48.3%, and 102.2% respectively. In the year ended December 31, 2008, net revenue from our central laboratory business increased by 32.9%, from \$53.5 million, to \$71.1 million, while our clinical research segment improved by 37.6%, from \$577.2 million to \$794.1 million. This increase has resulted from a combination of increased business from existing clients, business won from new clients and increased use of outsourcing by the pharmaceutical, biotechnology and medical device industries.

Direct costs for the year increased by \$134.8 million, or 38.0%, from \$354.5 million for the year ended December 31, 2007 to \$489.2 million for the year ended December 31, 2008. Direct costs as a percentage of net revenue increased to 56.5% in the year ended December 31, 2008, compared to 56.2% in the year ended December 31, 2007. The primary reason for this increase was an increase in personnel related costs of \$120.7 million resulting from an increase in the number of project related employees of over 990. The remainder of the increase resulted primarily from increased laboratory and consulting expenses.

Selling, general and administrative expenses for the year increased by \$60.8 million, or 32.3%, from \$188.0 million for the year ended December 31, 2007, to \$248.8 million for the year ended December 31, 2008. As a percentage of net revenue, selling, general and administrative expenses, decreased from 29.8% for the year ended December 31, 2007, to 28.8% for the year ended December 31, 2008. The increase in absolute terms is primarily driven by increased personnel costs of \$34.5 million, principally driven by increased levels of both administrative and operations infrastructure staff to support expanding operations and revenue growth. In addition to these personnel costs there were additional rental charges of \$7.5 million, from further office openings in 2008, increased professional, legal and accounting costs of \$5.4 million, increased utility costs of \$5.5 million and an increase of \$4.3 million in relation to support and maintenance costs. These increases were partially offset by a gain in relation to realized and unrealized foreign exchange of \$2.3 million which compared with a loss of \$6.3 million for the year ended December 31, 2007. These gains arise on the revaluation of monetary assets and liabilities throughout the year.

Total share based compensation expense recognized during the year ended December 31, 2008, amounted to \$6.1 million compared to \$5.7 million during the year ended December 31, 2007.

Depreciation and amortization expense for the year increased by \$8.7 million, or 45.9%, from \$19.0 million for the year ended December 31, 2007, to \$27.7 million for the year ended December 31, 2008. As a percentage of net revenue, depreciation and amortization increased from 3.0% of net revenues for the year ended December 31, 2007, to 3.2% for the year ended December 31, 2008. This increase relates primarily to our investment in facilities and equipment to enable our continued growth. Capital expenditures were \$71.4 million in 2008. \$24.6 million of this spend is attributable to expenditure on the expansion of our facility in Dublin, Republic of Ireland, while the balance relates to the Company's continued investment in facilities and information technology to support our continued growth globally. We expect depreciation in 2009 to increase as a result of this investment.

Income from operations for the year increased by \$30.3 million, or 43.7%, from \$69.2 million for the year ended December 31, 2007 to \$99.5 million for the year ended December 31, 2008. As a percentage of net revenue, income from operations increased from 11.0% of net revenues for the year ended December 31, 2007, to 11.5% for the year ended December 31, 2008. Operating margins for our central laboratory business were 7.8% for the year ended December 31, 2008, compared to 6.9% for the year ended December 31, 2007. The central laboratory constitutes approximately 8.2% of our business revenues for the year ended December 31, 2008. Operating margins for our clinical research segment increased to 11.8% for the year ended December 31, 2008, from 11.4% for the year ended December 31, 2007.

Net interest expense for the year ended December 31, 2008, was \$1.2 million, compared with net interest income of \$2.7 million for the year ended December 31, 2007. The Company has entered into a number of significant banking facilities since July 2007. These facilities have been used to fund the acquisitions of DOCS International in July 2007, Healthcare Discoveries in February 2008 and Prevalere in November 2008, and also to fund the expansion of the Company's Dublin facility.

Our provision for income taxes increased from \$15.8 million for the year ended December 31, 2007, to \$20.0 million for the year ended December 31, 2008. ICON plc's effective tax rate for the year ended December 31, 2008, was 20.3% compared with 22.0% for the year ended December 31, 2007. The effective tax rate is principally a function of the distribution of pre-tax profits in the territories in which the Group operates.

Year ended December 31, 2007 compared to year ended December 31, 2006

Net revenue increased by \$175.1 million, or 38.4%, from \$455.6 million to \$630.7 million. Revenues in the United States, Europe and the Rest of World increased by 18.7%, 71.2% and 35.0% respectively. In the year ended December 31, 2007, net revenue from our central laboratory business increased by 13.3%, from \$47.2 million, to \$53.5 million, while our clinical research segment improved by 41.3%, from \$408.4 million to \$577.2 million, over the prior period. This increase in net revenue has resulted from a combination of increased business from existing clients, business won from new clients, increased use of outsourcing by the pharmaceutical, biotechnology and medical device industries and an underlying increase in research and development spending.

Direct costs increased by \$98.2 million, or 38.3%, from \$256.3 million to \$354.5 million. Direct costs as a percentage of net revenue remained static at 56.2% in the year ended December 31, 2007, compared to the year ended December 31, 2006. The primary reason for the increase in direct costs was the increase in personnel related costs of \$86.3 million resulting from the increase in direct headcount of over 1,100 employees. The remainder of the increase resulted primarily from increased laboratory and consulting expenses.

Selling, general and administrative expenses increased by \$51.4 million, or 37.6%, from \$136.6 million to \$188.0 million. As a percentage of net revenue, selling, general and administrative expenses, decreased from 30.0% for the year ended December 31, 2006, to 29.8% for the year ended December 31, 2007. The increase in SG&A costs is primarily driven by increased personnel costs of \$22.0 million principally driven by the increased levels of both administrative and operations infrastructure staff to support expanding operations and revenue growth. In addition to these personnel costs there were additional rental charges of \$4.9 million from further office openings in 2007, increased professional, legal and accounting costs of \$4.5 million, increased information technology costs of \$3.8 million, an increase of \$4.7 million in relation to realized and unrealized foreign exchange loss and increased temporary staff and recruitment costs of \$6.6 million.

The total share based compensation expense recognized during the year ended December 31, 2007 amounted to \$5.7m compared to \$4.1 million during the year ended December 31, 2006.

Depreciation and amortization expense increased by \$4.1 million, or 27.2%, from \$14.9 million to \$19.0 million. As a percentage of net revenue, depreciation and amortization decreased from 3.3% of net revenues for the year ended December 31, 2006, to 3.0% for the year ended December 31, 2007. This increase in absolute terms relates primarily to our investment in facilities and equipment to enable our continued growth. Capital expenditures were \$75.7 million in 2007. \$37.9 million of this spend is attributable to the construction of the Company's new headquarter building in Dublin, Republic of Ireland, while the balance relates to the Company's continued investment in facilities and information technology to support its continued growth globally. We expect depreciation in 2008 to increase as a result of this investment.

Income from operations increased by \$21.4 million, or 44.8%, from \$47.8 million to \$69.2 million. As a percentage of net revenue, income from operations increased from 10.5% of net revenues for the year ended December 31, 2006, to 11% for the year ended December 31, 2007. The year ended December 31, 2007, saw a continued improvement in the performance of the central laboratory business, with results improving from an operating profit of 4.9% for the year ended December 31, 2006, to an operating profit of 6.9% for the year ended December 31, 2007. The central laboratory constitutes approximately 8.5% of our business revenues for the year ended December 31, 2007. Operating margins for our clinical research segment increased to 11.4% in the year ended December 31, 2007, from 11.1% for the year ended December 31, 2006.

Net interest income for the year ended December 31, 2007, was \$2.7 million, a decrease of \$0.9 million from the year ended December 31, 2006. The Company entered into two significant banking facilities during 2007 to fund the acquisition of DOCS International in July 2007 \$40.6 million (€29.5 million) and expenditure on the expansion of the Company's facility.

Our provision for income taxes increased from \$12.9 million for the year ended December 31, 2006, to \$15.8 million for the year ended December 31, 2007. ICON plc's effective tax rate for the year ended December 31, 2007, was 22% compared with 25% for the year ended December 31, 2006. The effective tax rate is principally a function of the distribution of pre-tax profits in the territories in which the Group operates.

Liquidity and Capital Resources

The CRO industry generally is not capital intensive. Since our inception, we have financed our operations and growth primarily with cash flows from operations, net proceeds of \$49.1 million raised in our initial public offering in May 1998, net proceeds of \$44.3 million raised in our public offering in August 2003 and net borrowings of \$105.4 million. Our principal operating cash needs are payment of salaries, office rents, travel expenditures and payments to investigators. The aggregate amount of employee compensation, excluding stock compensation expense, paid by us and our subsidiaries for the years ended December 31, 2006, December 31, 2007 and December 31, 2008, amounted to \$274.6 million, \$382.7 million and \$528.5 million respectively. Investing activities primarily reflect capital expenditures for facilities, information systems enhancements, the purchase of short-term investments and acquisitions.

Our clinical research and development contracts are generally fixed price with some variable components and range in duration from a few weeks to several years. Revenue from contracts is generally recognized as income on the basis of the relationship between time incurred and the total estimated contract duration or on a fee-for-service basis. The cash flow from contracts typically consists of a down payment of between 10% and 20% paid at the time the contract is entered into, with the balance paid in installments over the contract's duration, in some cases on the achievement of certain milestones. Accordingly, cash receipts do not correspond to costs incurred and revenue recognized on contracts.

As of December 31, 2008, our working capital was \$186.0 million, compared to \$193.3 million at December 31, 2007. The most significant influence on our operating cash flow is revenue outstanding, which comprises accounts receivable and unbilled revenue, less payments on account. The dollar values of these amounts and the related days revenue outstanding can vary due to the achievement of contractual milestones and the timing of cash receipts. The number of days revenue outstanding was 70 days at December 31, 2008 and 66 days at December 31, 2007.

Net cash provided by operating activities was \$81.3 million for the year ended December 31, 2008, compared with \$43.0 million for the year ended December 31, 2007 and \$50.5 million for the year ended December 31, 2006. The increase in cash provided from operating activities arises primarily from an increase in the profits of the Company during the current year.

Net cash used in investing activities was \$117.4 million for the year ended December 31, 2008, compared with \$118.5 million for the year ended December 31, 2007 and \$55.3 million in the year ended December 31, 2006. Net cash used in the year ended December 31, 2008 arises principally from capital expenditure and the purchase of subsidiary undertakings. Capital expenditure for the year ended December 31, 2008, amounted to \$67.9 million, and included expenditure on the expansion of the Company's facility in Dublin, Republic of Ireland, together with continued investment in global infrastructure and information technology systems to support ongoing expansion. Cash paid for the purchase of subsidiary undertakings during the year ended December 31, 2008, amounted to \$49.5 million, and included the acquisitions of Healthcare Discoveries in February 2008 and Prevalere Life Sciences in November 2008.

Net cash provided by financing activities was \$22.3 million for the year ended December 31, 2008, compared with \$94.0 million for the year ended December 31, 2007 and \$7.7 million in the year ended December 31, 2006. We received an additional \$10.0 million in net borrowings during the year ended December 31, 2008, \$8.5 million on the exercise of share options and \$4.1 million in income tax benefits from the exercise of share options. During the year ended December 31, 2007, we received \$89.8 million in net borrowings, \$5.3 million from the exercise of share options and \$1.5 million in income tax benefits from the exercise of share options.

As a result of these cash flows, cash and cash equivalents at December 31, 2008, was \$58.4 million, a decrease of \$18.5 million for the year ended December 31, 2008, compared to an increase of \$13.8 million for the year ended December 31, 2007, and an increase of \$3.5 million for the year ended December 31, 2006. Net debt at December 31, 2008, amounted to \$4.3 million, comprising cash and cash equivalents of \$58.4 million, short term investments of \$42.7 million, less bank credit lines and loan facilities of \$105.4 million. Net cash at December 31, 2007, amounted to \$23.8 million, comprising cash and cash equivalents of \$76.9 million, short term investments of \$41.6 million, less bank credit lines and facilities of \$94.8 million.

On July 9, 2007, ICON plc entered into a five year committed multi-currency facility agreement for €35 million (\$48.9 million) with The Governor and Company of the Bank of Ireland. Our obligations under the facility are secured by certain composite guarantees, indemnities and pledges in favor of the bank. The facility bears interest at an annual rate equal to the EURIBOR plus a margin. On July 10, 2007, the Company drew down €29.5 million (\$41.2 million) of the facility to fund the acquisition of DOCS International. On October 15, 2007, the remaining €5.5 million (\$7.7 million) of the facility was drawn down to fund expenditure on the expansion of the Company's facility in Dublin, Republic of Ireland.

On January 2, 2009, an additional four year committed credit facility was negotiated with The Governor and Company of the Bank of Ireland for \$25 million. The facility bears interest at LIBOR plus a margin and is secured by certain composite guarantees, indemnities and pledges in favour of the bank.

On October 17, 2007, an uncommitted credit facility was negotiated with Allied Irish Bank plc, for €30 million (\$41.9 million). Interest is calculated at the EUR interbank rate plus a margin. The facility is secured by the same composite guarantees and indemnities in place for the Bank of Ireland committed facility. The funds were used to refinance overdraft facilities in place to fund expenditure on the expansion of the Dublin facility. On January 8, 2008, the facility with Allied Irish Banks plc was increased to €50 million (\$69.9 million).

On December 22, 2008, committed credit facilities were negotiated with Allied Irish Bank plc for \$75 million. The facilities comprise a one year Euro facility of approximately €20 million (\$28.0 million), with the balance comprising a three year US dollar facility. The Euro facility bears interest at EURIBOR plus a margin and the US dollar facility bears interest at LIBOR plus a margin. Both facilities are secured by certain composite guarantees and pledges in favour of the bank. These facilities replace the uncommitted facilities negotiated on January 8, 2008. \$28.4 million of these facilities were used to fund the acquisition of Prevalere with the remaining balance used to refinance the previous drawn uncommitted facilities.

On February 4, 2008, an uncommitted credit facility was negotiated with Citibank N.A, for \$30 million. Interest is calculated at the London Interbank Market rate plus a margin. \$12.0 million of this facility was drawn down in February 2008 to fund the acquisition of Healthcare Discoveries. On September 30, 2008, the \$12.0 million previously drawn was repaid in full. At December 31, 2008, this facility remained un-drawn and available to the Company.

The average margin payable on the above mentioned facilities is 1.70 per cent..

On February 11, 2008, the Company acquired 100% of the common stock of Healthcare Discoveries Inc., for an initial cash consideration of \$10.9 million, excluding costs of acquisition. Healthcare Discoveries, located in San Antonio, Texas, is engaged in the provision of Phase I clinical trial management services. Certain performance milestones were built into the acquisition agreement requiring payment of additional consideration of up to \$10.0 million if these milestones were achieved during the year ended December 31, 2008. No amounts have been accrued at December 31, 2008, as the milestones have not been achieved.

On November 14, 2008, the Company acquired 100% of the common stock of Prevalere Life Sciences Inc. ("Prevalere"), for an initial cash consideration of \$36.8 million, excluding costs of acquisition. Prevalere, located in Whitesboro, New York, is a leading provider of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies. Certain performance milestones were built into the acquisition agreement requiring potential additional consideration of up to \$8.2 million if these milestones are achieved during the years ended December 31, 2008 and 2009. Additional consideration of \$5.0 million has been accrued at December 31, 2008, in respect of the milestones for the year ended December 31, 2008. No amounts have been accrued for additional consideration potentially payable in respect of the milestones for the year ended December 31, 2009.

On July 1, 2004, the Company acquired 70% of the common stock of Beacon Biosciences Inc. (“Beacon”), a leading specialist CRO, which provides a range of medical imaging services to the pharmaceutical, biotechnology and medical device industries, for an initial cash consideration of \$9.9 million, excluding costs of acquisition. On December 31, 2008, the remaining 30% of the common stock was acquired by the Company for \$17.4 million, excluding costs of acquisition. Certain performance milestones were built into the acquisition agreement for the remaining 30% of Beacon requiring potential additional consideration of up to \$3.0 million if these milestones are achieved during the year ended December 31, 2009. At December 31, 2008, no amounts have been accrued in respect of the potential additional consideration.

On July 12, 2007, the Company acquired 100% of the common stock of DOCS International, a European based clinical research staffing organization, for a cash consideration of \$40.6 million (€29.5 million). DOCS International operates in eight European countries and focuses on the training and supply of contract and permanent clinical research personnel to the pharmaceutical and biotech industry.

As at December 31, 2008, the Company had \$285.8 million in contractual obligations and commercial commitments. As at December 31, 2008, the Company had known obligations of \$168.6 million in respect of operating leases, primarily relating to leased office facilities. Additionally, the Company had bank debt of \$105.4 million used to finance the acquisition of DOCS International in July 2007, Healthcare Discoveries in February 2008, Prevalere in November 2008, and expenditure on the expansion of our Dublin facility.

Contractual obligations table

The following table represents our contractual obligations and commercial commitments as of December 31, 2008:

	Total	Payments due by period			
		Less than 1 year	1 to 3 years	3 to 5 years	More than 5 years
		(U.S.\$ in millions)			
Operating lease obligations	168.6	38.2	60.5	40.2	29.7
Capital lease obligations	0.7	0.3	0.4	—	—
Bank credit lines and loans facilities	105.4	40.2	53.0	12.2	—
Non-current tax liabilities	11.1	—	8.0	3.1	—
Total (U.S.\$ in millions)	\$ 285.8	\$ 78.7	\$ 121.9	\$ 55.5	\$ 29.7

We expect to spend approximately \$50 million in the next twelve months on further investments in information technology, the expansion of existing facilities and the addition of new offices. We expect to increase this level of spending in subsequent years. We believe that we will be able to fund our additional foreseeable cash needs for the next twelve months from cash flow from operations and existing cash balances. In the future, we may consider acquiring businesses to enhance our service offerings and global presence. Any such acquisitions could require additional external financing and we may from time to time seek to obtain funds from public or private issues of equity or debt securities. There can be no assurance that such financing will be available on terms acceptable to us.

Critical Accounting Policies

The preparation of consolidated financial statements in accordance with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period.

We base our estimates and judgments on historical experience and on the other factors that we believe are reasonable under current circumstances. Actual results may differ from these estimates if these assumptions prove to be incorrect or if conditions develop other than as assumed for the purposes of such estimates. The following is a discussion of the accounting policies used by us, which we believe are critical in that they require estimates and judgments by management.

Revenue Recognition

Significant management judgments and estimates must be made and used in connection with the recognition of revenue in any accounting period. Material differences in the amount of revenue in any given period may result if these judgments or estimates prove to be incorrect or if management's estimates change on the basis of development of the business or market conditions. To date there have been no material differences arising from these judgments and estimates.

We earn revenues by providing a number of different services to our clients. These services include clinical trials management, biometric activities, consulting, and imaging and laboratory services. Revenue for services, as rendered, are recognized only after persuasive evidence of an arrangement exists, the sales price is fixed or determinable and collectibility is reasonably assured.

We recognize biometric revenues on a fee-for-service basis as each unit of data is prepared. Imaging revenue is recognized on a fee-for-service basis recognizing revenue for each image completed. Consulting revenue is recognized on a fee-for-service- basis recognizing revenue as each hour of the related service is performed.

We recognize laboratory service revenue on a fee-for-service basis. We account for laboratory service contracts as multiple element arrangements, with contractual elements comprising laboratory kits and laboratory testing, each of which can be sold separately. Fair values for contractual elements are determined by reference to objective and reliable evidence of the fair values. Revenues for contractual elements are recognized on the basis of the number of deliverable units completed in the period.

We recognize Clinical trials management revenue on a proportional performance method based on the relationship between hours incurred and the total estimated hours of the trial. We use the input (effort expended) method to measure progress towards completion as there is a direct relationship between input and productivity. Contract costs equate to the product of labor hours incurred and compensation rates. Contract revenue is the product of the aggregated labor hours required to complete the specified contract tasks at the agreed contract rates.

We invoice our customers upon achievement of specified contractual milestones. This mechanism, which allows us to receive payment from our customers throughout the duration of the contract, is not reflective of revenue earned. We recognize revenues over the period from the awarding of the customer's contract to study completion and acceptance. This requires us to estimate total expected revenue, time inputs, contract costs, profitability and expected duration of the clinical trial. The Company regularly reviews the estimate of total contract time to ensure such estimates remain appropriate taking into account actual contract stage of completion, remaining time to complete and any identified changes to the contract scope. Remaining time to complete depends on the specific contract tasks and the complexity of the contract and can include geographical site selection and initiation, patient enrolment, patient testing and level of results analysis required. While we may routinely adjust time estimates, estimates and assumptions historically have been accurate in all material respects in the aggregate.

If we do not accurately estimate the resources required or the scope of the work to be performed, or do not manage our projects properly within the planned cost or satisfy our obligations under the contracts, then future results may be significantly and negatively affected.

Goodwill

We review our goodwill for impairment annually, or more frequently if facts or circumstances warrant such a review. We evaluate goodwill for impairment by comparing the fair value of each reporting segment to its carrying value. Fair value is determined using the market approach, by assessing the market value of each reporting unit, and the income approach, based on estimated discounted future cash flows. Estimates and judgments used include those relating to commercial risk, revenue and cost projections, our intention with respect to the acquired goodwill, the impact of competition, the impact of any reorganization or change of our business focus, the level of third party interest in our operations and market conditions.

If the implied fair value of reporting unit goodwill is lower than its carrying amount, goodwill is impaired and written down to its implied fair value. If we were to use different estimates or judgments, particularly with respect to expected revenue and cost projections or the impact of any reorganization or change of business focus, a material impairment charge to the statement of operations could arise. We believe that we have used reasonable estimates and judgments in assessing the carrying value of our goodwill.

Taxation

Given the global nature of our business and the multiple taxing jurisdictions in which we operate, the determination of the Company's provision for income taxes requires significant judgments and estimates, the ultimate tax outcome of which may not be certain. Although we believe our estimates are reasonable, the final outcome of these matters may be different than those reflected in our historical income tax provisions and accruals. Such differences could have a material effect on our income tax provision and results in the period during which such determination is made.

Deferred tax assets and liabilities are determined using enacted or substantially enacted tax rates for the effects of net operating losses and temporary differences between the book and tax bases of assets and liabilities. In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. While management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment, there can be no assurance that these deferred tax assets may be realizable.

We operate within multiple taxing jurisdictions and are subject to audits in these jurisdictions. These audits can involve complex issues which may require an extended period of time for resolution. Management believe that adequate provisions for income taxes have been made in the financial statements.

Inflation

We believe that the effects of inflation generally do not have a material adverse impact on our operations or financial conditions.

New Accounting Pronouncements

In October 2008, the FASB issued FSP 157-3, *Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active* (FSP 157-3). FSP 157-3 clarifies the application of SFAS No. 157 in a market that is not active and addresses application issues such as the use of internal assumptions when relevant observable data does not exist, the use of observable information when the market is not active and the use of market quotes when assessing the relevance of observable and unobservable data. FSP 157-3 is effective for all periods presented in accordance with SFAS No. 157. The Company does not expect the adoption of FSP 157-3 to have a material impact on the financial statements.

In April 2008, the FASB issued FSP 142-3 *Determination of the Useful Life of Intangible Assets* (FSP 142-3). FSP 142-3 amends the factors an entity should consider in developing renewal or extension assumptions used in determining the useful life of recognized intangible assets under FASB Statement No. 142 *Goodwill and Other Intangible Assets* (SFAS No. 142). FSP 142-3 applies prospectively to intangible assets that are acquired individually or with a group of other assets in a business combination or asset acquisition. The Company does not expect the adoption of FSP 142-3 to have a material impact on the financial statements.

In December 2007, the FASB issued FASB Statement No. 141R, *Business Combinations* (SFAS No. 141R) and FASB Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements— an amendment to ARB No. 51* (SFAS No. 160). SFAS No. 141R and SFAS No. 160 require most identifiable assets, liabilities, noncontrolling interests, and goodwill acquired in a business combination to be recorded at "full fair value" and require noncontrolling interests (previously referred to as minority interests) to be reported as a component of equity, which changes the accounting for transactions with noncontrolling interest holders. Both Statements are effective for periods beginning on or after December 15, 2008, and earlier adoption is prohibited. SFAS No. 141R will be applied to business combinations occurring after the effective date. SFAS No. 160 will be applied prospectively to all noncontrolling interests, including any that arose before the effective date. The Company does not expect the adoption of SFAS No. 141R and SFAS No. 160 to have a material impact on the financial statements.

In September 2006, the FASB issued FASB Statement No. 157, *Fair Value Measurement* (SFAS No. 157). Statement 157 defines fair value, establishes a framework for the measurement of fair value, and enhances disclosures about fair value measurements. The Statement does not require any new fair value measures. The Statement is effective for fair value measures already required or permitted by other standards for fiscal years beginning after November 15, 2007. The Company was required to adopt SFAS No. 157 beginning on January 1, 2008. SFAS No. 157 is required to be applied prospectively, except for certain financial instruments. Any transition adjustment will be recognized as an adjustment to opening retained earnings in the year of adoption. In November 2007, the FASB proposed a one-year deferral of SFAS No. 157's fair-value measurement requirements for nonfinancial assets and liabilities that are not required or permitted to be measured at fair value on a recurring basis. The adoption of SFAS No. 157 has not had a material impact on the financial statements.

Item 6. Directors, Senior Management and Employees.

Directors and Senior Management

The following table and accompanying biographies set forth certain information concerning each of ICON plc's directors, officers and other key employees as of December 31, 2008.

Name	Age	Position
Dr. John Climax (1)(5)	56	Chairman of the Board, Director
Peter Gray (1)(5)	54	Chief Executive Officer, Director
Ciaran Murray (1)(5)	46	Chief Financial Officer
Dr. Ronan Lambe	69	Director
Thomas Lynch (2)(3)(4)	52	Director
Edward Roberts (2)(3)(4)	74	Director
Shuji Higuchi	68	Director
Dr. Bruce Given (2)(3)(4)	54	Director
Professor Dermot Kelleher	53	Director
William Taaffe	60	President Corporate Development
Dr. John Hubbard	52	President ICON Clinical Research
Robert Scott-Edwards	55	President ICON Laboratories
Sean Leech	38	President ICON Contracting Solutions
Dr. Thomas Frey	56	President ICON Development Solutions
Josephine Coyle	51	Vice President for Corporate Quality Assurance
Eimear Kenny	39	Vice President for Strategic Human Resources
Simon Holmes	42	Vice President Group Marketing and Market Development
Michael McGrath	46	Senior Vice President of Group Information Technology

- (1) Executive Officer of the Company.
(2) Member of Compensation Committee.
(3) Member of Audit Committee.
(4) Member of Nomination Committee.
(5) Member of Executive Committee.

Dr. John Climax, one of the Company's co-founders, has served as a director of the Company and its subsidiaries since June 1990. Dr. Climax served as Chief Executive Officer from June 1990 to October 2002 and was appointed Chairman of the Board in November 2002. Dr. Climax has over 22 years of experience in the contract research industry in both Europe and the United States. Dr. Climax received his primary degree in pharmacy in 1977 from the University of Singapore, his masters in applied pharmacology in 1979 from the University of Wales and his PhD. in pharmacology from the National University of Ireland in 1982.

Peter Gray has served as the Chief Executive Officer of ICON and its subsidiaries since November 2002. He served as the Group Chief Operating Officer of ICON and its subsidiaries from June 2001, and was Chief Financial Officer from June 1997 to June 2001. He has been a director of the Company since June 1997. Mr. Gray has over 17 years experience in the pharmaceutical services industry and has also worked in the engineering and food sectors. Mr. Gray received a degree in Law from Trinity College Dublin in 1977 and became a chartered accountant in 1980.

Ciaran Murray was appointed as Chief Financial Officer of ICON and its subsidiaries in October 2005. Mr. Murray developed his experience in senior financial positions in the technology and food sectors, in such companies as Kraft Foods, Inc. and Novell, Inc. Prior to joining ICON, Mr. Murray served as the CFO of Codec Systems from 1999 to 2005, a technology company headquartered in Ireland. Mr. Murray is a business graduate of University College Dublin. He trained as a chartered accountant with PricewaterhouseCoopers and is a Fellow of the Institute of Chartered Accountants in Ireland.

Dr. Ronan Lambe, one of the Company's co-founders, served as Chairman of the Board of the Company from June 1990 to November 2002. He currently holds a position as an outside director since January 2008. Dr. Lambe has over 25 years of experience in the contract research industry in Europe. Dr. Lambe attended the National University of Ireland where he received his Bachelor of Science degree in chemistry in 1959, his masters in biochemistry in 1962 and his PhD. in pharmacology in 1976.

Thomas Lynch has served as an outside director of the Company since January 1996. Mr. Lynch served as a director of Nanogen Inc., from 1996 to 2000. Mr. Lynch is currently Chairman and Chief Executive Officer of Amarin Corporation plc, a director of Royal Opera House (Covent Garden) and a non-executive director of IDA Ireland. In the period from May 1993 to July 2004, Mr. Lynch held several senior positions in Elan Corporation, plc, a specialty pharmaceutical company, including Executive Vice President, Chief Financial Officer, Vice Chairman and Senior Advisor to the Chairman of the Board of Elan Corporation, plc. Mr. Lynch was a partner at KPMG from May 1990 to May 1993.

Edward Roberts has served as an outside director of the Company since February 1998. Mr. Roberts was Managing Director of the Pharmaceutical Division of Merck KGaA from 1990 to 1998. Prior to that, he held a number of senior management positions with Eli Lilly International in Europe and the United States. Mr. Roberts has over 40 years of experience in the pharmaceutical industry. Mr Roberts serves as Chairman of Merz & Co. GmbH and is also on the Board of Lupin.

Mr. Shuji Higuchi has served as an outside director of the Company since September 2004. Dr. Higuchi has over 40 years of experience in the pharmaceutical industry. Dr. Higuchi is currently Director of R&D and Corporate Integration, Kyoto University Hospital, Japan. Prior to this Dr. Higuchi has served as President of Takeda Pharma GmbH from 1983 to 1992, President of Takeda Europe R&D Centre, Frankfurt / London from 1992 to 2002, and served as a Corporate Officer of Takeda Chemical Industries Limited, Japan from 1999 to 2002.

Dr. Bruce Given has served as an outside director of the Company since September 2004. From March 2002 until June 2007 he served as President and Chief Executive Officer of Encysive Pharmaceuticals Inc. Previously, Dr. Given has held various positions in Johnson & Johnson group companies. Dr. Given obtained his doctorate from the University of Chicago in 1980.

Professor Dermot Kelleher has served as an outside director of the Company since May 2008. Professor Kelleher is currently Head of the School of Medicine at Trinity College, Dublin, Ireland and Director of the Institute of Molecular Medicine in Dublin.

William Taaffe has served as President Corporate Development since April 2005. Prior to this Mr. Taaffe served as President and Chief Executive Officer of ICON Clinical Research - U.S. since 1993. Mr. Taaffe has over 30 years of experience in the contract research and pharmaceutical industries in Ireland, Canada and the United States. Mr. Taaffe received his bachelor of science degree in 1970 from University College Dublin.

Dr. John W. Hubbard has served as President of ICON Clinical Research since March 2007. Previously he served as President of ICON Clinical Research - U.S. since April 2005 and as Chief Operating Officer, U.S Operations since October 1999. Dr. Hubbard has more than 20 years of experience in pharmaceutical research and development. He has held positions of increasing responsibility at Revlon Health Care Group, Hoechst Marion Roussel Pharmaceuticals, Parexel International Corporation, and from July 1997 until joining ICON, he held the position of Senior Vice President of Clinical Research Operations at Clinical Studies, an industry leading site management organization and division of Innovative Clinical Solutions, Ltd. Dr. Hubbard received a B.S. in Psychology/Biology from the University of Santa Clara, a Ph.D. in Cardiovascular Physiology from the University of Tennessee, and was a NIH Postdoctoral Fellow in Cardiovascular Pharmacology at the University of Texas Health Sciences Center.

Robert Scott-Edwards, has served the Company as President of ICON Laboratories since August 2004, having previously held the position of Vice President, Sales & Marketing for ICON Laboratories since June 2000. Prior to joining ICON, Mr. Scott-Edwards held various senior positions at Bristol-Myers Squibb from 1979 through 1997. Mr. Scott-Edwards began his career in the pharmaceutical industry in 1971 at Wyeth.

Sean Leech has served as President of ICON Contracting Solutions since March 2007. Prior to this Mr. Leech served as Executive Vice President Commercial and Organization Development since October 2005, as the Chief Financial Officer of ICON and its subsidiaries since June 2001 and Group Vice President of Finance from June 1999. Mr. Leech was Group Financial Controller of Jones Group plc, a shipping, manufacturing and fuel distribution company based in Ireland, from 1997 to 1999. Mr. Leech is an associate member of the Chartered Institute of Management Accountants.

Dr. Thomas Frey has served as President of ICON Developments Solutions since June 2005. He previously held positions as Chief Operating Officer for ICON Clinical Research Europe from June 2001 and Vice President of ICON Clinical Operations Europe from January 2000 to May 2005. Dr. Frey has 20 years experience in pharmaceutical research and development. He started his career in 1987 with Hoechst Pharmaceuticals. From 1995 to the end of 1999 he was Senior Director of Clinical Development Europe at Hoechst Pharmaceuticals. Dr. Frey received his medical degree in 1980 from the University of Heidelberg.

Josephine Coyle has served as Vice President for Corporate Quality Assurance since April 2000. Ms. Coyle has held positions of increasing responsibility in ICON since August 1992 and previously held the position of Director of Quality Assurance.

Eimear Kenny, has served as Vice President for Strategic Human Resources since April 2007, having previously held the position of Vice President of Human Resources for ICON Clinical Research Europe and Rest of World since joining the Company in November 1999. Prior to joining ICON, Ms. Kenny was HR Manager for GE Global Consumer Finance Ireland. Ms. Kenny holds a degree in both business studies from Portobello College, Dublin and human resource management from the National College of Ireland. She is also a Member of the Chartered Institute of Personnel and Development.

Simon Holmes has served as Vice President Group Marketing and Market Development since November 2007. In this role Mr Holmes is responsible for ICON's global marketing function and for managing ICON's internal process for the proactive identification and evaluation of potential acquisition candidates. Prior to this role, Mr. Holmes was Group Director of Marketing, a position he assumed on joining ICON in July 2005. Mr. Holmes has held senior positions within Microsoft, LogicaCMG and Cable and Wireless. A graduate of the University of East Anglia and Cambridge University he holds an MBA from the UCD Smurfit Business School.

Michael McGrath has served as Senior Vice President of Group Information Technology since June 2007. He joined ICON in December 2002 as Director for Information Technology of Europe before moving to a role as Global Vice President of Information Technology for the Clinical Research Division. He previously held a number of senior Information Technology positions in the Financial Services Industry with GE Capital and Woodchester Bank Ltd. Prior to this he worked as an IT Consultant and also as a Software Engineer. He has over 15 years experience in the IT industry across many areas including Pharmaceuticals, Financial Services and Utilities. He holds an MSc in Information Technology Management from Dublin City University and a Higher Diploma in Electronic Engineering.

Board of Directors

ICON's Articles of Association provide that, unless otherwise determined by ICON at a general meeting, the number of directors shall not be more than 15 nor less than 3. At each annual general meeting, one third of the directors who are subject to retirement by rotation, rounded down to the next whole number if it is a fractional number, shall retire from office. The directors to retire shall be those who have been longest in office, but as between persons who became or were last re-appointed on the same day, those to retire shall be determined, unless otherwise agreed, by lot. Accordingly, at the annual general meeting of ICON to be held in 2009, it is anticipated that two directors will retire by rotation and offer themselves for re-election, such directors to be determined, unless otherwise agreed, by lot. Any additional director appointed by us shall hold office until the next annual general meeting and will be subject to re-election at that meeting.

Board committees

ICON established a compensation committee and an audit committee in 1998, a nomination committee in 2004, and an executive committee in 2005, all of which are committees of the Board of Directors and are, with the exception of the Executive Committee, composed of non-executive directors of ICON plc.

Compensation Committee

The Compensation Committee comprises Thomas Lynch (Chairman), Edward Roberts, and Dr. Bruce Given. It deals with all aspects of senior executive remuneration. The committee aims to ensure that remuneration packages are competitive so that individuals are appropriately rewarded relative to their responsibility, experience and value to ICON.

Annual bonuses for executive directors are determined by the committee based on the achievement of ICON's objectives.

Audit Committee

The Audit Committee comprises Edward Roberts (Chairman), Thomas Lynch and Dr. Bruce Given. It reviews the annual report, the quarterly earnings releases, the effectiveness of the system of internal controls, compliance with our ethical code and legal requirements, and approves the appointment and removal of the external auditors. It also addresses all issues raised and recommendations made by the external auditors and pre-approves all auditor services.

Nomination Committee

The Nomination Committee comprises Thomas Lynch (Chairman), Edward Roberts and Dr. Bruce Given. On an ongoing basis it reviews the membership of the board of directors and board committees. It identifies and recommends individuals to fill any vacancy that is anticipated or arises on the board of directors. It reviews and recommends the corporate governance principles of the Company.

Executive Committee

The Executive Committee comprises Dr. John Climax, Peter Gray (Chairman) and Ciaran Murray. Established in March 2005, this Committee is responsible for the management of the Company in intervals between meetings of the Board and exercises business judgment to act in what the Committee members reasonably believe to be in the best interest of the Company and its shareholders. All powers exercised by the Executive Committee are ratified at board meetings. This Committee convenes as often as it determines to be necessary or appropriate.

The aggregate compensation (including share-based compensation of \$0.4m) paid by ICON to all persons who served in the capacity of director or executive officer in 2008 (9 persons) was approximately \$4.5 million, but does not include expenses reimbursed to directors and executive officers (including business travel, professional and business association dues and expenses). As of December 31, 2008, options granted to directors and executive officers of ICON to purchase an aggregate of 407,200 of our ordinary shares were outstanding. The options are exercisable at prices between \$7.00 and \$36.04 and expire between January 11, 2010 and May 27, 2016.

In addition, our officers are eligible to participate in the Company's equity incentive plans, including the Company's share options plans and restricted share unit plan. See Note 10 to the Consolidated Financial Statements.

Employees

We employed 6,975, 5,610 and 4,290 people for the years ended December 31, 2008, December 31, 2007, and December 31, 2006, respectively. Our employees are not unionized and we believe that our relations with our employees are good.

Share Ownership

The following table sets forth certain information regarding beneficial ownership of our ordinary shares (including Amercian Depository Securities, ADS's) as of February 19, 2009, by all of our current directors and executive officers. Unless otherwise indicated below, to our knowledge, all persons listed below have sole voting and investment power with respect to their ordinary shares, except to the extent authority is shared by spouses under applicable law.

Name of Owner or Identity of Group	No. of Shares (1)	% of total Shares	No. of Options (2)	Exercise price	Expiration Date
Dr. John Climax	3,107,568	5.3%	20,000	\$ 7.25	January 11, 2010
			20,000	\$ 7.00	January 21, 2011
			20,000	\$ 8.88	February 4, 2012
			12,000	\$ 11.00	February 3, 2014
			12,000	\$ 21.25	February 16, 2015
Dr. Ronan Lambe	725,380	1.3%	10,000	\$ 35.33	February 26, 2016
			12,000	\$ 7.25	January 11, 2010
			6,000	\$ 7.00	January 21, 2011
			6,000	\$ 8.88	February 4, 2012
			4,000	\$ 8.60	February 24, 2013
			4,000	\$ 11.00	February 3, 2014
			2,000	\$ 21.25	February 16, 2015
Mr. Peter Gray	444,288	0.8%	2,000	\$ 35.33	February 26, 2016
			20,000	\$ 7.25	January 11, 2010
			20,000	\$ 7.00	January 21, 2011
			20,000	\$ 8.88	February 4, 2012
			12,000	\$ 11.00	February 3, 2014
Mr. Ciaran Murray	—	—	12,000	\$ 21.25	February 16, 2015
			14,000	\$ 35.33	February 26, 2016
			60,000	\$ 10.42	January 17, 2014
			18,000	\$ 11.00	February 3, 2014
			16,000	\$ 21.25	February 16, 2015
Mr. Thomas Lynch	4	—	14,000	\$ 35.33	February 26, 2016
			1,200	\$ 7.00	January 21, 2011
			2,400	\$ 8.88	February 4, 2012
			2,400	\$ 8.60	February 24, 2013
			3,200	\$ 11.00	February 3, 2014
Mr. Edward Roberts	16,004	—	4,000	\$ 21.25	February 16, 2015
			2,000	\$ 35.33	February 26, 2016
			2,000	\$ 8.88	February 4, 2012
			4,000	\$ 8.60	February 24, 2013
			4,000	\$ 11.00	February 3, 2014
Mr. Shugi Higuchi	—	—	4,000	\$ 21.25	February 16, 2015
			2,000	\$ 35.33	February 26, 2016
			6,000	\$ 8.88	February 4, 2012
			4,000	\$ 8.60	February 24, 2013
			4,000	\$ 11.00	February 3, 2014
Dr. Bruce Given	—	—	4,000	\$ 21.25	February 16, 2015
			4,000	\$ 35.33	February 26, 2016
			4,000	\$ 8.60	February 24, 2013
			4,000	\$ 11.00	February 3, 2014
			4,000	\$ 21.25	February 16, 2015
Professor Dermot Kelleher	—	—	6,000	\$ 36.04	May 27, 2016

- (1) As used in this table, each person has the sole or shared power to vote or direct the voting of a security, or the sole or shared investment power with respect to a security (*i.e.* the power to dispose, or direct the disposition, of a security). A person is deemed as of any date to have “beneficial ownership” of any security if that such person has the right to acquire such security within 60 days after such date.
- (2) The title of securities covered by all of the above options are non-revenue qualified.

Employee Share Option Schemes

On July 21, 2008, the Company adopted the Employee Share Option Plan 2008 (the “2008 Employee Plan”) pursuant to which the Compensation Committee of the Company’s Board of Directors may grant options to any employee, or any director holding a salaried office or employment with the Company or a Subsidiary for the purchase of ordinary shares. On the same date, the Company also adopted the Consultants Share Option Plan 2008 (the “2008 Consultants Plan”), pursuant to which the Compensation Committee of the Company’s Board of Directors may grant options to any consultant, adviser or non-executive director retained by the Company or any Subsidiary for the purchase of ordinary shares.

Each option granted under the 2008 Employee Plan or the 2008 Consultants Plan (together the “2008 Option plans”) will be an employee stock option, or NSO. Each grant of an option under the 2008 Options Plans will be evidenced by a Stock Option Agreement between the optionee and the Company. The exercise price will be specified in each Stock Option Agreement.

An aggregate of 6.0 million ordinary shares have been reserved under the 2008 Employee Plan as reduced by any shares issued or to be issued pursuant to options granted under the 2008 Consultants Plan under which a limit of 400,000 shares applies. Further, the maximum number of ordinary shares with respect to which options may be granted under the 2008 Employee Plan during any calendar year to any employee shall be 400,000 ordinary shares. There is no individual limit under the 2008 Consultants Plan. No options may be granted under the plans after July 21, 2018.

On July 21, 2008, the Company adopted the the 2008 Employees Restricted Share Unit Plan (the “2008 RSU Plan”) pursuant to which the Compensation Committee of the Company’s Board of Directors may select any employee, or any director holding a salaried office or employment with the Company or a Subsidiary to receive an award under the plan. An aggregate of 1.0 million ordinary shares have been reserved for issuance under the 2008 RSU Plan. Awards under the 2008 RSU may be settled in cash or shares.

On January 17, 2003, the Company adopted the Share Option Plan 2003, (“the 2003 Plan”), pursuant to which the Compensation Committee of the Board may grant options to employees of the Company or its subsidiaries for the purchase of ordinary shares. Each option will be an employee stock option, or NSO. Each grant of an option under the 2003 Plan will be evidenced by a Stock Option Agreement between the optionee and the Company. The exercise price will be specified in each Stock Option Agreement.

An aggregate of 6.0 million ordinary shares have been reserved under the 2003 Plan; and, in no event will the number of ordinary shares that may be issued pursuant to options awarded under the 2003 Plan exceed 10% of the outstanding shares, as defined in the 2003 Plan, at the time of the grant. Further, the maximum number of ordinary shares with respect to which options may be granted under the 2003 Plan during any calendar year to any employee shall be 400,000 ordinary shares. No options can be granted after January 17, 2013.

Executive Officers and Directors Remuneration

Compensation Discussion & Analysis

Overview

The Compensation Committee (the “Committee”) seeks to achieve the following goals with the Company’s executive compensation programs: to attract, motivate and retain key executives and to reward executives for value creation. The Committee seeks to foster a performance-oriented environment by tying a significant portion of each executive’s cash and equity compensation to the achievement of performance targets that are important to the Company and its shareholders.

The Company’s executive compensation program has three elements: base salary, a bonus plan and equity incentives in the form of stock related awards granted under the Company’s equity incentive plans. All elements of executive compensation are determined by the Committee based on the achievement of ICON’s objectives.

In the year ended December 31, 2008, the officers earned a bonus and the Company awarded executive officers equity incentives in the form of stock options.

Base Salary and Bonus Incentive

Total cash compensation is divided into a base salary portion and a bonus incentive portion. Base salary is established based on peer group and is adjusted based on individual performance and experience. The Committee targets total cash compensation at the peer group median of comparable Irish companies and peer CRO companies, adjusted upward or downward based on individual performance and experience. The Committee believes that the higher the executive’s level of responsibility within the Company, the greater the percentage of the executive’s compensation that should be tied to the Company’s performance. Target bonus incentive for executive officers is 80% of base salary.

For fiscal 2008, based upon the Company’s income performance relative to the targets set by the Committee and individual objectives approved by the Committee, the Company’s named executive officers, excluding the Chief Executive Officer, earned an aggregate bonus of \$780,002.

Equity Incentive

The Company’s executive officers are eligible to receive equity incentives, including stock options and restricted share units, granted under the Company’s equity incentive plans. If executive officers receive equity incentive grants, they are awarded annually at the first regularly scheduled meeting of the Committee in the fiscal year. Newly hired executive officers may receive sign-on grants, if approved by the Committee. In addition, the Committee may, in its discretion, issue additional equity incentive awards to executive officers if the Committee determines the awards are necessary for retention. The number of equity awards granted to each participant is determined primarily based on an award range determined by the Committee at the start of each year. The extent of existing options is not generally considered in granting equity awards, except that the Company occasionally grants an initial round of equity awards to newly recruited executives to provide them a stake in the Company’s success from the commencement of their employment. The Company granted equity incentive awards, in the form of share options, to executive officers in its fiscal years ended December 31, 2007 and 2008.

On February 3, 2006, the Company granted performance-based stock options to certain executive officers. The purpose of these grants is to align management and shareholder interests as measured by both revenue growth and the stock markets’ assessment of the Company’s performance.

Chief Executive Officer Compensation

The Committee uses the same factors in determining the compensation of the Chief Executive Officer as it does for the other participants. The Chief Executive Officer’s base salary for the year ended December 31, 2008, was €496,500 (\$734,402).

Executive Compensation

Summary compensation table - Year ended December 31, 2008

Name & principal position	Year	Salary	Bonus	Pension contribution	All other compensation	Subtotal	Subtotal	Share-based compensation	Total compensation
		Euro (€)	Euro (€)	Euro (€)	Euro (€)	Euro (€)	USD (\$)	USD (\$)	USD (\$)
Peter Gray, Chief Executive Officer	2008	496,500	387,500	49,300	43,380	976,680	1,358,865	80,330	1,439,195
Ciaran Murray, Chief Financial Officer	2008	300,000	215,000	26,400	18,466	559,866	780,935	175,135	956,070
John Climax, Chairman	2008	600,000	405,000	50,000	62,280	1,117,280	1,558,240	71,717	1,629,957
Total	2008	€ 1,396,500	€ 1,007,500	€ 125,700	€ 124,126	€ 2,653,826	\$ 3,698,040	\$ 327,182	\$ 4,025,222

Summary compensation table - Year ended December 31, 2007

Name & principal position	Year	Salary	Bonus	Pension contribution	All other compensation	Subtotal	Subtotal	Share-based compensation	Total compensation
		Euro (€)	Euro (€)	Euro (€)	Euro (€)	Euro (€)	USD (\$)	USD (\$)	USD (\$)
Peter Gray, Chief Executive Officer	2007	400,000	320,000	40,600	37,919	798,519	1,120,308	61,381	1,181,689
Ciaran Murray, Chief Financial Officer	2007	240,000	180,000	23,999	15,998	459,997	645,001	142,560	787,561
John Climax, Chairman	2007	540,280	378,000	46,056	55,097	1,019,433	1,430,381	61,381	1,491,762
Total	2007	€ 1,180,280	€ 878,000	€ 110,655	€ 109,014	€ 2,277,949	\$ 3,195,690	\$ 265,322	\$ 3,461,012

Grant of Plan-Based Awards - Fiscal 2008

With the exception of the bonus element of compensation mentioned above, there were no plan based awards for any of the named executive officers in fiscal 2008.

Director Compensation

Summary compensation table - Year ended December 31, 2008

Name	Year	Salary	Company pension contribution	All other compensation	Subtotal	Subtotal	Share-based compensation	Director's fees	Total compensation
		Euro (€)	Euro (€)	Euro (€)	Euro (€)	USD (\$)	USD (\$)	USD (\$)	USD (\$)
John Climax	2008	600,000	50,000	467,280	1,117,280	1,558,240	71,717	—	1,629,957
Peter Gray	2008	496,500	49,300	430,880	976,680	1,358,865	80,330	—	1,439,195
Ronan Lambe	2008	—	—	80,000	80,000	118,150	19,861	40,000	178,011
Thomas Lynch	2008	—	—	—	—	—	23,482	55,000	78,482
Edward Roberts	2008	—	—	—	—	—	23,503	65,000	88,503
Shuji Higuchi	2008	—	—	—	—	—	23,503	40,000	63,503
Bruce Given	2008	—	—	—	—	—	18,538	45,000	63,538
Dermot Kelleher	2008	—	—	—	—	—	10,779	21,000	31,779
Total		€ 1,096,500	€ 99,300	€ 978,160	€ 2,173,960	\$ 3,035,255	\$ 271,713	\$ 266,000	\$ 3,572,968

Summary compensation table - Year ended December 31, 2007

Name	Year	Salary	Company pension contribution	All other compensation	Subtotal	Subtotal	Share-based compensation	Director's fees	Total compensation
		Euro (€)	Euro (€)	Euro (€)	Euro (€)	USD (\$)	USD (\$)	USD (\$)	USD (\$)
John Climax	2007	540,280	46,056	433,097	1,019,433	1,430,381	61,381	—	1,491,762
Peter Gray	2007	400,000	40,600	357,919	798,519	1,120,308	61,381	—	1,181,689
Ronan Lambe	2007	104,394	4,163	3,903	112,460	148,402	19,156	—	167,558
Thomas Lynch	2007	—	—	—	—	—	24,475	55,000	79,475
Edward Roberts	2007	—	—	—	—	—	22,495	65,000	87,495
Shuji Higuchi	2007	—	—	—	—	—	18,589	40,000	58,589
Bruce Given	2007	—	—	—	—	—	13,624	45,000	58,624
Total		€ 1,044,674	€ 90,819	€ 794,919	€ 1,930,412	\$ 2,699,091	\$ 221,101	\$ 205,000	\$ 3,125,192

Outstanding Equity Interests Received as Compensation

Outstanding Equity Awards Table

The following table sets forth information concerning stock options held by the named Executive Officers at December 31, 2008:

Name	No. of securities underlying unexercised options – exercisable	No. of securities underlying unexercised options – unexercisable	Option awards Equity incentive plan awards: No. of securities underlying unexercised unearned options	Option exercise price (\$)	Option expiration date
Peter Gray	20,000	—	—	\$ 7.25	Jan 11, 2010
	20,000	—	—	\$ 7.00	Jan 21, 2011
	16,000	4,000	—	\$ 8.88	Feb 4, 2012
	4,800	7,200	—	\$ 11.00	Feb 3, 2014
	2,400	9,600	—	\$ 21.25	Feb 16, 2015
Ciaran Murray	—	14,000	—	\$ 35.33	Feb 26, 2016
	—	60,000	—	\$ 10.42	Jan 17, 2014
	7,200	10,800	—	\$ 11.00	Feb 3, 2014
	3,200	12,800	—	\$ 21.25	Feb 16, 2015
John Climax	—	14,000	—	\$ 35.33	Feb 26, 2016
	20,000	—	—	\$ 7.25	Jan 11, 2010
	20,000	—	—	\$ 7.00	Jan 21, 2011
	16,000	4,000	—	\$ 8.88	Feb 4, 2012
	4,800	7,200	—	\$ 11.00	Feb 3, 2014
	2,400	9,600	—	\$ 21.25	Feb 16, 2015
	—	10,000	—	\$ 35.33	Feb 26, 2016

All information in this table relates to nonqualified stock options. The Company has not granted any stock appreciation rights (“SARs”) in fiscal year 2008. Substantially all options become exercisable in five equal installments each year beginning on the first anniversary of the grant date.

Options Exercised Table

There were no options exercised during fiscal 2008 by any of the named executive officers.

Retirement Plans & Other Post-Employment Payments & Benefits

Pension Plan

All named executive officers are eligible to participate in a defined contribution pension plan (the “Plan”). The Company matches each participant’s contributions up to a percentage of their annual compensation. Contributions to this plan are recorded as an expense in the Consolidated Statement of Operations. Total company contributions for the named executive officers for the year ended December 31, 2008, was €125,700 (\$185,782).

Information regarding the Company’s retirement plans can be found in Note 9 to the Consolidated Financial Statements “Employee Benefits”.

Non-qualified Defined Contribution and Deferred Compensation Plans

None of the named executive officers are involved in any non-qualified defined contribution plan or receives any nonqualified deferred compensation.

Disclosure of Compensation Agreements

Employment Contracts, Termination of Employment and Change in Control Arrangements

The Company does not have any Termination or Change of Control Agreements with its named executive officers.

Directors' and Executive Officers' service agreements and letters of engagement

Mr. Peter Gray

Mr. Peter Gray has served as the Chief Executive Officer since November 2002. He served as the Chief Operating Officer of the Company from June 2001 to November 2002 and as an Executive Director of the Company since June 1997. The service agreement with Mr. Gray is terminable on 12 months notice by either party. He is entitled to receive a bonus to be agreed by the Committee. He is also entitled to receive a pension contribution, company car and medical insurance cover for himself and his dependants. He currently holds 98,000 ordinary share options at exercise prices ranging from \$7.00 to \$35.33 per share. His service agreement requires him to devote his full time and attention to his duties for the Company excepting certain non-executive positions authorized by the Board. The agreement includes certain post termination clauses including non-disclosure, non-competition and non-solicitation provisions.

Mr. Ciaran Murray

Mr. Ciaran Murray has served as the Chief Financial Officer since October 2005. The service agreement with Mr. Murray is terminable on 12 months notice by either party. He is entitled to receive a bonus to be agreed by the Committee. He is also entitled to receive a pension contribution, a company car and medical insurance cover for himself and his dependants. He currently holds 108,000 ordinary share options at exercise prices ranging from \$10.42 to \$35.33 per share. His service agreement requires him to devote his full time and attention to his duties for the Company excepting certain non-executive positions authorized by the Board. The agreement includes certain post-termination clauses including non-disclosure, non-competition and non-solicitation provisions.

Dr. John Climax

Dr. John Climax, one of the Company's co-founders, has served as a Director since June 1990, and Chief Executive Officer from June 1990 to October 2002. He was appointed Chairman of the Board in November 2002. The service agreement with Dr. Climax is terminable on 12 months notice by either party. He is entitled to receive a bonus to be agreed by the Committee. He is entitled to receive a pension contribution, company car and medical insurance cover for himself and his dependants. He currently holds 94,000 ordinary share options at exercise prices ranging from \$7.00 to \$35.33 per share. His service agreement requires him to devote his full time and attention to his duties for the Company excepting certain non-executive positions authorized by the Board. The agreement includes certain post-termination clauses including non-disclosure, non-competition and non-solicitation provisions.

Item 7. Major Shareholders and Related Party Transactions.

The following table sets forth certain information regarding beneficial ownership of ICON's ordinary shares (including ADSs) as of February 19, 2009 (i) by each person that beneficially owns more than 5% of the outstanding ordinary shares, based upon publicly available information; and (ii) by all of our current directors and executive officers as a group. Unless otherwise indicated below, to our knowledge, all persons listed below have sole voting and investment power with respect to their ordinary shares, except to the extent authority is shared by spouses under applicable law.

Name of Owner or Identity of Group	No. of Shares (1)	Percent of Class
Fidelity Group Companies (3)	5,422,202	9.3%
Dr. John Climax (2)	3,201,568	5.5%
Select Equity Group, Inc. (3)	2,927,223	5.0%
All directors and officers as a group (4)	4,700,644	8.0%

- (1) As used in this table, each person has the sole or shared power to vote or direct the voting of a security, or the sole or shared investment power with respect to a security (i.e., the power to dispose, or direct the disposition, of a security). A person is deemed as of any date to have "beneficial ownership" of any security if that such person has the right to acquire such security within 60 days after such date. Note that all figures have been amended to reflect the Bonus Issues which took place with an effective date of October 13, 2006 and August 8, 2008.
- (2) Includes 3,107,568 ADSs held by Poplar Limited, a Jersey company controlled by Dr. Climax, and options to purchase 94,000 ADSs.
- (3) Neither the Company nor any of its officers, directors or affiliates holds any voting power in this entity.
- (4) Includes 407,200 ordinary shares issuable upon the exercise of stock options granted by the Company.

ICON plc, is not directly or indirectly, owned or controlled by another corporation or by any government.

Given that certain of the ordinary shares and American Depositary Shares (“ADRs”) are held by brokers or other nominees, the number of holders of record or registered holders in the United States is not representative of the number of beneficial holders or of the residence of beneficial holders. Based on management’s review of relevant filings with the Securities and Exchange Commission and other publicly available information, the Company believes that the number of ordinary shares (including ADSs) held by holders of record that are residents of the United States is below 50% and may include Fidelity Group Companies and Select Equity Group, Inc. The Company notes that of a total of 58,528,955 ordinary shares (including ADSs) of the Company which were issued and outstanding at February 19, 2008, 8,349,425 ordinary shares (including ADSs) were held by holders of record in the United States.

Related Party Transactions

As at December 31, 2008, Amarin Investment Holding Limited (a company controlled by Mr. Thomas Lynch), and Sunninghill Limited (a company controlled by Dr. John Climax) held 1.1 million and 1.5 million shares respectively in Amarin. These respective holdings equate to approximately 3.97% and 5.42% respectively, of Amarin’s issued share capital. Thomas Lynch also serves as Chairman and Chief Executive Officer of Amarin. Amarin is a neuroscience company focused on the research, development and commercialization of drugs for the treatment of central nervous system disorders. During the fiscal year ending May 31, 2005, Amarin contracted ICON Clinical Research Limited (a wholly owned subsidiary of ICON), to conduct a clinical trial on its behalf. The total potential value of this study is \$7 million. During the year ended December 31, 2008, the Company recognized \$0.2 million of revenue relating to the Amarin contract. At December 31, 2008, \$0.3 million was outstanding to be received from Amarin on this trial.

As at December 31, 2008, Dr. John Climax and Dr. Ronan Lambe held 3.05% and 2.94% respectively of the issued share capital of NuPathe Inc. (“NuPathe”). NuPathe is a specialty pharmaceutical company specializing in the acquisition and development of therapeutic products in the area of neuroscience. Prior to July 2008 Dr. Climax also served as a non-executive director and chairman of the compensation committee on the Board of NuPathe. During the year ending December 31, 2006, NuPathe engaged ICON Clinical Research Limited, a wholly owned subsidiary of ICON plc, in consulting and clinical trial related activities. During the year ended December 31, 2008, the Company recognized \$0.1 million relating to the NuPathe contract. There were no amounts outstanding as at December 31, 2008.

Mr Edward Roberts has served as Chairman of Merz GmbH since 2003. Merz is an independent German pharmaceutical company focused on the development of drugs for the treatment of illnesses in the fields of neurology and psychiatry. ICON Clinical Research Limited, a wholly owned subsidiary of ICON plc, has entered into a number of contracts with Merz for the provision of consulting and clinical trial related activities. The total potential value of these contracts is \$44.1 million. During the prior year ended December 31, 2008, ICON recognized a total of \$7.6 million of revenue in relation to these activities. There were no amounts outstanding as at December 31, 2008.

Prior to June 25, 2007, Dr. Bruce Given served as the President and Chief Executive Officer of Encysive Pharmaceuticals Inc. (“Encysive”). Encysive is a biopharmaceutical company specializing in the development and commercialization of synthetic, small molecule compounds. As of December 31, 2007, Dr. Bruce Given’s holdings in Encysive was less than 0.1% of the issued share capital. During the year ending December 31, 2003, Encysive engaged ICON Clinical Research Limited (a wholly owned subsidiary of ICON), in consulting and clinical trial related activities. During the year ended December 31, 2007, ICON recognized a total of \$0.1 million of revenue in relation to these activities. No revenue was earned from these activities during the year ended December 31, 2008.

As of December 31, 2007, Dr. Ronan Lambe held 1.4 million shares in AGI Therapeutics Limited (“AGI”), a specialty pharmaceutical company focused on developing drug therapies for gastrointestinal diseases and disorders. In January 2006, Dr. Ronan Lambe was appointed a non-executive director of AGI and took up the position of non-executive Chairman from February 2006. During September 2004, AGI engaged ICON Clinical Research Limited (a wholly owned subsidiary of ICON), in consulting and clinical trial related activities. The total value of this study was \$2.8 million. No revenue was recognized during the years ended December 31, 2007 and December 31, 2008. There were no amounts outstanding as at December 31, 2007 and December 31, 2008.

Item 8. Financial Information.

Financial Statements

See Item 18.

Legal Proceedings

ICON is not party to any litigation or other legal proceedings that we believe could reasonably be expected to have a material adverse effect on our business, results of operations and financial condition.

Dividends

We have not paid cash dividends on our ordinary shares and do not intend to pay cash dividends on our ordinary shares in the foreseeable future.

Item 9. The Offer and the Listing

ICON’s ADSs are traded on the NASDAQ National Market under the symbol “ICLR”. Our Depository for the ADSs is The Bank of New York. ICON also has a secondary listing on the Official List of the Irish Stock Exchange. No securities of ICON are traded in any other market. The following table sets forth the trading price for the dates indicated for ICON plc’s ADSs as reported by NASDAQ.

Year Ending	High Sales Price During Period	Low Sales Price During Period
May 31, 2004	\$ 11.52	\$ 6.47
May 31, 2005	\$ 11.23	\$ 7.57
December 31, 2005 (7 month transition period)	\$ 12.63	\$ 7.53
December 31, 2006	\$ 20.18	\$ 10.25
December 31, 2007	\$ 32.40	\$ 18.34
December 31, 2008	\$ 44.78	\$ 15.64

Quarter Ending	High Sales Price During Period	Low Sales Price During Period
Mar 31, 2007	\$ 22.30	\$ 18.34
June 30, 2007	\$ 24.83	\$ 20.83
Sept 30, 2007	\$ 26.63	\$ 21.26
Dec 31, 2007	\$ 32.40	\$ 25.36
Mar 31, 2008	\$ 35.56	\$ 28.63
June 30, 2008	\$ 39.12	\$ 29.52
Sept 30, 2008	\$ 44.78	\$ 35.00
Dec 31, 2008	\$ 39.66	\$ 15.64

Month Ending	High Sales Price During Period	Low Sales Price During Period
July 31, 2008	\$ 42.09	\$ 36.07
Aug 31, 2008	\$ 44.78	\$ 40.00
Sept 30, 2008	\$ 43.75	\$ 35.00
Oct 31, 2008	\$ 39.66	\$ 18.67
Nov 30, 2008	\$ 27.90	\$ 15.64
Dec 31, 2008	\$ 24.37	\$ 17.27

All comparative figures above have been amended to reflect the Bonus Issues which took place with an effective date of August 8, 2008 and October 13, 2006.

Item 10. Additional Information

Exchange Controls and Other Limitations Affecting Security Holders

Irish exchange control regulations ceased to apply from and after December 31, 1992. Except as indicated below, there are no restrictions on non-residents of Ireland dealing in domestic securities, which includes shares or depository receipts of Irish companies. Except as indicated below, dividends and redemption proceeds also continue to be freely transferable to non-resident holders of such securities.

The Financial Transfers Act, 1992 gives power to the Minister for Finance of Ireland to make provision for the restriction of financial transfers between Ireland and other countries and persons. Financial transfers are broadly defined, and include all transfers which would be movements of capital or payments within the meaning of the treaties governing the European Communities. The acquisition or disposal of ADSs or ADRs representing shares issued by an Irish incorporated company and associated payments may fall within this definition. In addition, dividends or payments on redemption or purchase of shares and payments on a liquidation of an Irish incorporated company would fall within this definition. At present, the Financial Transfers Act, 1992 prohibits financial transfers involving certain persons connected with the former regime in Iraq, certain persons indicted by the International Criminal Tribunal for the former Yugoslavia and certain associated persons, Zimbabwe, the Islamic Republic of Iran, the Democratic Peoples Republic of Korea, the Republic of Lebanon, the Taliban of Afghanistan, Osama bin Laden and Al-Qaeda, Liberia, Libya, Burma/Myanmar, Uzbekistan, Sudan, Somalia, Cote D'Ivoire, the Democratic Republic of Congo, President Lukashenko and certain other officials of Belarus, and countries that harbor certain terrorist groups, without the prior permission of the Central Bank of Ireland.

Any transfer of, or payment in respect of an ADS involving the government of any country or any person which is currently the subject of United Nations sanctions, any person or body controlled by any of the foregoing, or by any person acting on behalf of the foregoing, may be subject to restrictions pursuant to such sanctions as implemented into Irish law. The following countries and persons are currently the subject of such sanctions: Somalia, Sierra Leone, Sudan, Cote D'Ivoire, Democratic Republic of Congo, Liberia, individuals designated by the international independent investigation Commission or the Government of Lebanon, Democratic Peoples Republic of Korea, the Islamic Republic of Iran, Iraq, the Taliban of Afghanistan, Osama bin Laden and Al-Qaeda. There are no restrictions under the Company's Articles of Association, or under Irish Law that limit the right of non-residents or foreign owners to hold or vote the Company's ordinary shares or ADSs.

Memorandum and Articles of Association

We hereby incorporate by reference the description of our Memorandum and Articles of Association located under the heading "Description of the Memorandum and Articles of Association of the Company" in our Form 6-K filed with the Securities Exchange Commission on December 5, 2008.

On July 21, 2008, at ICON's Annual General Meeting, the Articles of Association of ICON plc were amended to increase the authorized share capital. The following amendments were made:

"That the authorized share capital of the Company be increased from €2,400,000 divided into 40,000,000 Ordinary Shares of €0.06 each, to €6,000,000 divided into 100,000,000 Ordinary Shares of €0.06 each."

On July 21, 2008, at ICON's Annual General Meeting, the Articles of Association of ICON plc were amended to authorise the chairman to have a casting vote. The following amendments were made:

"That Article 101(a) of the Company's existing Articles of Association be deleted and replaced in its entirety with the following new Article 101(a):

(a) Questions arising at any meeting of Directors shall be decided by a majority of votes. Where there is an equality of votes, the chairman of the meeting shall have a second or casting vote."

Material Contracts

The Company leases all but one of its facilities under operating leases. Certain of these leases are considered to be material.

Taxation

General

The following discussion is based on existing Irish tax law, Irish court decisions and the practice of the Revenue Commissioners of Ireland, and the convention between the United States and Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to income and capital gains (the "Treaty"). This discussion does not purport to deal with the tax consequences of owning the ordinary shares for all categories of investors, some of which may be subject to special rules. Prospective purchasers of ordinary shares are advised to consult their own tax advisors concerning the overall tax consequences arising in their own particular situations under Irish law. Each prospective investor should understand that future legislative, administrative and judicial changes could modify the tax consequences described below, possibly with retroactive effect.

As used herein, the term "U.S. Holder" means a beneficial owner of ordinary shares that (i) owns the ordinary shares as capital assets; (ii) is a U.S. citizen or resident, a U.S. corporation, an estate the income of which is subject to U.S. federal income taxation regardless of its source or a trust that meets the following two tests: (A) a U.S. court is able to exercise primary supervision over the administration of the trust, and (B) one or more U.S. persons have the authority to control all substantial decisions of the trust; and for purposes of the discussion under Irish Taxation of U.S. Holders (A) is not a resident of, or ordinarily resident in, Ireland for the purposes of Irish tax; and (B) is not engaged in trade or business in Ireland through a permanent establishment.

AS USED HEREIN, REFERENCES TO THE ORDINARY SHARES SHALL INCLUDE ADSs REPRESENTING SUCH ORDINARY SHARES AND ADRs EVIDENCING OWNERSHIP OF SUCH ADSs.

Irish Taxation

Irish corporation tax on income

ICON is a public limited company incorporated and resident for tax purposes in Ireland.

For Irish tax purposes, the residence of a company is in the jurisdiction where the central management and control of the company is located. Subject to certain exceptions, all Irish incorporated companies are deemed to be Irish tax resident. Companies which are resident in the Republic of Ireland are subject to Irish corporation tax on their total profits (wherever arising and, generally, whether or not remitted to the Republic of Ireland). The question of residence, by virtue of management and control, is essentially one of fact. It is the present intention of the Company's management to continue to manage and control the Company from the Republic of Ireland, so that the Company will continue to be resident in the Republic of Ireland.

The standard rate of Irish corporation tax on trading income (with certain exceptions) is currently 12.5%.

Patent exemption is available to Irish resident companies whose income derives from qualifying royalties or license fees paid in respect of qualifying patents. The main requirement to qualify for the exemption is that the research, planning, processing, experimentation, testing, devising, designing, developing or similar activity leading to the invention which is the subject of the patent is carried out in Ireland. Under Irish law, income from such qualifying patents is disregarded for taxation purposes. From January 1, 2008, there is an annual limit of 5 million Euro placed on qualifying patent income. To the extent that income arises above this threshold, it will be subject to Irish corporation tax at 25%.

To the extent that the company is involved in the “manufacture” of goods in Ireland, income from this activity, in respect of its data processing operations carried out in Ireland (which is deemed to be manufacturing for Irish tax purposes) , can qualify for a 10% rate of tax. This relief is available until December 31, 2010, and thereafter the income will be taxed at the standard rate applicable to trading income which is currently 12.5%.

Corporation tax is charged at the rate of 25% on a company’s non-trading income and certain types of trading income not eligible for the lower rates discussed above.

Capital gains arising to an Irish resident company are liable to tax at 20% (22% for disposals made on or after 14 October 2008). However, a capital gains tax exemption has been introduced in Ireland in respect of disposals of certain qualifying shareholdings.

The exemption from capital gains tax on the disposal of shares by an Irish resident company will apply where certain conditions are met. These conditions principally are:

- The company claiming the exemption must hold (directly or indirectly) at least 5% of the ordinary share capital of the company in which the interest is being disposed of, for a period of at least one year, within the two year period prior to disposal.
- The shares being disposed of must be in a company, which at the date of disposal, is resident in an EU Member State or in a state with which Ireland has signed a double tax agreement.
- The shares must be in a company which is primarily a trading company or else the company making the disposal together with its “5% plus subsidiaries” should be primarily a trading group.
- The shares must not derive the greater part of their value from land or mineral rights in the State.

Taxation of Dividends

Unless exempted, all dividends paid by ICON, other than dividends paid entirely out of exempt patent income (subject to conditions), will be subject to Irish withholding tax at the standard rate of income tax in force at the time the dividend is paid, currently 20%. An individual shareholder who is neither resident nor ordinarily resident for tax purposes in Ireland, but is resident in a country with which Ireland has signed a double tax treaty, which includes the United States, or in a member state of the European Union, other than Ireland (together a “Relevant Territory”), will be exempt from withholding tax provided he or she makes the requisite declaration. No dividend withholding tax will apply on the payment of a dividend from an Irish resident company to its Irish resident 51% parent company. Where the Irish company receiving the dividend does not hold at least 51% of the shares of the paying company, the dividend will be exempt if the Irish corporate shareholder makes the requisite declaration.

Non-Irish resident corporate shareholders that:

- are ultimately controlled by residents of a Relevant Territory;
- are resident in a Relevant Territory and are not controlled by Irish residents;
- have the principal class of their shares, or shares of a 75% parent, substantially and regularly traded on one or more recognized stock exchanges in a Relevant Territory or Territories; or

- are wholly owned by two or more companies, each of whose principal class of shares is substantially and regularly traded on one or more recognized stock exchanges in a Relevant Territory or Territories;

will be exempt from withholding tax on the production of the appropriate certificates and declarations.

U.S. Holders of ordinary shares (as opposed to ADSs: see below) should note, however, that these documentation requirements may be burdensome. As described below, these documentation requirements do not apply in the case of ADSs.

Special arrangements are available in the case of an interest in shares held in Irish companies through American depositary banks using ADSs. The depositary bank will be allowed to receive and pass on a dividend from the Irish company without any deduction for withholding tax in the following circumstances:

- the depositary has been authorized by the Irish Revenue Commissioners as a qualifying intermediary and such authorization has not expired or been revoked; and either
- the depositary bank's ADS register shows that the beneficial owner has a U.S. address on the register; or
- if there is a further intermediary between the depositary bank and the beneficial owner, where the depositary bank receives confirmation from the intermediary that the beneficial owner's address in the intermediary's records is in the U.S.

Income Tax

Under certain circumstances, non-Irish resident shareholders will be subject to Irish income tax on dividend income. This liability is limited to tax at the standard rate and therefore, where withholding tax has been deducted, this will satisfy the tax liability.

However, a non-Irish resident shareholder will not have an Irish income tax liability on dividends from the Company if the holder is neither resident nor ordinarily resident in the Republic of Ireland and the holder is:

- an individual resident in the U.S. (or any other country with which Ireland has signed a double taxation treaty);
- a corporation that is ultimately controlled by persons resident in the U.S. (or any other country with which Ireland has signed a double taxation treaty);
- a corporation whose principal class of shares (or its 75% or greater parent's principal class of shares) is substantially and regularly traded on a recognized stock exchange in an EU country or a country with which Ireland has signed a double taxation treaty;
- a corporation resident in another EU member state or in a country with which Ireland has signed a double taxation treaty, which is not controlled directly or indirectly by Irish residents; or
- a corporation that is wholly owned by two or more corporations each of whose principal class of shares is substantially and regularly traded on a recognized stock exchange in an EU country or a country with which Ireland has signed a double taxation treaty.

U.S. Holders that do not fulfill the documentation requirements or otherwise do not qualify for the withholding tax exemption may be able to claim treaty benefits under the treaty. U.S. Holders that are entitled to benefits under the treaty will be able to claim a partial refund of the 20% withholding tax from the Irish Revenue Commissioners.

Taxation of Capital Gains

A person who is not resident or ordinarily resident in Ireland, has not been an Irish resident within the past five years and who does not carry on a trade in Ireland through a branch or agency will not be subject to Irish capital gains tax on the disposal of ordinary shares or ADSs, so long as the ordinary shares or ADSs, as the case may be, are either quoted on a stock exchange or do not derive the greater part of their value from Irish land or mineral rights. There are provisions to subject a person who disposes of an interest in a company while temporarily being non-Irish resident, to Irish capital gains tax. This treatment will apply to Irish domiciled individuals -:

- who cease to be Irish resident;
- who own the shares when they cease to be resident;
- if there are not more than 5 years of assessment between the last year of Irish tax residence prior to becoming temporarily non-resident and the tax year that he/she resumes Irish tax residency;
- who dispose of an interest in a company during this temporary non-residence; and
- the interest disposed of represents 5% or greater of the share capital of the company or is worth at least €500,000.

In these circumstances the person will be deemed, for Irish capital gains tax purposes, to have sold and immediately reacquired the interest in the company on the date of his or her departure and will be subject to tax at 20% of the taxable gain.

Irish Capital Acquisitions Tax

Irish capital acquisitions tax (referred to as CAT) applies to gifts and inheritances.

Where a gift or inheritance is taken under a disposition made after December 1, 1999, it will be within the charge to CAT:

- to the extent that the property of which the gift or inheritance consists is situated in the Republic of Ireland at the date of the gift or inheritance;
- where the person making the gift or inheritance is or was resident or ordinarily resident in the Republic of Ireland at the date of the disposition under which the gift or inheritance is taken;
- in the case of a gift taken under a discretionary trust where the person from whom the gift is taken was resident or ordinarily resident in the Republic of Ireland at the date he made the settlement, or at the date of the gift or, if he is dead at the date of the gift, at his death; or
- where the person receiving the gift or inheritance is resident or ordinarily resident in the Republic of Ireland at the date of the gift or inheritance.

The person who receives the gift or inheritance is primarily liable for CAT. A person is secondarily liable if he is the donor, his personal representative or an agent, trustee or other person in whose care the property constituting the gift or inheritance or the income therefrom is placed. Taxable gifts or inheritances received by an individual since December 5, 1991, from donors in the same threshold class are aggregated and only the excess over a specified tax-free threshold is taxed. The tax-free threshold is dependent on the relationship between the donor and the donees and the aggregation since December 5, 1991, of all previous gifts and inheritances, within the same tax threshold.

The tax-free threshold amounts that apply during 2009 are:

- €27,127 (2008: €26,060) in the case of persons who are not related to one another;
- €54,254 (2008: €52,151) in the case of gifts or inheritances received from inter alia a brother or sister or from a brother or sister of a parent or from a grandparent; and
- €542,544 (2008: €521,208) in the case of gifts and inheritances received from a parent (or from a grandparent by a minor child of a deceased child) and specified inheritances received by a parent from a child.

Gifts and inheritances passing between spouses are exempt from CAT.

A gift or inheritance of ordinary shares or ADSs will be within the charge to Irish capital acquisitions tax, notwithstanding that the person from whom or by whom the gift or inheritance is received is domiciled or resident outside Ireland.

The Estate Tax Convention between Ireland and the United States generally provides for Irish capital acquisitions tax paid on inheritances in Ireland to be credited against U.S. federal estate tax payable in the United States and for tax paid in the United States to be credited against tax payable in Ireland, based on priority rules set forth in the Estate Tax Convention. The Estate Tax Convention does not apply to Irish capital acquisitions tax paid on gifts.

Irish Probate Tax

Irish probate tax was abolished under the Finance Act, 2001. No probate tax will arise on any assets passing in respect of a death occurring on or after December 6, 2000.

Irish Stamp Duty - Ordinary Shares

Irish stamp duty, which is a tax on certain documents, is payable on all transfers of the ordinary shares (other than between spouses) whenever a document of transfer is executed. Where the transfer is attributable to a sale, stamp duty will be charged at a rate of 1%, rounded to the nearest Euro. The stamp duty is calculated on the amount or value of the consideration (i.e. purchase price) or, if the transfer is by way of a gift (subject to certain exceptions) or for consideration less than the market value, on the market value of the shares. Where the consideration for the sale is expressed in a currency other than Euro, the duty will be charged on the Euro equivalent calculated at the rate of exchange prevailing on the date of the transfer.

Transfers of ordinary shares between associated companies (broadly, companies within a 90% group relationship, and subject to the satisfaction of certain conditions) are exempt from stamp duty in the Republic of Ireland. In the case of transfers of ordinary shares where no beneficial interest passes (e.g. a transfer of shares from a beneficial owner to his nominee), no stamp duty arises where the transfer contains the appropriate certificate and, in the absence of such certificate, a flat rate of €12.70 (the nominal rate) will apply.

Irish Stamp Duty - ADSs Representing Ordinary Shares

A transfer by a shareholder to the depository or custodian of ordinary shares for deposit under the deposit agreement in return for ADSs and a transfer of ordinary shares from the depository or the custodian upon surrender of ADSs for the purposes of the withdrawal of the underlying ordinary shares in accordance with the terms of the deposit agreement will be stampable at the ad valorem rate if the transfer relates to a sale or contemplated sale or any other change in the beneficial ownership of such ordinary shares. However, it is not certain whether the mere withdrawal of ordinary shares in exchange for ADSs or ADSs for ordinary shares would be deemed to be a transfer of or change in the beneficial ownership which would be subject to stamp duty at the ad valorem rate. Where the transfer merely relates to a transfer where no change in the beneficial ownership in the underlying ordinary shares is effected or contemplated, no stamp duty arises where the transfer contains the appropriate certificate and, in the absence of such certificate, the nominal rate stamp duty of €12.70 applies.

Transfers of ADSs are exempt from Irish stamp duty as long as the ADSs are dealt in on the NASDAQ National Market or any recognized stock exchange in the United States or Canada.

The person accountable for payment of stamp duty is the transferee or, in the case of a transfer by way of gift, or for a consideration less than the market value, all parties to the transfer. A late or inadequate payment of stamp duty will result in a liability to pay interest, penalties and fines.

Documents on Display

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") and file reports and other information with the SEC. You may read and copy any of our reports and other information at, and obtain copies upon payment of prescribed fees from, the Public Reference Room maintained by the SEC at 100F Street N.E., Washington, D.C. 20549. In addition, the SEC maintains a Web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the SEC at <http://www.sec.gov>. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330.

We "incorporate by reference" information that we file with the SEC, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this report and more recent information automatically updates and supersedes more dated information contained or incorporated by reference in this report. Our SEC file number for Exchange Act reports is 333-8704.

As a foreign private issuer, we are exempt from the rules under the Exchange Act, prescribing the furnishing and content of proxy statements to shareholders.

We will provide without charge to each person, including any beneficial owner, on the written or oral request of such person, a copy of any or all documents referred to above which have been or may be incorporated by reference in this report (not including exhibits to such incorporated information that are not specifically incorporated by reference into such information). Requests for such copies should be directed to us at the following address: ICON plc, South County Business Park, Leopardstown, Dublin 18, Ireland, Attention: Ciaran Murray, telephone number: (353) 1 291 2000.

Exemptions From Corporate Governance Listing Requirements Under the NASDAQ Marketplace Rules

NASDAQ may provide exemptions from the NASDAQ corporate governance standards to a foreign private issuer when those standards are contrary to a law, rule or regulation of any public authority exercising jurisdiction over such issuer or contrary to generally accepted business practices in the issuer's country of domicile, except to the extent that such exemptions would be contrary to United States federal securities laws. ICON, as a foreign private issuer, was granted an exemption in 1998 from provisions set forth in NASDAQ Rule 4350(f), which requires each issuer to provide for a quorum in its by-laws for any meeting of the holders of common stock, which shall in no case be less than 33.33% of the outstanding shares of the issuer's outstanding voting stock. ICON's Articles of Association require that only 3 members be present at a shareholder meeting to constitute a quorum. This quorum requirement is in accordance with Irish law and generally accepted business practices in Ireland.

Item 11. Quantitative and Qualitative Disclosures about Market Risk

Qualitative Disclosure of Market Risk. The principal market risks (i.e. risk of loss arising from adverse changes in market rates and prices) to which we are exposed are:

- Interest rate changes on short term investments (available for sale) in the form of floating rate notes and medium term minimum "AA" rated corporate securities, and
- Interest rate risk on variable rate debt.
- Foreign currency risk on non-U.S. dollar denominated cash and non-U.S. dollar denominated debt.

We use derivative financial instruments solely to hedge exposure to these market risks and we do not enter into these instruments for trading or speculative purposes. The Company had no interest rate instruments or derivatives as at December 31, 2008.

Our primary foreign currency exchange risk relates to movements in rates between the U.S. dollar, Sterling and the Euro. At December 31, 2008, we had cash denominated in non-U.S. dollar denominated currencies. In order to reduce the foreign currency exchange risk, we may enter into certain derivative instruments to reduce our exposure to adverse changes in exchange rates. At December 31, 2008, we held no foreign exchange forward contracts.

Quantitative disclosure of Market Risk. The analysis below presents the sensitivity of the market value, or fair value of our financial instruments to selected changes in market rates and prices. The changes chosen represent our view of changes that are reasonable over a one year period.

The hypothetical changes in fair value are estimated based on the same methodology used by the third party financial institutions to calculate the fair value of the original instruments, keeping all variables constant except the relevant exchange rate, as the case may be, which has been adjusted to reflect the hypothetical change. Fair value estimates by their nature are subjective and involve uncertainties and matters of significant judgment and therefore cannot be determined precisely.

Foreign Currency Exchange Risk

The sensitivity analysis below represents the hypothetical change in fair value based on an immediate 10% movement in the exchange rates.

	Fair value at December 31, 2008 (in thousands)	Fair value Change +10% movement in foreign exchange rate (in thousands)	Fair value Change -10% movement in foreign exchange rate (in thousands)
Non-U.S. Dollar denominated cash	\$ 13,917	\$ 1,392	(\$ 1,392)
Non-U.S. Dollar denominated short term debt	\$ 40,193	\$ 4,019	(\$ 4,019)

Interest Rate Risk

The sensitivity analysis below represents the hypothetical change in our interest income/(expense) based on an immediate 1% movement in market interest rates.

	Interest Income/(Expense) for the year ended December 31, 2008 (in thousands)	Interest Income/(Expense) Change 1% increase in market interest rate (in thousands)	Interest Income/(Expense) Change 1% decrease in market interest rate (in thousands)
Interest Income	\$ 2,880	\$ 3,882	\$ 1,860
Interest Expense	(\$ 4,102)	(\$ 5,156)	(\$ 3,048)

Item 12. Description of Securities Other than Equity Securities

Not applicable.

Part II

Item 13. Defaults, Dividend Arrearages and Delinquencies

None.

Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

We hereby incorporate by reference the description of the amendment to our Memorandum and Articles of Association described under the heading "Memorandum and Articles of Association" from Item 10 of this Form 20-F.

Item 15. Controls and Procedures**(a) Evaluation of disclosure controls and procedures**

An evaluation was carried out under the supervision and with the participation of the Company's management, including the Chief Executive Officer (CEO) and the Chief Financial Officer (CFO), of the effectiveness of our disclosure controls and procedures as at December 31, 2008. Based on that evaluation, the CEO and CFO have concluded that the Company's disclosure controls and procedures are effective to ensure that information required to be disclosed by the Company in reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms.

(b) Management's Annual Report

Reference is made to page 56 of this Form 20-F.

(c) Report of Independent Registered Public Accounting Firm

Reference is made to page 58 of this Form 20-F.

(d) Changes in internal controls

There were no changes in our internal controls over financial reporting that occurred during the period covered by this Form 20-F that have materially affected or are reasonably likely to materially affect our internal controls over financial reporting.

Item 16. Reserved.**Item 16A. Audit Committee Financial Expert**

Mr. Thomas Lynch acts as the Audit Committee financial expert serving on our Audit Committee and Board of Directors. Mr. Lynch is an independent Board member and serves as one of our non-executive directors.

Item 16B. Code of Ethics

Our Board of Directors adopted its code of ethics in 2003, which applies to the Chief Executive Officer, the Chief Financial Officer and any persons performing similar functions, if any, of the Company.

There are no material modifications to, or waivers from, the provisions of such code, which are required to be disclosed.

This code is available on our website at the following address:

<http://www.iconplc.com>

Item 16C. Principal Accountant Fees and Services

Our principal accountants for the years ended December 31, 2008 and December 31, 2007, were KPMG.

The table below summarizes the fees for professional services rendered by KPMG for the audit of our annual financial statements for the years ended December 31, 2008, and December 31, 2007, and fees billed for other services rendered by KPMG.

	12 month period ending December 31, 2007 (in thousands)		12 month period ending December 31, 2008 (in thousands)	
Audit fees (1)	\$ 2,075	71%	\$ 1,835	54%
Audit related fees (2)	418	14%	403	12%
Tax fees (3)	429	15%	1,171	34%
Total	\$ 2,922	100%	\$ 3,409	100%

(1) Audit fees include annual audit fees for ICON plc and its subsidiaries.

(2) Audit related fees principally consisted of fees for financial due diligence services and fees for audit of financial statements of employee benefit plans.

(3) Tax fees are fees for tax compliance and tax consultation services.

The Audit Committee pre-approves on an annual basis the audit and non-audit services provided to ICON plc by its auditors.

Such annual pre-approval is given with respect to particular services. The Audit Committee, on a case-by-case basis, may approve additional services not covered by the annual pre-approval, as the need for such services arises.

Item 16D. Exemptions from the Listing Standards for Audit Committees

Not applicable.

Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers

Not applicable.

Part III**Item 17. Financial Statements**

See item 18.

Item 18. Financial Statements

Reference is made to pages 57 to 97 of this Form 20-F.

Item 19. Financial Statements and Exhibits

Financial statements of ICON plc and subsidiaries

Management's Report on Internal Control over Financial Reporting

Report of Independent Registered Public Accounting Firm.

Consolidated Balance Sheets as at December 31, 2007 and 2008

Consolidated Statements of Operations for the years ended December 31, 2006, December 31, 2007 and December 31, 2008.

Consolidated Statements of Shareholders' Equity and Comprehensive Income for the years ended December 31, 2006, December 31, 2007 and December 31, 2008

Consolidated Statements of Cash Flows for the years ended December 31, 2006, December 31, 2007 and December 31, 2008.

Notes to the Consolidated Financial Statements.

Exhibits of ICON plc and subsidiaries

Amended Memorandum and Articles of Association (incorporated by reference to Exhibits 3.1 and 3.2 to the Form 6-k (File No. 333-08704) filed on December 5, 2008).

ICON plc Share Option Plan 2003, as updated on October 26, 2006, for the 2006 bonus issue, further updated on February 5, 2007 and updated on July 21, 2008, for the 2008 bonus issue (incorporated by reference to Exhibit 4.1 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).

ICON plc Consultants Share Option Plan 2008 (incorporated by reference to Exhibit 4.2 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).

ICON plc Employee Share Option Plan 2008 (incorporated by reference to Exhibit 4.3 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).

ICON plc Employees Restricted Share Unit Plan (incorporated by reference to Exhibit 4.4 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).

Significant subsidiaries (Incorporated by reference in Item 4).

Office Space Lease, dated September 25, 1998, between ICON Clinical Research, Inc. and O'Neill Lansdale Properties, L.P.

Amended and Restated Office Space Lease, dated January 1, 2001, between ICON Clinical Research and 212 Church Associates, L.P.

Amendment Number 1 to the Amended and Restated Office Space Lease, between ICON Clinical Research, Inc. and 212 C Associates, L.P.

Amendment Number 2 to the Amended and Restated Office Space Lease, dated January 11, 2005, between ICON Clinical Research, Inc. and 212 C Associates, L.P.

Agreement of Lease, dated August 13, 2001, between ICON Clinical Research (UK) Limited, ICON plc and Capital Business Parks Globeside Limited.

Agreement of Lease, dated November 29, 2002, between ICON Laboratories, Inc. and MSM Reality Co. LLC, Davrick, LLC and Sholom Blau Co. LLC (together, the "Landlord").

Highwoods Properties Office Lease, dated February 17, 2003, between ICON Clinical Research, Inc. and Highwoods Realty Limited Partnership.

Section 302 certifications.

Section 906 certifications.

Consent of KPMG, Independent Registered Public Accounting Firm

Management's Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934.

The Company's internal control over financial reporting is a process designed by, or under the supervision of, the Company's executive and financial officers and effected by the Company's board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with generally accepted accounting principles.

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

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

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2008. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control – Integrated Framework. Based upon the assessment performed, we determined that, as of December 31, 2008, the Company's internal control over financial reporting was effective. In addition, there have been no changes in the Company's internal control over financial reporting during 2008 that have materially affected, or are reasonably likely to affect materially, the Group's internal control over financial reporting

KPMG, which has audited the consolidated financial statements of the Company for the year ended December 31, 2008, has also audited the effectiveness of the Company's internal control over financial reporting under Auditing Standard No. 5 of the Public Company Accounting Oversight Board (United States).

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Directors and Shareholders of ICON plc

We have audited the accompanying consolidated balance sheets of ICON plc and subsidiaries (“the Company”) as of December 31, 2008 and 2007 and the related consolidated statements of operations, shareholders’ equity and comprehensive income, and cash flows for each of the years in the three-year period ended December 31, 2008. These consolidated financial statements are the responsibility of the Company’s management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of ICON plc and subsidiaries as of December 31, 2008 and December 31, 2007 and the results of their operations and their cash flows for each of the years in the three-year period ended December 31, 2008, in conformity with U.S. generally accepted accounting principles.

As described in Note 2 to the consolidated financial statements, the Company adopted the provisions of FASB Interpretation No. 48 *Accounting for Uncertain Income Taxes*, as of January 1, 2007. As described in Note 2 to the consolidated financial statements, effective January 1, 2006, the Company changed its method of accounting for share-based compensation upon adoption of Statement of Accounting Standard No. 123R *Share Based Payments*.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), ICON plc’s internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and our report dated February 19, 2009, expressed an unqualified opinion on the effectiveness of the Company’s internal control over financial reporting.

KPMG

Dublin, Ireland
February 19, 2009

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Directors and Shareholders of ICON plc

We have audited ICON plc's internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). ICON plc's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying report. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

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

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

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

In our opinion, ICON plc maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of ICON plc as of December 31, 2008 and 2007 and the related consolidated statements of operations, shareholders' equity and comprehensive income, and cash flows for each of the years in the three-year period ended December 31, 2008 and our report dated February 19, 2009 expressed an unqualified opinion on those consolidated financial statements.

KPMG

Dublin, Ireland
February 19, 2009

ICON plc
CONSOLIDATED BALANCE SHEETS

	December 31, 2007	December 31, 2008
	(in thousands)	
ASSETS		
Current Assets:		
Cash and cash equivalents	\$ 76,881	\$ 58,378
Short term investments - available for sale (Note 3)	41,752	42,726
Accounts receivable	129,865	210,535
Unbilled revenue	144,661	141,727
Other receivables	6,171	11,196
Deferred tax asset (Note 13)	4,919	5,609
Prepayments and other current assets	16,449	24,332
Income taxes receivable (Note 13)	2,448	5,776
Total current assets	423,146	500,279
Other Assets:		
Property, plant and equipment, net (Note 6)	133,426	171,748
Goodwill (Note 4)	123,879	169,344
Non-current other assets	2,140	2,179
Non-current income taxes receivable (Note 13)	3,049	4,840
Non-current deferred tax asset (Note 13)	5,703	8,271
Intangible assets (Note 5)	1,795	10,624
Total Assets	\$ 693,138	\$ 867,285
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current Liabilities:		
Accounts payable	\$ 13,459	\$ 17,505
Payments on account	96,553	121,935
Other liabilities (Note 7)	70,743	130,223
Deferred tax liability (Note 13)	398	1,356
Bank credit lines and loan facilities (Note 8)	43,767	40,193
Income taxes payable (Note 13)	4,955	3,110
Total current liabilities	229,875	314,322
Other Liabilities:		
Long term government grants (Note 11)	1,179	1,386
Long term finance leases	49	470
Non-current income taxes payable (Note 13)	13,906	15,949
Non-current deferred tax liability (Note 13)	5,966	12,196
Non-current other liabilities	1,394	1,410
Non-current bank credit lines and facilities (Note 8)	51,062	65,186
Minority interest (Note 4)	1,307	—
Shareholders' Equity:		
Ordinary shares, par value 6 euro cents per share; 100,000,000 shares authorized, (Note 12) 57,670,488 shares issued and outstanding at December 31, 2007 and 58,518,195 shares issued and outstanding at December 31, 2008*.	4,843	4,921
Additional paid-in capital	143,639	162,057
Accumulated other comprehensive income	31,828	3,178
Retained earnings	208,090	286,210
Total Shareholders' Equity	388,400	456,366
Total Liabilities and Shareholders' Equity	\$ 693,138	\$ 867,285

*Comparative figures have been amended to reflect the Bonus Issues (Stock Splits) which took place with an effective date of October 13, 2006 and August 8, 2008

ICON plc
CONSOLIDATED STATEMENTS OF OPERATIONS

	Year Ended December 31,		
	2006	2007	2008
	(in thousands, except share and per share data)		
Revenue:			
Gross revenue	\$ 649,826	\$ 867,473	\$ 1,209,451
Reimbursable expenses	(194,229)	(236,751)	(344,203)
Net revenue	455,597	630,722	865,248
Costs and expenses:			
Direct costs	256,263	354,479	489,238
Selling, general and administrative	136,569	187,993	248,778
Depreciation and amortization	14,949	19,008	27,728
Total costs and expenses	407,781	561,480	765,744
Income from operations	47,816	69,242	99,504
Interest income	3,765	4,141	2,881
Interest expense	(125)	(1,403)	(4,105)
Income before provision for income taxes	51,456	71,980	98,280
Provision for income taxes (Note 13)	(12,924)	(15,830)	(19,967)
Minority interest	(228)	(187)	(193)
Net income	\$ 38,304	\$ 55,963	\$ 78,120
Net income per ordinary share:			
Basic	\$ 0.68	\$ 0.97	\$ 1.34
Diluted	\$ 0.66	\$ 0.94	\$ 1.30
Weighted average number of ordinary shares outstanding*:			
Basic (Note 2)	56,629,970	57,410,544	58,245,240
Diluted (Note 2)	57,726,668	59,495,928	60,221,587

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

*Comparative figures have been amended to reflect the Bonus Issues (Stock Splits) which took place with an effective date of October 13, 2006 and August 8, 2008

ICON plc
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY AND COMPREHENSIVE INCOME

(in thousands, except share and per share data)

	Shares	Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income	Retained Earnings	Total
Balance at December 31, 2005*	56,072,368	\$ 4,715	\$ 119,611	\$ 3,409	\$ 113,823	\$ 241,558
Comprehensive Income:						
Net income	—	—	—	—	38,304	38,304
Currency translation adjustment	—	—	—	11,482	—	11,482
Actuarial loss on defined benefit pension plan (net of nil tax)	—	—	—	(376)	—	(376)
Total comprehensive income						49,410
Exercise of share options	963,336	74	6,605	—	—	6,679
Share based compensation expense	—	—	4,066	—	—	4,066
Share issue costs	—	—	(84)	—	—	(84)
Tax benefit on exercise of options	—	—	1,109	—	—	1,109
Balance at December 31, 2006*	57,035,704	\$ 4,789	\$ 131,307	\$ 14,515	\$ 152,127	\$ 302,738
Comprehensive Income:						
Net income	—	—	—	—	55,963	55,963
Currency translation adjustment (net of tax)	—	—	—	11,893	—	11,893
Actuarial gain on defined benefit pension plan (net of nil taxation)	—	—	—	5,420	—	5,420
Total comprehensive income						73,276
Exercise of share options	634,784	54	5,244	—	—	5,298
Share based compensation expense	—	—	5,748	—	—	5,748
Share issue costs	—	—	(126)	—	—	(126)
Tax benefit on exercise of options	—	—	1,466	—	—	1,466
Balance at December 31, 2007*	57,670,488	\$ 4,843	\$ 143,639	\$ 31,828	\$ 208,090	\$ 388,400

ICON plc
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY AND COMPREHENSIVE INCOME

(in thousands, except share and per share data)

	Shares	Amount	Additional Paid-in Capital	Accumulated Other Comprehensive Income	Retained Earnings	Total
Balance at December 31, 2007*	57,670,488	\$ 4,843	\$ 143,639	\$ 31,828	\$ 208,090	\$ 388,400
Comprehensive Income:						
Net income	—	—	—	—	78,120	78,120
Currency translation adjustment (net of tax)	—	—	—	(27,606)	—	(27,606)
Actuarial gain on defined benefit pension plan (net of nil taxation)	—	—	—	(1,044)	—	(1,044)
Total comprehensive income						49,470
Exercise of share options	847,707	78	8,438	—	—	8,516
Share based compensation expense	—	—	6,058	—	—	6,058
Share issue costs	—	—	(138)	—	—	(138)
Tax benefit on exercise of options	—	—	4,060	—	—	4,060
Balance at December 31, 2008*	58,518,195	\$ 4,921	\$ 162,057	\$ 3,178	\$ 286,210	\$ 456,366

*Comparative figures have been amended to reflect the Bonus Issues (Stock Splits) which took place with an effective date of October 13, 2006 and August 8, 2008

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

ICON plc
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended December 31, 2006	Year Ended December 31, 2007	Year Ended December 31 2008
Cash flows from operating activities:			
Net income	\$ 38,304	\$ 55,963	\$ 78,120
Adjustments to reconcile net income to net cash provided by operating activities:			
Loss on disposal of property, plant and equipment	186	396	254
Depreciation and amortization	14,949	19,008	27,728
Amortization of government grants	(114)	(117)	(126)
Stock compensation expense	4,066	5,748	6,058
Deferred taxes	(1,887)	(1,177)	2,909
Minority interest	228	187	193
Changes in assets and liabilities:			
Increase in accounts receivable	(32,893)	(11,390)	(83,816)
(Increase)/decrease in unbilled revenue	(24,178)	(52,231)	2,168
Decrease/(increase) in other receivables	5,089	2,275	(10,175)
(Increase)/decrease in prepayments and other current assets	(2,477)	502	(9,444)
Increase in other non current assets	—	(2,140)	(39)
Increase in payments on account	35,605	4,220	26,404
Increase in other current liabilities	10,699	14,403	41,849
Increase in other non current liabilities	—	1,394	17
Increase/(decrease) in income taxes payable	1,532	3,582	(3,968)
Increase in accounts payable	1,343	2,343	3,150
Net cash provided by operating activities	50,452	42,966	81,282
Cash flows from investing activities:			
Purchase of property, plant and equipment	(31,516)	(75,391)	(67,882)
Purchase of subsidiary undertakings and acquisition costs	(7,017)	(41,150)	(49,540)
Deferred payments in respect of historical acquisitions	(96)	—	—
Cash acquired with subsidiary undertaking	341	—	549
Grant received	—	—	400
Sale of short term investments	3,008	14,824	14,026
Purchase of short term investments	(20,021)	(16,753)	(15,000)
Net cash used in investing activities	(55,301)	(118,470)	(117,447)
Cash flows from financing activities:			
Drawdown of credit lines and facilities	112	94,829	58,925
Repayment of credit lines and facilities	—	(5,000)	(48,927)
Proceeds from the exercise of share options	6,679	5,298	8,516
Share issuance costs	(84)	(126)	(138)
Tax benefit from the exercise of share options	1,109	1,466	4,060
Bank overdraft acquired with subsidiary undertakings	—	(2,400)	—
Repayment of other liabilities and finance lease obligations	(114)	(109)	(99)
Net cash provided by financing activities	7,702	93,958	22,337
Effect of exchange rate movements on cash	677	(4,612)	(4,675)
Net increase/(decrease) in cash and cash equivalents	3,530	13,842	(18,503)
Cash and cash equivalents at beginning of year	59,509	63,039	76,881
Cash and cash equivalents at end of year	\$ 63,039	\$ 76,881	\$ 58,378

ICON plc
NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

1. Description of business

ICON plc and its subsidiaries (“the Company” or “ICON”) is a contract research organization (“CRO”), providing outsourced development services on a global basis to the pharmaceutical, biotechnology and medical device industries. The Company specializes in the strategic development, management and analysis of programs that support Clinical Development - from compound selection to Phase I-IV clinical studies.

The Company’s primary approach is to use dedicated teams to achieve optimum results, but the Company can implement a range of resourcing models to suit client requirements.

In a highly fragmented industry, we are one of a select group of companies with the capability and expertise to conduct clinical trials in all major therapeutic areas on a global basis. At December 31, 2008, the Company had 6,975 employees, in 71 locations, in 38 countries, providing Phase I - IV Clinical Trial Management, Drug Development Support Services, Data Management and Biostatistics and Central Laboratory and Imaging Services. The Company has the operational flexibility to provide development services on a stand-alone basis or as part of an integrated “full service” solution.

Headquartered in Dublin, Ireland, we began operations in 1990 and have expanded our business through internal growth and strategic acquisitions. For the year ended December 31, 2008, we derived approximately 43.8%, 47.8% and 8.4% of our net revenue in the United States, Europe and Rest of World, respectively.

On July 21, 2008, the Company’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on August 8, 2008 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on August 11, 2008, to Ordinary Shareholders and on August 12, 2008, to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on August 13, 2008. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

On September 29, 2006, ICON’s shareholders approved a bonus issue of ordinary shares (the “Bonus Issue”) to shareholders of record as of the close of business on October 13, 2006 (the “Record Date”). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on October 16, 2006, to Ordinary Shareholders and on October 23, 2006, to holders of American Depositary Shares (“ADSs”). The trading price of ICON’s ADSs was adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on October 24, 2006. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

2. Significant Accounting Policies

The accounting policies noted below were applied in the preparation of the accompanying financial statements of the Company and are in conformity with accounting principles generally accepted in the United States.

(a) Basis of consolidation

The consolidated financial statements include the financial statements of the Company and all of its subsidiaries. All significant intercompany profits, transactions and account balances have been eliminated. The results of subsidiary undertakings acquired in the period are included in the consolidated statement of operations from the date of acquisition.

(b) Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

(c) Revenue recognition

The Company primarily earns revenues by providing a number of different services to its customers. These services include clinical trials management, biometric activities, consulting, imaging and laboratory services. Contracts range in duration from a number of months to several years.

Revenue for services, as rendered, is recognized only after persuasive evidence of an arrangement exists, the sales price is fixed or determinable and collectibility is reasonably assured.

Clinical trials management revenue is recognized on a proportional performance method based on the relationship between hours incurred and the total estimated hours of the trial. The input (effort expended) method has been used to measure progress towards completion as there is a direct relationship between input and productivity. Contract costs equate to the product of labor hours incurred and compensation rates. Contract revenue is the product of the aggregated labor hours required to complete the specified contract tasks at the agreed contract rates. The Company regularly reviews the estimate of total contract time to ensure such estimates remain appropriate taking into account actual contract stage of completion, remaining time to complete and any identified changes to the contract scope. Remaining time to complete depends on the specific contract tasks and the complexity of the contract and can include geographical site selection and initiation, patient enrolment, patient testing and level of results analysis required. While the Company may routinely adjust time estimates, the Company's estimates and assumptions historically have been accurate in all material respects in the aggregate.

Biometrics revenue is recognised on a fee-for-service method as each unit of data is prepared on the basis of the number of units completed in a period as a percentage of the total number of contracted units. Imaging revenue is recognised on a fee-for-service basis recognizing revenue for each image completed. Consulting revenue is recognised on a fee-for-service basis as each hour of the related service is performed. Laboratory service revenue is recognised on a fee-for-service basis. The Company accounts for laboratory service contracts as multiple element arrangements, with contractual elements comprising laboratory kits and laboratory testing, each of which can be sold separately. Fair values for contractual elements are determined by reference to objective and reliable evidence of their fair values. Revenues for contractual elements are recognised on the basis of the number of deliverable units completed in the period.

Contracts generally contain provisions for renegotiation in the event of changes in the scope, nature, duration, or volume of services of the contract. Renegotiated amounts are recognised as revenue by revision to the total contract value arising as a result of an authorised customer change order.

The difference between the amount of revenue recognised and the amount billed on a particular contract is included in the balance sheet as unbilled revenue. Normally, amounts become billable upon the achievement of certain milestones, for example, target patient enrolment rates, clinical testing sites initiated or case report forms completed. Once the milestone target is reached, amounts become billable in accordance with pre-agreed payment schedules included in the contract or on submission of appropriate billing detail. Such cash payments are not representative of revenue earned on the contract as revenues are recognised over the period in which the specified contractual obligations are fulfilled. Amounts included in unbilled revenue are expected to be collected within one year and are included within current assets. Advance billings to customers, for which revenue has not been recognised, are recognised as payments on account within current liabilities.

In the event of contract termination, if the value of work performed and recognised as revenue is greater than aggregate milestone billings at the date of termination, cancellation clauses ensure that the Company is paid for all work performed to the termination date.

(d) Reimbursable expenses

Reimbursable expenses comprise investigator payments and certain other costs which are reimbursed by clients under terms specific to each contract and are deducted from gross revenue in arriving at net revenue. Investigator payments are accrued based on patient enrollment over the life of the contract. Investigator payments are made based on predetermined contractual arrangements, which may differ from the accrual of the expense. Payments to investigators in excess of the accrued expense are classified as prepaid expenses and accrued expense in excess of amounts paid are classified as accounts payable.

(e) Direct costs

Direct costs consist of compensation and associated employee benefits for project-related employees, other direct project-related costs and share based compensation.

(f) Advertising costs

All costs associated with advertising and promotion are expensed as incurred. The advertising and promotion expense was U.S.\$2,687,000 and US\$3,612,000 for the years ended December 31, 2006 and 2007 respectively. For the year ended December 31, 2008, these costs amounted to U.S.\$3,467,000.

(g) Foreign currencies and translation of subsidiaries

The Company's financial statements are prepared in United States dollars. Transactions in currencies other than United States dollars are recorded at the rate ruling at the date of the transactions. Monetary assets and liabilities denominated in currencies other than United States dollars are translated into United States dollars at exchange rates prevailing at the balance sheet date. Adjustments resulting from these translations are charged or credited to income. For the years ended December 31, 2006 and 2007 the amounts charged to income amounted to, U.S.\$ 1,538,000 and U.S. \$6,266,000 respectively. For the year ended December 31, 2008, amounts credited to income amounted to U.S. \$2,255,000.

The financial statements of subsidiaries with other functional currencies are translated at period end rates for the balance sheet and average rates for the income statement. Translation gains and losses arising are reported as a movement on accumulated other comprehensive income.

(h) Disclosure about fair value of financial instruments

The following methods and assumptions were used to estimate the fair value of each material class of financial instrument:

Cash, cash equivalents, unbilled revenue, other receivables, short term investments, prepayments and other current assets, accounts receivable, accounts payable, investigator payments, payments received on account, accrued liabilities, accrued bonuses, bank overdraft and taxes payable have carrying amounts that approximate fair value due to the short term maturities of these instruments.

Long-term debt and other liabilities carrying amounts approximate fair value based on net present value of estimated future cash flows.

(i) Leased Assets

Costs in respect of operating leases are charged to the statement of operations on a straight line basis over the lease term.

Assets acquired under capital finance leases are included in the balance sheet at the present value of the future minimum lease payments and are depreciated over the shorter of the lease term and their remaining useful lives. The corresponding liabilities are recorded in the balance sheet and the interest element of the capital lease rental is charged to interest expense.

(j) Goodwill and Impairment

Goodwill represents the excess of the cost of acquired entities over the net amounts assigned to assets acquired and liabilities assumed. Goodwill primarily comprises acquired workforce in place which does not qualify for recognition as an asset apart from goodwill. Goodwill is stated net of any provision for impairment. The Company tests goodwill annually for any impairments or whenever events occur which may indicate impairment. The first step is to compare the carrying amount of the reporting unit's assets to the fair value of the reporting unit. If the carrying amount exceeds the fair value then a second step is completed which involves the fair value of the reporting unit being allocated to each asset and liability with the excess being implied goodwill. The impairment loss is the amount by which the recorded goodwill exceeds the implied goodwill. No impairment was recognized as a result of the impairment testing carried out as at December 31, 2006, December 31, 2007 and December 31, 2008.

(k) Intangible assets

Intangible assets are amortized on a straight line basis over their estimated useful life.

(l) Cash and cash equivalents

Cash and cash equivalents include cash and highly liquid investments with initial maturities of three months or less and are stated at cost, which approximates market value.

(m) Short term investments - available for sale

The Company has classified short-term investments as available for sale in accordance with the terms of FASB Statement No. 115 *Accounting for Certain Investments in Debt and Equity Securities* ("SFAS No. 115"). Realized gains and losses are determined using specific identification. The investments are reported at fair value, with unrealized gains or losses reported in a separate component of shareholders' equity. Any differences between the cost and fair value of the investments are represented by accrued interest.

(n) Inventory

Inventory is valued at the lower of cost and net market value and after provisions for obsolescence. Cost of raw materials comprises the purchase price and attributable costs, less trade discounts. As at the year ended December 31, 2008, the carrying value of inventory, included within prepayments and other current assets on the balance sheet, was U.S.\$3.4 million (2007: U.S.\$2.6 million).

(o) Property, plant and equipment

Property, plant and equipment are stated at cost less accumulated depreciation. Depreciation of property, plant and equipment is computed using the straight line method based on the estimated useful lives of the assets as listed below:

	<u>Years</u>
Building	40
Office furniture and fixtures	8
Laboratory equipment	5
Motor vehicles	5
Computer equipment and software	4-8

Leasehold improvements are amortized using the straight-line method over the estimated useful life of the asset or the lease term, whichever is shorter.

(p) Income taxes

The Company applies FASB Statement No. 109, *Accounting for Income Taxes* (“SFAS No.109”), which requires the asset and liability method of accounting for income taxes. Under the asset and liability method of SFAS No. 109, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which these temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. The Company adopted Financial Interpretation Note No. 48 *Accounting for uncertainty in Income taxes* (FIN 48”) with effect from January 1, 2007. FIN 48 requires that the Company recognizes the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement when considering uncertain tax positions.

(q) Government grants

Government grants received relating to capital expenditure are shown as deferred income and credited to income on a basis consistent with the depreciation policy of the relevant assets.

Grants relating to categories of operating expenditures are credited to income in the period in which the expenditure to which they relate is charged.

Under the grant agreements amounts received may become repayable in full should certain circumstances specified within the grant agreements occur, including downsizing by the Company, disposing of the related assets, ceasing to carry on its business or the appointment of a receiver over any of its assets.

The Company has not recognized any loss contingency having assessed as remote the likelihood of these events arising.

(r) Pension costs

The Company contributes to defined contribution plans covering all eligible employees. The Company contributes to these plans based upon various fixed percentages of employee compensation and such contributions are expensed as incurred.

The Company operates, through a subsidiary, a defined benefit plan for certain of its United Kingdom employees. The Company accounts for the costs of this plan using actuarial models required by FASB Statement No. 87, *Employers Accounting for Pensions* (“SFAS No. 87) and the plan is presented in accordance with the requirements of FASB Statement No. 158 *Employers’ Accounting for Defined Benefit Pensions and Other Post-retirement Plans* (“SFAS No. 158”).

(s) Net income per ordinary share

Basic net income per ordinary share has been computed by dividing net income available to ordinary shareholders by the weighted average number of ordinary shares outstanding during the period. Diluted net income per ordinary share is computed by adjusting the weighted average number of ordinary shares outstanding during the period for all potentially dilutive ordinary shares outstanding during the period and adjusting net income for any changes in income or loss that would result from the conversion of such potential ordinary shares.

There is no difference in net income used for basic and diluted net income per ordinary share. The reconciliation of the number of shares used in the computation of basic and diluted net income per ordinary share is as follows:

	Year Ended December 31,		
	2006	2007	2008
Weighted average number of ordinary shares outstanding for basic net income per ordinary share	56,629,970	57,410,544	58,245,240
Effect of dilutive share options outstanding	1,096,698	2,085,384	1,976,347
Weighted average number of ordinary shares outstanding for diluted net income per ordinary share	57,726,668	59,495,928	60,221,587

(t) Share-based compensation

The Company accounts for its share options in accordance with the provisions of FASB Statement No. 123R *Share Based Payment* ("SFAS 123R"). SFAS 123R requires that all share based payments to employees, including stock options granted, be recognized in the financial statements based on their grant date fair values over the requisite service period. The Company adopted SFAS 123R with effect from January 1, 2006, with the Black-Scholes method of valuation being used to calculate the fair value of options granted. The Company adopted SFAS 123R using the modified-prospective transition method. Under that transition method compensation cost includes; (a) compensation cost for all share-based payments granted prior to, but not yet vested as of, January 1, 2006, based on grant date fair value estimated in accordance with the original provisions of SFAS 123 and (b) compensation cost for all share based payments granted subsequent to January 1, 2006, based on grant date fair values estimated in accordance with the provisions of SFAS 123R and the estimated number of awards that are expected to vest. Results for periods prior to the adoption of SFAS 123R have not been restated.

(u) Impairment of long-lived assets

Long lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less selling costs.

(v) Reclassifications

Certain amounts in the consolidated financial statements have been reclassified where necessary to conform to the current year presentation.

3. Short term investments - available for sale

The Company has classified its entire investment portfolio comprising floating rate and medium term minimum "AA" rated corporate securities, as available for sale. The investments are reported at fair value, with unrealized gains or losses reported in a separate component of shareholders' equity. In the years ended December 31, 2006, December 31, 2007 and December 31, 2008, no unrealized gains or losses arose. Any differences between the cost and fair value of the investments are represented by accrued interest.

4. Goodwill

	December 31, 2007	December 31, 2008
	(in thousands)	
Opening Goodwill	\$ 78,717	\$ 123,879
Arising during the year	42,081	55,674
Foreign exchange movement	3,081	(10,209)
Closing Goodwill	\$ 123,879	\$ 169,344

The distribution of goodwill by business segment was as follows:

	December 31, 2007	December 31, 2008
	(in thousands)	
Central laboratory	\$ —	\$ —
Clinical research	123,879	169,344
Total	\$ 123,879	\$ 169,344

(a) Acquisition of Healthcare Discoveries Inc.

On February 11, 2008, the Company acquired 100% of the common stock of Healthcare Discoveries Inc., for an initial cash consideration of \$10.9 million, excluding costs of acquisition. Healthcare Discoveries, located in San Antonio, Texas, is engaged in the provision of Phase I clinical trial management services. Certain performance milestones were built into the acquisition agreement requiring payment of additional consideration of up to \$10.0 million if these milestones were achieved during the year ended December 31, 2008. No amounts have been accrued at December 31, 2008, as the milestones have not been achieved.

The acquisition of Healthcare Discoveries has been accounted for as a business combination in accordance with FASB Statement No. 141 *Business Combinations* ("SFAS 141"). The following table summarises the fair values of the assets acquired and the liabilities assumed at the date of acquisition.

	February, 11 2008
	(in thousands)
Property, plant and equipment	\$ 327
Intangible assets	2,890
Goodwill	9,995
Cash	5
Other current assets	575
Current liabilities	(1,951)
Purchase price	\$ 11,841

Goodwill represents the acquisition of an established workforce with experience in the provision of Phase I clinical trial management services to pharmaceutical and biotechnology companies.

The proforma effect of the Healthcare Discoveries acquisition if completed on January 1, 2007, would have resulted in net revenue, net income and earnings per share for the fiscal years ended December 31, 2007 and 2008 as follows:

	Year Ended December 31,	
	2007	2008
	(in thousands)	
Net revenue	\$ 638,706	\$ 865,723
Net income	\$ 55,375	\$ 77,508
Basic earnings per share	\$ 0.96	\$ 1.33
Diluted earnings per share	\$ 0.93	\$ 1.29

(b) Acquisition of Prevalere Life Sciences Inc.

On November 14, 2008, the Company acquired 100% of the common stock of Prevalere Life Sciences Inc. ("Prevalere"), for an initial cash consideration of \$36.8 million, excluding costs of acquisition. Prevalere, located in Whitesboro, New York, is a leading provider of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies. Certain performance milestones were built into the acquisition agreement requiring potential additional consideration of up to \$8.2 million if these milestones are achieved during the years ended December 31, 2008 and 2009. Additional consideration of \$5.0 million has been accrued at December 31, 2008, in respect of the milestones for the year ended December 31, 2008. No amounts have been accrued for additional consideration potentially payable in respect of the milestones for the year ended December 31, 2009.

The acquisition of Prevalere has been accounted for as a business combination in accordance with FASB Statement No. 141 *Business Combinations* ("SFAS 141"). The following table summarises the fair values of the assets acquired and the liabilities assumed at the date of acquisition.

	November 14, 2008
	(in thousands)
Property, plant and equipment	\$ 2,614
Intangible assets	7,375
Goodwill	29,086
Cash	544
Other current assets	5,833
Current liabilities	(2,827)
Purchase price	\$ 42,625

Goodwill represents the acquisition of an established workforce with experience in the provision of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies and allows ICON to participate in a growing market for these services.

The proforma effect of the Prevalere acquisition if completed on January 1, 2007, would have resulted in net revenue, net income and earnings per share for the fiscal years ended December 31, 2007 and 2008 as follows:

	Year Ended December 31,	
	2007	2008
	(in thousands)	
Net revenue	\$ 641,116	\$ 879,940
Net income	\$ 57,894	\$ 83,919
Basic earnings per share	\$ 1.01	\$ 1.44
Diluted earnings per share	\$ 0.97	\$ 1.39

(c) Acquisition of remaining 30% interest in Beacon Biosciences Inc.

On July 1, 2004, the Company acquired 70% of the common stock of Beacon Biosciences Inc. (“Beacon”), a leading specialist CRO, which provides a range of medical imaging services to the pharmaceutical, biotechnology and medical device industries, for an initial cash consideration of \$9.9 million, excluding costs of acquisition. On December 31, 2008, the remaining 30% of the common stock was acquired by the Company for \$17.4 million, excluding costs of acquisition. Certain performance milestones were built into the acquisition agreement for the remaining 30% of Beacon requiring potential additional consideration of up to \$3.0 million if these milestones are achieved during the year ended December 31, 2009. At December 31, 2008, no amounts have been accrued in respect of the additional consideration payable.

The acquisition of Beacon has been accounted for as a business combination in accordance with FASB Statement No. 141 *Business Combinations* (“SFAS 141”). The excess of consideration paid of \$17.8 million, including costs of acquisition, over the carrying value of minority interest of \$1.5 million, has been recorded as goodwill of \$16.3 million., pending the Company’s finalization of the allocation of total consideration paid to acquired net tangible and intangible assets. This allocation will be completed in 2009. Goodwill represents the acquisition of the minority interest in the net assets of Beacon.

The proforma effect of the Beacon acquisition, if completed on January 1, 2007, would have had no impact on net revenue. The profoma effect on net income and earnings per share for the fiscal years ended December 31, 2007 and 2008 would have been as follows:

	Year Ended December 31,	
	2007	2008
	(in thousands)	
Net income	\$ 56,150	\$ 78,313
Basic earnings per share	\$ 0.98	\$ 1.34
Diluted earnings per share	\$ 0.94	\$ 1.30

(d) Acquisition of DOCS International

On July 12, 2007, the Company acquired 100% of the common stock of DOCS International (“DOCS”), a European based clinical research staffing organization, for a cash consideration of \$40.6 million (€29.5 million), excluding costs of acquisition.

The acquisition of DOCS has been accounted for as a business combination in accordance with FASB Statement No. 141 *Business Combinations* (“SFAS 141”). The following table summarizes the fair values of the assets acquired and the liabilities assumed at the date of acquisition.

	(in thousands)
Property, plant and equipment	\$ 984
Intangible asset	2,035
Goodwill	42,395
Bank overdraft	(2,400)
Other current assets	7,646
Current liabilities	(9,510)
Purchase price	\$ 41,150

Goodwill represents the geographical presence afforded to the Company in the European staffing market and the acquisition of an established workforce in the eight countries in which DOCS International operates.

The proforma effect of the DOCS acquisition if completed on January 1, 2006, would have resulted in net revenue, net income and earnings per share for the fiscal years ended December 31, 2006 and 2007 as follows:

	Year Ended December 31,	
	2006	2007
	(in thousands)	
Net revenue	\$ 478,622	\$ 645,527
Net income	\$ 37,747	\$ 56,245
Basic earnings per share	\$ 0.66	\$ 0.98
Diluted earnings per share	\$ 0.65	\$ 0.94

5. Intangible Assets

	December 31, 2007	December 31, 2008
	(in thousands)	
Cost		
Customer relationships acquired	\$ 2,035	\$ 11,095
Volunteer List acquired	—	1,325
Foreign exchange movement	120	(90)
	2,155	12,330
Accumulated amortization	(345)	(1,770)
Foreign exchange movement	(15)	64
Net book value	\$ 1,795	\$ 10,624

On February 11, 2008, the Company acquired 100% of the common stock of Healthcare Discoveries, a US based organization engaged in the provision of Phase I clinical trial management activities. The value of certain client relationships identified of U.S.\$1.6 million are being amortised over periods ranging from approximately 2 to 9 years, the estimated periods of benefit. The value of certain volunteer lists identified of U.S.\$1.3 million are being amortised over approximately 6 years, the estimated period of benefit. U.S. \$498,000 has been amortised in the period since the date of acquisition.

On November 14, 2008, the Company acquired 100% of the common stock of Prevalere Life Sciences, a US based organization engaged in the provision of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies. The value of certain customer relationships identified of U.S.\$7.4 million are being amortised over periods ranging from approximately 7 to 11 years, the estimated period of the benefit. U.S. \$87,000 has been amortised in the period since the date of acquisition.

On July 12, 2007, the Company acquired 100% of the common stock of DOCS International (“DOCS”), a European based clinical research staffing organization. The value of certain customer relationships identified is being amortised over approximately 3 years, the estimated period of the benefit. U.S.\$1,121,000 has been amortised in the period since the date of acquisition.

Future intangible asset amortization expense for the years ended December 31, 2009 to December 31, 2013 is as follows:

	Year ended December 31 (in thousands)
2009	\$ 2,074
2010	1,484
2011	1,140
2012	1,140
2013	1,140
	\$ 6,978

6. Property, Plant and Equipment, net

	December 31, 2007 (in thousands)	December 31, 2008 (in thousands)
Cost		
Land	\$ 4,102	\$ 3,963
Building	70,260	85,099
Computer equipment and software	95,689	117,278
Office furniture and fixtures	41,140	53,775
Laboratory equipment	11,180	24,822
Leasehold improvements	5,753	5,983
Motor vehicles	78	75
	228,202	290,995
Less accumulated depreciation and asset write off	(94,776)	(119,247)
Property, plant and equipment (net)	\$ 133,426	\$ 171,748

Total cost at December 31, 2008, includes U.S.\$1,054,000 (2007: U.S.\$1,043,000), which relates to assets held under capital finance leases. Related accumulated depreciation amounted to U.S. \$303,000 (2007: U.S.\$869,000). The cost of assets under construction as at December 31, 2008, amounted to \$nil million (2007: US\$23.0 million).

7. Other Liabilities

	December 31, 2007 (in thousands)	December 31, 2008 (in thousands)
Accrued liabilities	\$ 27,938	\$ 44,440
Accrued salary and bonuses	36,341	51,647
Accrued social welfare costs	3,961	8,757
Lease accruals	2,257	2,508
Short term government grants	125	144
Short term finance leases (Note 15)	121	327
Acquisition consideration payable	—	22,400
	\$ 70,743	\$ 130,223

8. Bank Credit Lines and Loan Facilities

	December 31, 2007	December 31, 2008
	(in thousands)	
Current maturities	\$ 43,767	\$ 40,193
Non- current maturities	51,062	65,186
	\$ 94,829	\$ 105,379

On July 9, 2007, ICON plc entered into a five year committed multi-currency facility agreement for €35 million (\$48.9 million) with The Governor and Company of the Bank of Ireland. Our obligations under the facility are secured by certain composite guarantees and indemnities and pledges in favor of the bank. The facility bears interest at an annual rate equal to the EURIBOR plus a margin. On July 10, 2007, the Company drew down €29.5 million (\$41.2 million) of the facility to fund the acquisition of DOCS International. On October 15, 2007, the remaining €5.5 million (\$7.7 million) of the facility was drawn down to fund expenditure on the expansion of the Company's facility in Dublin, Republic of Ireland.

On January 2, 2009, an additional four year committed credit facility was negotiated with The Governor and Company of the Bank of Ireland for \$25 million. The facility bears interest at LIBOR plus a margin and is secured by certain composite guarantees, indemnities and pledges in favour of the bank.

On October 17, 2007, an uncommitted credit facility was negotiated with Allied Irish Bank plc, for €30 million (\$41.9 million). Interest is calculated at the EUR interbank rate plus a margin. The facility is secured by the same composite guarantees and indemnities in place for the Bank of Ireland committed facility. The funds were used to refinance overdraft facilities in place to fund expenditure on the expansion of the Dublin facility. On January 8, 2008, the facility with Allied Irish Banks plc was increased to €50 million (\$69.9 million).

On December 22, 2008, committed credit facilities were negotiated with Allied Irish Bank plc for \$75 million. The facilities comprise a one year Euro facility of approximately €20 million (\$28.0 million), with the balance comprising a three year US dollar facility. The Euro facility bears interest at EURIBOR plus a margin and the US dollar facility bears interest at LIBOR plus a margin. Both facilities are secured by certain composite guarantees and pledges in favour of the bank. These facilities replace the uncommitted facilities negotiated on January 8, 2008. \$28.4 million of these facilities were used to fund the acquisition of Prevalere with the remaining balance used to refinance the previous drawn uncommitted facilities.

On February 4, 2008, an uncommitted credit facility was negotiated with Citibank N.A, for \$30 million. Interest is calculated at the London Interbank Market rate plus a margin. \$12.0 million of this facility was drawn down in February 2008 to fund the acquisition of Healthcare Discoveries. On September 30, 2008, the \$12.0 million previously drawn was repaid in full. At December 31, 2008, this facility remained un-drawn and available to the Company.

The average margin payable on the above mentioned facilities is 1.70 per cent.

The drawn facilities above are repayable as follows:

	Year ended December 31 (in thousands)
2009	\$ 40,193
2010	—
2011	52,954
2012	—
2013	12,232
	\$ 105,379

9. Employee Benefits

Certain Company employees are eligible to participate in a defined contribution plan (the "Plan"). Participants in the Plan may elect to defer a portion of their pre-tax earnings into a pension plan, which is run by an independent party. The Company matches participant's contributions typically at 6% of the participant's annual compensation. Contributions to this plan are recorded, as an expense in the Consolidated Statement of Operations. Contributions for the years ended December 31, 2006, December 31, 2007 and December 31, 2008, were U.S.\$4,837,000, U.S.\$7,306,000 and U.S.\$10,372,000 respectively.

The Company's United States operations maintain a retirement plan (the "U.S. Plan") that qualifies as a deferred salary arrangement under Section 401(k) of the Internal Revenue Code. Participants in the U.S. Plan may elect to defer a portion of their pre-tax earnings, up to the Internal Revenue Service annual contribution limit. The Company matches 50% of each participant's contributions, each participant can contribute up to 6% of their annual compensation. Contributions to this U.S. Plan are recorded, in the year contributed, as an expense in the Consolidated Statement of Operations. Contributions for the years ended December 31, 2006, December 31, 2007 and December 31, 2008, were U.S.\$3,428,000, U.S.\$4,488,000 and U.S.\$4,499,000 respectively.

One of the Company's subsidiaries which was acquired during the 2003 fiscal year, Medeval Group Limited, operates a defined benefit pension plan in the United Kingdom for its employees. The plan is managed externally and the related pension costs and liabilities are assessed in accordance with the advice of a professionally qualified actuary. Plan assets at December 31, 2006, December 31, 2007 and December 31, 2008, consist of units held in independently administered funds. The pension costs of this plan are presented in the following tables in accordance with the requirements of SFAS No.158, *Employers' Accounting for Defined Pension and Other Postretirement Plans*. The plan is no longer open to new entrants.

	December 31, 2007	December 31, 2008
Change in benefit obligation		
	(in thousands)	
Benefit obligation at beginning of year	\$ 17,816	\$ 15,216
Service cost	766	437
Interest cost	930	854
Plan participants' contributions	227	207
Benefits paid	(50)	(75)
Actuarial gain	(4,722)	(1,968)
Plan curtailments	—	(871)
Foreign currency exchange rate changes	249	(3,686)
Benefit obligation at end of year	\$ 15,216	\$ 10,114

	December 31, 2007	December 31, 2008
Change in plan assets		
	(in thousands)	
Fair value of plan assets at beginning of year	\$ 13,092	\$ 15,470
Actual return on plan assets	1,582	(1,858)
Employer contributions	457	428
Plan participants' contributions	227	207
Benefits paid	(50)	(75)
Foreign currency exchange rate changes	162	(3,780)
Fair value of plan assets at end of year	\$ 15,470	\$ 10,392

None of the fair values of the assets above include any of the Company's own financial instruments, or any property occupied by, or other assets used by, the Company.

Funded status	December 31, 2007	December 31, 2008
	(in thousands)	
Projected benefit obligation	(\$ 15,216)	(\$ 10,114)
Fair value of plan assets	15,470	10,392
Funded status	\$ 254	\$ 278
Unrecognized net loss	—	—
Current asset	254	278
Non-current asset	—	—

Components of net periodic benefit cost/(credit)	December 31, 2006	December 31, 2007	December 31, 2008
	(in thousands)		
Service cost	\$ 685	\$ 766	\$ 437
Interest cost	730	930	854
Expected return on plan assets	(593)	(928)	(1,063)
Plan curtailments	—	—	(871)
Amortization of net loss/(gain)	15	44	(89)
Net periodic benefit cost/(credit)	\$ 837	\$ 812	(\$ 732)

The estimated net gain and prior service cost for the defined benefit pension plan that will be amortized from accumulated other comprehensive income into net periodic benefit cost over the next year are U.S.\$0.02 million and U.S.\$nil respectively.

Amounts included in other comprehensive income consist of:	December 31, 2006	December 31, 2007	December 31, 2008
	(in thousands)		
Actuarial loss/(gain)	\$ 391	(\$ 5,376)	\$ 955
Less actuarial loss /(gain) recognized in net periodic benefit cost	(15)	(44)	89
Amounts recognized in other comprehensive income	\$ 376	(\$ 5,420)	\$ 1,044

Amounts recognized in accumulated other comprehensive income that have not yet been recognized as components of net periodic benefit/cost	December 31, 2006	December 31, 2007	December 31, 2008
	(in thousands)		
Net actuarial loss/(gain)	\$ 2,220	(\$ 3,200)	(\$ 2,156)
Total amount in accumulated other comprehensive income	\$ 2,220	(\$ 3,200)	(\$ 2,156)

Accumulated other comprehensive income expected to be recognized as periodic benefit cost over the next financial year

	December 31, 2009
	(in thousands)
Net gain	\$ 22
	\$ 22

Weighted average assumptions to determine benefit obligation	December 31, 2007	December 31, 2008
Discount rate	5.8%	6.4%
Rate of compensation increase	4.5%	4.2%
Expected rate of return on plan assets	7.1%	6.8%

The assets of the scheme are invested in a global equity fixed index fund. The expected long-term rate of return on assets of 6.8% was calculated as the value of the fund after application of a market value reduction factor. The underlying asset split of the fund is shown below.

Asset Category	December 31, 2007	December 31, 2008
Equity	63%	90%
Bonds	20%	10%
Property	12%	—%
Cash/other	5%	—%
	100%	100%

The assets of the scheme are invested in the Legal and General Global Equity Fixed Index Fund. The aim of this fund is to capture the returns on UK and overseas equity markets with a more even investment in UK and overseas equities than would be provided by reference to market capitalization or consensus weights. Although market fluctuations of investment return are smoothed through the declaration of annual bonuses, the investment objective is to provide payments which reflect the actual investment returns achieved by the scheme over the long run.

The accumulated benefit obligation for the defined pension plans was \$10.1 million at December 31, 2008 (December 31, 2007: \$15.2 million; December 31, 2006: \$17.8 million). With effect from July 1, 2003, the scheme was closed to new entrants. The Company expects to contribute \$0.4 million to its pension fund in the year ending December 31, 2009.

The following annual benefit payments, which reflect expected future service, as appropriate, are expected to be paid.

Estimated future benefit payments	(in thousands)
2009	\$ 15
2010	44
2011	44
2012	73
2013	73
Years 2014 - 2018	\$ 386

The expected cash flows are estimated figures based on the members expected to retire over the next 10 years assuming no early retirements plus an additional amount in respect of recent average withdrawal experience. At the present time it is not clear whether annuities will be purchased when members reach retirement or whether pensions will be paid each month out of scheme assets. The cash flows above have been estimated on the assumption that pensions will be paid monthly out of scheme assets. If annuities are purchased, then the expected benefit payments will be significantly different from those shown above.

Overall Rate of Return

At December 31, 2008, UK gilts were yielding around 3.9% per annum. This is often referred to as the risk free rate of return as UK gilts have a negligible risk of default and the income payments and capital on redemption are guaranteed by the UK Government.

The long-term expected return on equities and property has been determined by setting appropriate risk premiums above the yield on UK gilts. A long term equity “risk-premium” of 3.1% per annum has been assumed, this being the expected long-term out-performance of equities over UK gilts. A long term property “risk-premium” of 2.6% per annum has been assumed, this being the expected long-term out-performance of property over UK gilts. The long-term expected return on bonds is determined by reference to UK long dated government and corporate bond yields at the balance sheet date. This represents the ibxxx AA 15 year plus return. The long term expected return on cash is determined by reference to bank base rates at the balance sheet date.

Applying the above expected long term rates of return to the asset distribution at December 31, 2008, gives rise to an expected overall rate of return of scheme assets of approximately 6.8% per annum.

The expected long term rates of return on different asset classes over the long term are as follows:

Asset Category	Expected long-term return per annum
Equities	7.0%
Bonds	4.8%
Property	6.5%
Cash	2.0%

10. Share Options and Stock Compensation Charges

The Company accounts for its share options in accordance with the provisions of SFAS No. 123R, *Share Based Payment*. SFAS 123R requires that all share based payments to employees, including stock options granted, be recognized in the financial statements based on their grant date fair values. The Company adopted SFAS 123R with effect from January 1, 2006, with the Black-Scholes method of valuation being used to calculate the fair value of options granted. The Company adopted SFAS 123R using the modified-prospective transition method. Under that transition method compensation cost includes; (a) compensation cost for all share-based payments granted prior to, but not yet vested as of, January 1, 2006, based on grant date fair value estimated in accordance with the original provisions of SFAS 123 and (b) compensation cost for all share based payments granted subsequent to January 1, 2006, based on grant date fair values estimated in accordance with the provisions of SFAS 123R. Results for periods prior to the adoption of SFAS 123R were not restated.

On July 21, 2008, the Company adopted the Employee Share Option Plan 2008 (the “2008 Employee Plan”) pursuant to which the Compensation Committee of the Company’s Board of Directors may grant options to any employee, or any director holding a salaried office or employment with the Company or a Subsidiary for the purchase of ordinary shares. On the same date, the Company also adopted the Consultants Share Option Plan 2008 (the “2008 Consultants Plan”), pursuant to which the Compensation Committee of the Company’s Board of Directors may grant options to any consultant, adviser or non-executive director retained by the Company or any Subsidiary for the purchase of ordinary shares.

Each option granted under the 2008 Employees Plan or the 2008 Consultants Plan (together the “2008 Option plans”) will be an employee stock option, or NSO, as described in Section 422 or 423 of the Code. Each grant of an option under the 2008 Options Plans will be evidenced by a Stock Option Agreement between the optionee and the Company. The exercise price will be specified in each Stock Option Agreement, however option prices will not be less than 100% of the fair market value of an ordinary share on the date the option is granted.

An aggregate of 6.0 million ordinary shares have been reserved under the 2008 Employee Plan as reduced by any shares issued or to be issued pursuant to options granted under the 2008 Consultants Plan under which a limit of 400,000 shares applies. Further, the maximum number of ordinary shares with respect to which options may be granted under the 2008 Employee Option Plan during any calendar year to any employee shall be 400,000 ordinary shares. There is no individual limit under the 2008 Consultants Option Plan. No options may be granted under the plans after July 21, 2018.

On July 21, 2008, the Company adopted the the 2008 Employees Restricted Share Unit Plan (the “2008 RSU Plan”) pursuant to which the Compensation Committee of the Company’s Board of Directors may select any employee, or any director holding a salaried office or employment with the Company or a Subsidiary to receive an award under the plan. An aggregate of 1.0 million ordinary shares have been reserved for issuance under the 2008 RSU Plan. Awards under the 2008 RSU may be settled in cash or shares.

On January 17, 2003, the Company adopted the Share Option Plan 2003 (the “2003 Plan”) pursuant to which the Compensation Committee of the Board may grant options to officers and other employees of the Company or its subsidiaries for the purchase of ordinary shares. Each grant of an option under the 2003 Plan will be evidenced by a Stock Option Agreement between the employee and the Company. The exercise price will be specified in each Stock Option Agreement.

An aggregate of 6.0 million ordinary shares have been reserved under the 2003 Plan; and, in no event will the number of ordinary shares that may be issued pursuant to options awarded under the 2003 Plan exceed 10% of the outstanding shares, as defined in the 2003 Plan, at the time of the grant, unless the Board expressly determines otherwise. Further, the maximum number of ordinary shares with respect to which options may be granted under the 2003 Plan during any calendar year to any employee shall be 400,000 ordinary shares. Share option awards are granted with an exercise price equal to the market price of the Company’s shares at date of grant. Share options typically vest over a period of five years from date of grant and expire eight years from date of grant. The maximum contractual term of options outstanding at December 31, 2008, is eight years. No options can be granted after January 17, 2013.

The following table summarizes the transactions for the Company's share option plans for the years ended December 31, 2006, December 31, 2007 and December 31, 2008:

	Options Granted Prior to Jan 15, 1998 *	Options Granted Under Plans *	Number of Shares *	Weighted Average Exercise Price *	Weighted Average Grant Date Fair Value *
Outstanding at December 31, 2005	28,280	4,500,304	4,528,584	\$ 7.88	\$ 3.65
Granted	—	1,637,004	1,637,004	\$ 11.58	\$ 5.20
Exercised	(28,280)	(935,056)	(963,336)	\$ 6.94	\$ 3.56
Cancelled	—	(558,548)	(558,548)	\$ 8.32	\$ 3.88
Outstanding at December 31, 2006	—	4,643,704	4,643,704	\$ 9.31	\$ 4.23
Granted	—	1,251,430	1,251,430	\$ 21.26	\$ 8.89
Exercised	—	(634,784)	(634,784)	\$ 8.35	\$ 3.82
Cancelled	—	(284,224)	(284,224)	\$ 12.27	\$ 5.32
Outstanding at December 31, 2007	—	4,976,126	4,976,126	\$ 12.27	\$ 5.35
Granted	—	1,282,190	1,282,190	\$ 35.25	\$ 12.85
Exercised	—	(847,707)	(847,707)	\$ 10.05	\$ 4.45
Cancelled	—	(188,346)	(188,346)	\$ 20.45	\$ 8.13
Outstanding at December 31, 2008	—	5,222,263	5,222,263	\$ 17.98	\$ 7.24
Vested and exercisable at December 31, 2008	—	1,461,513	1,461,513	\$ 11.00	\$ 4.73

* Comparative figures have been amended to reflect the Bonus Issues, (Stock Splits) which took place with an effective date of October 13, 2006 and August 8, 2008.

Non vested shares outstanding as at December 31, 2008, are as follows:

	Options Outstanding Number of Shares	Weighted Average Exercise Price	Weighted Average Fair Value
Non vested outstanding at December 31, 2007	3,617,898	\$ 13.24	\$ 5.81
Granted	1,282,190	35.25	12.85
Vested	(963,598)	12.07	5.35
Forfeited	(175,740)	20.86	8.32
Non vested outstanding at December 31, 2008	3,760,750	\$ 20.69	\$ 8.21

The weighted average fair value of options granted during the year was U.S.\$12.85. The weighted average remaining contractual life of options outstanding and options exercisable at December 31, 2008, was 5.23 years and 3.95 years respectively. 1,059,356 options are expected to vest during the year ended December 31, 2009.

There were 963,598 options vested during the year and the weighted average fair value of these options was U.S.\$5.35. There were 188,346 options cancelled during the year and the weighted average fair value of these options was U.S.\$8.13.

The intrinsic value of options exercised during the year was U.S.\$8,177,598. The Company calculated the intrinsic value at the market value of options as at December 31, 2008, as per SFAS 123R. The aggregate intrinsic value of options outstanding and options exercisable as at December 31, 2008, was U.S.\$8,955,965 and U.S.\$12,700,713 respectively.

The total tax benefit recognized in addition paid in capital related to the compensation charge during the year was U.S.\$4.1 million (2007: U.S.\$1.5 million).

The total compensation cost not yet recognized at December 31, 2008, was U.S.\$17.5 million and the weighted average period over which this is expected to be recognized is 2.26 years.

Outstanding and exercisable share options:

The following table summarizes information concerning outstanding and exercisable share options as of December 31, 2008:

Range Exercise Price	Options Outstanding			Options Exercisable		
	Number of Shares	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number of Shares	Weighted Average Exercise Price	
\$ 5.32	3,840	0.08	\$ 5.32	3,840	\$ 5.32	
\$ 7.00	238,470	2.08	\$ 7.00	238,470	\$ 7.00	
\$ 7.25	101,780	1.08	\$ 7.25	101,780	\$ 7.25	
\$ 8.60	1,030,910	4.17	\$ 8.60	245,262	\$ 8.60	
\$ 8.88	483,873	3.17	\$ 8.88	297,121	\$ 8.88	
\$ 10.42	60,000	5.08	\$ 10.42	—	\$ 10.42	
\$ 11.00	907,155	5.17	\$ 11.00	309,183	\$ 11.00	
\$ 17.30	24,000	5.67	\$ 17.30	9,600	\$ 17.30	
\$ 18.00	106,000	5.08	\$ 18.00	34,000	\$ 18.00	
\$ 18.98	9,000	7.92	\$ 18.98	—	\$ 18.98	
\$ 21.25	1,033,615	6.17	\$ 21.25	221,367	\$ 21.25	
\$ 21.76	2,450	6.33	\$ 21.76	490	\$ 21.76	
\$ 22.60	2,000	6.67	\$ 22.60	400	\$ 22.60	
\$ 26.27	8,000	7.83	\$ 26.27	—	\$ 26.27	
\$ 35.33	1,182,170	7.17	\$ 35.33	—	\$ 35.33	
\$ 36.05	6,000	7.42	\$ 36.05	—	\$ 36.05	
\$ 36.20	2,000	7.33	\$ 36.20	—	\$ 36.20	
\$ 40.81	20,000	7.58	\$ 40.81	—	\$ 40.81	
\$ 41.25	1,000	7.67	\$ 41.25	—	\$ 41.25	
\$ 5.32 - \$41.25	5,222,263	5.23	\$ 17.98	1,461,513	\$ 11.00	

Options granted at exercise prices from \$5.32 to \$7.25 have fully vested at December 31, 2008. Substantially all of the options vest over a five year period from the date of grant.

Fair value of Stock Options Assumptions

Expected volatility is based on the historical volatility of our common stock over a period equal to the expected term of the options; the expected life represents the weighted average period of time that options granted are expected to be outstanding given consideration to vesting schedules, and our historical experience of past vesting and termination patterns. The risk-free rate is based on the U.S. government zero-coupon bonds yield curve in effect at time of the grant for periods corresponding with the expected life of the option.

The weighted average fair value of stock options granted during the year ended December 31, 2006, calculated using the Black-Scholes option pricing model, was \$5.20 using the following assumptions; expected dividend yield - 0%, risk free interest rate – 4.68%, expected volatility - 45% and expected life – 4.8 years.

The weighted average fair value of stock options granted during the year ended December 31, 2007, calculated using the Black-Scholes option pricing model, was \$8.89 using the following assumptions; expected dividend yield - 0%, risk free interest rate – 4.7%, expected volatility - 40% and expected life – 5.11 years.

The weighted average fair value of stock options granted during the year ended December 31, 2008, calculated using the Black-Scholes option pricing model, was \$12.85 using the following assumptions; expected dividend yield - 0%, risk free interest rate – 3.2%, expected volatility - 35% and expected life – 5.11 years.

On August 7, 2008, the Company issued 6,280 restricted share units to certain employees of the Group. These shares are exercisable over periods ranging from February 26, 2009, to February 26, 2011. The market value of the Company’s shares on date of issue was \$41.95.

Total compensation cost recognized in income:

Income from operations for the year ended December 31, 2008, is stated after charging \$6.1 million in respect of non-cash stock compensation expense. Non-cash stock compensation expense for the year ended December 31, 2008, has been allocated to direct costs and selling, general and administrative expenses as follows:

	Year ended December 31,		
	2006	2007	2008
	(in thousands)		
Direct costs	\$ 2,240	\$ 3,167	\$ 3,338
Selling, general and administrative	\$ 1,826	\$ 2,581	\$ 2,720
Total compensation costs	\$ 4,066	\$ 5,748	\$ 6,058

11. Government Grants

	December 31, 2007	December 31, 2008
	(in thousands)	
Received	\$ 2,225	\$ 2,625
Less accumulated amortization	(1,384)	(1,510)
Foreign exchange translation adjustment	463	415
	<u>1,304</u>	<u>1,530</u>
Less current portion	(125)	(144)
	<u>\$ 1,179</u>	<u>\$ 1,386</u>

Capital grants received may be refundable in full if certain events occur. Such events, as set out in the related grant agreements, include sale of the related asset, liquidation of the Company or failure to comply with other conditions of the grant agreements. No loss contingency has been recognized as the likelihood of such events arising has been assessed as remote.

Government grants amortized to the profit and loss account amounted to U.S.\$117,000 and U.S.\$126,000 for the years ended December 31, 2007 and December 31, 2008 respectively. As of December 31, 2008, the Company had U.S.\$1,351,000 in restricted retained earnings, pursuant to the terms of the grant agreements.

12. Share Capital

Holders of ordinary shares will be entitled to receive such dividends as may be recommended by the board of directors of the Company and approved by the shareholders and/or such interim dividends as the board of directors of the Company may decide. On liquidation or a winding up of the Company, the par value of the ordinary shares will be repaid out of the assets available for distribution among the holders of the Company's ADSs and ordinary shares not otherwise represented by ADRs. Holders of ordinary shares have no conversion or redemption rights. On a show of hands, every holder of an ordinary share present in person at a general meeting of shareholders, and every proxy, shall have one vote, for each ordinary share held with no individual having more than one vote.

During the year ended December 31, 2006, 963,336 options were exercised by employees at an average exercise price of U.S.\$6.94 per share for total proceeds of U.S.\$6.7 million.

During the year ended December 31, 2007, 634,784 options were exercised by employees at an average exercise price of U.S.\$8.35 per share for total proceeds of U.S.\$5.3 million.

During the year ended December 31, 2008, 847,707 options were exercised by employees at an average exercise price of U.S.\$10.05 per share for total proceeds of U.S.\$8.5 million.

On July 21, 2008, the Company's shareholders approved a bonus issue of ordinary shares (the "Bonus Issue") to shareholders of record as of the close of business on August 8, 2008 (the "Record Date"). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on August 11, 2008, to Ordinary Shareholders and on August 12, 2008, to holders of American Depositary Shares ("ADSs"). The trading price of ICON's ADSs were adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on August 13, 2008. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

On September 29, 2006, ICON's shareholders approved a bonus issue of ordinary shares (the "Bonus Issue") to shareholders of record as of the close of business on October 13, 2006 (the "Record Date"). The Bonus Issue provided for each shareholder to receive one bonus ordinary share for each ordinary share held as of the Record Date, effecting the equivalent of a 2-for-1 stock split. The Bonus shares were issued on October 16, 2006, to Ordinary Shareholders and on October 23, 2006, to holders of American Depositary Shares ("ADSs"). The trading price of ICON's ADSs were adjusted on NASDAQ to effect the Bonus Issue prior to the opening of trading on October 24, 2006. All outstanding ordinary share amounts referenced in the consolidated financial statements and the notes thereto have been retrospectively restated to give effect to the Bonus Issue as if it had occurred as of the date referenced.

13. Income Taxes

The U.S. based and Irish based subsidiaries file tax returns in the United States and Ireland, respectively. The other foreign subsidiaries are taxed separately under the laws of their respective countries.

The components of income before provision for income tax expense are as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 31,212	\$ 39,063	\$ 59,720
United States	12,169	16,818	23,305
Other	8,075	16,099	15,255
Income before provision for income taxes	\$ 51,456	\$ 71,980	\$ 98,280

The components of total income tax expense are as follows:

	Year ended December 31,		
	2006	2007	2008
	(in thousands)		
<i>Provision for income taxes</i>			
Current:			
Ireland	\$ 4,291	\$ 4,073	\$ 6,508
United States	8,855	6,909	6,674
Other	4,389	6,171	4,021
Total current tax	17,535	17,153	17,203
Deferred expenses/(benefit):			
Ireland	(330)	(908)	569
United States	(4,445)	(154)	2,549
Other	164	(261)	(354)
Total deferred (benefit) /tax	(4,611)	(1,323)	2,764
Provision for income taxes	12,924	15,830	19,967
Impact on shareholders equity of the tax consequence of :			
Stock compensation expense	(1,109)	(1,466)	(4,062)
Currency impact of long term funding	—	(1,954)	(632)
Total	\$ 11,815	\$ 12,410	\$ 15,273

Ireland's statutory income tax rate is 12.5%. The Company's consolidated effective tax rate differed from the statutory rate as set forth below;

	Year ended December 31,		
	2006	2007	2008
	(in thousands)		
Taxes at Irish statutory rate of 12.5% (2007:12.5%; 2005: 12.5%)	\$ 6,430	\$ 8,998	\$ 12,285
Foreign and other income taxed at (reduced)/higher rates	10,575	6,496	5,249
Movement in valuation allowance	(6,113)	82	1,494
Prior year under/(over) provision in respect of foreign taxes	1,438	(166)	(88)
Effects of non deductible expenses	538	344	520
Other	56	76	507
	\$ 12,924	\$ 15,830	\$ 19,967

The tax effects of temporary differences that give rise to significant portions of deferred tax assets and deferred tax liabilities are presented below:

	2006	Year ended December 31, 2007 (in thousands)	2008
Deferred tax liabilities:			
Property, plant and equipment	\$ 1,188	\$ 1,253	\$ 5,764
Goodwill and related assets	2,742	4,274	5,112
Other intangible assets	0	439	1,219
Accruals	684	352	546
Other	41	46	1,008
Total deferred tax liabilities recognized	4,655	6,364	13,649
Deferred tax assets:			
Net operating loss carry forwards	5,971	6,931	9,690
Property, plant and equipment	486	614	260
Accrued expenses and payments on account	4,520	6,007	6,746
Stock options exercised	467	1,556	2,426
Deferred compensation expense	370	471	737
Other	115	0	21
Total deferred tax assets	11,929	15,579	19,880
Valuation allowance for deferred tax assets	(3,839)	(4,957)	(5,903)
Deferred tax assets recognized	\$ 8,090	\$ 10,622	\$ 13,977
Net deferred tax (liability) /asset	\$ 3,435	\$ 4,258	\$ 328

\$8.3 million of the deferred tax asset of \$14.0 million above is non-current. \$12.1 million of the deferred tax liability of U.S.\$13.7 million is non-current.

At December 31, 2008, non-US subsidiaries had operating loss carry forwards for income tax purposes that may be carried forward indefinitely, available to offset against future taxable income, if any, of approximately U.S\$ 21.5 million.

At December 31, 2008, ICON Central Laboratories Inc., a U.S. subsidiary, had U.S. Federal and State net operating loss carry forwards of approximately U.S. \$8.6 million and U.S. \$6.9 million, respectively. These net operating losses are available for offset against future taxable income and expire between 2009 and 2028.

Of the U.S. \$8.6 million U.S. Federal and U.S \$6.9 million State net operating losses, approximately U.S \$7.2 million and U.S.\$5.4 million is currently available for offset against future U.S. Federal and State taxable income, respectively. The subsidiary's ability to use the remaining U.S. Federal and State net operating loss ("NOL") carry forwards of U.S. \$1.4 million and \$1.5 million, respectively, is limited to U.S.\$113,000 per year due to the subsidiary experiencing a change of ownership in 2000, as defined by Section 382 of the Internal Revenue Code of 1986, as amended.

The expected expiry dates of these losses are as follows:

	Federal NOL's (in thousands)	State NOL's
2009- 2011	\$ 452	\$ 339
2012- 2016	226	226
2017- 2028	7,877	6,360
	\$ 8,555	\$ 6,925

In addition, ICON Central Laboratories Inc has alternative minimum tax credit carry forwards of approximately US\$0.2 million that are available to reduce future U.S federal regular income taxes, over an indefinite period.

At December 31, 2008, ICON Clinical Research Inc. and its U.S. subsidiaries had combined U.S. State net operating loss carry forwards of approximately U.S.\$4.9M. These net operating losses are available for offset against future, or in some cases prior, taxable income in the relevant state and generally expire between 2009 and 2028.

The expected expiry dates of these losses are as follows:

	Federal NOL's (in thousands)	State NOL's
2009- 2011	\$ —	\$ —
2012- 2016	—	
2017- 2028	—	4,935
	\$ —	\$ 4,935

In addition, ICON Clinical Research Inc has tax credit carry forwards of approximately US\$ 0.4 million that are available to reduce future state income taxes, if any. These begin to expire in 2012.

The valuation allowance for deferred tax assets as of December 31, 2007, and December 31, 2006 was US\$5.0 million and US\$3.8 million, respectively. The valuation allowance at December 31, 2008, was approximately US\$ 5.9 million. The net change in the total valuation allowance was an increase of US\$0.9 million in 2008 and an increase of US\$1.2 million during 2007.

The valuation allowance at December 31, 2007, and December 31, 2006, was primarily related to tax losses carried forward that, in the judgment of management, are not more likely than not to be realized. In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred tax liabilities, projected future taxable income, and tax planning strategies in making this assessment.

The Company has not recognized a deferred tax liability for the undistributed earnings of foreign subsidiaries that arose in 2008 and prior years as the Company considers these earnings to be indefinitely reinvested.

The Company adopted the provisions of FIN 48 on January 1, 2007. This did not result in any change to the opening liability for unrecognized tax benefits. A reconciliation of the beginning and ending amount of total unrecognized tax benefits is as follows:

	(in thousands)
Gross amount of unrecognized tax benefits at January 1, 2008	\$ 12,878
Increase related to prior year tax positions	—
Decrease related to prior year tax positions	(1,343)
Increase related to current year tax positions	2,760
Settlements	(529)
Lapse of statute of limitations	(123)
Gross amount of unrecognized tax benefits at December 31, 2008	\$ 13,643

The Company does not anticipate that the amount of unrecognized tax benefits at December 31, 2008, will significantly change in the coming year.

Included in the balance of total unrecognized tax benefits at December 31, 2008, are net potential benefits of US\$8.8 million, which if recognized, would affect the effective rate on income tax from continuing operations.

Interest and penalties recognized as an expense during the year ended December 31, 2008, amounted to US\$1.3 million (2007: US\$1.3 million) and are included within the provision for income taxes. Total accrued interest and penalties as of December 31, 2008 and January 1, 2008, were US\$2.3 million and US\$2.1 million respectively and are included in the closing income tax liabilities at those dates.

Our major tax jurisdictions are the United States and Ireland. We may potentially be subjected to tax audits in our major jurisdictions. In the United States tax periods open to audit include the years ended May 31, 2005, the seven month transition period ended December 31, 2005, and the years ended December 31, 2006, December 31, 2007 and December 31, 2008. In Ireland tax periods open to audit include the years ended May 31, 2004 and May 31, 2005, the seven month transition period ended December 31, 2005, and the years ended December 31, 2006, December 31, 2007 and December 31 2008. During such audits, local tax authorities may challenge the position taken by us.

14. Significant Concentrations

The Company does business with most major international pharmaceutical companies. As at December 31, 2008, the balance for doubtful debts was \$7.5 million (2007: \$0.32 million). During the year ended December 31, 2008, an additional reserve for doubtful debts of \$7.4 million was created and \$0.2 million was used. During the year ended December 31, 2007, an additional reserve for doubtful debts of \$0.75 million was created and \$0.67 million was used.

15. Commitments and Contingencies

The Company is not party to any litigation or other legal proceedings that the Company believes could reasonably be expected to have a material adverse effect on the Company's business, results of operations and financial condition.

The Company has several non-cancelable operating leases, primarily for facilities, that expire over the next 10 years. These leases generally contain renewal options and require the Company to pay all executory costs such as maintenance and insurance. The Company recognized U.S.\$28,450,000, U.S.\$35,760,000 and U.S.\$45,638,000 in rental expense for the fiscal years ended December 31, 2006, December 31, 2007, and December 31, 2008. Future minimum rental commitments for operating leases with non-cancelable terms in excess of one year are as follows:

	Minimum rental payments (in thousands)	
2009	\$	38,227
2010		33,928
2011		26,617
2012		21,995
2013		18,216
Thereafter		29,657
<hr/>		
Total	\$	168,640

The Company has a number of capital leases, primarily over furniture and equipment, which expire over the next five years. Future commitments are as follows:

	Lease payments (in thousands)	
2009	\$	292
2010		327
2011		160
2012		—
2013		—
Thereafter		—
Less future finance charges		(46)
<hr/>		
Total	\$	733

On November 14, 2008, the Company acquired 100% of the common stock of Prevalere Life Sciences Inc. (“Prevalere”), for an initial cash consideration of \$36.8 million, excluding costs of acquisition. Prevalere, located in Whitesboro, New York, is a leading provider of bioanalytical and immunoassay services to pharmaceutical and biotechnology companies. Certain performance milestones were built into the acquisition agreement requiring potential additional consideration of up to \$8.2 million if these milestones are achieved during the years ended December 31, 2008 and 2009. Additional consideration of \$5.0 million has been accrued at December 31, 2008, in respect of the milestones for the year ended December 31, 2008. No amounts have been accrued for additional consideration potentially payable in respect of the milestones for the year ended December 31, 2009.

On July 1, 2004, the Company acquired 70% of the common stock of Beacon Biosciences Inc. (“Beacon”), a leading specialist CRO, which provides a range of medical imaging services to the pharmaceutical, biotechnology and medical device industries, for an initial cash consideration of \$9.9 million, excluding costs of acquisition. On December 31, 2008, the remaining 30% of the common stock was acquired by the Company for \$17.4 million, excluding costs of acquisition. Certain performance milestones were built into the acquisition agreement for the remaining 30% of Beacon requiring potential additional consideration of up to \$3.0 million if these milestones are achieved during the year ended December 31, 2009. At December 31, 2008, no amounts have been accrued in respect of the potential additional consideration.

16. Business Segment Information

The Company operates predominantly in the contract clinical research industry providing a broad range of clinical research and integrated product development services on a global basis for the pharmaceutical and biotechnology industries. The Company also has a central laboratory segment primarily based in New York, USA. This, together with laboratory services based in Dublin, India and Singapore form the central laboratory segment information disclosed below.

The Company's areas of operation outside of Ireland principally include the United Kingdom, United States, Germany, Australia, Argentina, France, Italy, Japan, Israel, Singapore, Canada, Sweden, The Netherlands, Latvia, Russia, Lithuania, Poland, South Africa, India, Hong Kong, Taiwan, Mexico, Brazil, Hungary, Spain, Thailand, South Korea, China, Chile, New Zealand, Denmark, Finland, Peru, Czech Republic, Ukraine, Romania and Colombia. Segment information as at December 31, 2008 and December 31, 2007 and for the years ended December 31, 2006, December 31, 2007 and December 31, 2008, is as follows:

a) The distribution of net revenue by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 66,028	\$ 134,268	\$ 158,958
Rest of Europe	96,868	144,586	254,706
U.S.	266,175	316,049	379,140
Other	26,526	35,819	72,444
Total	\$ 455,597	\$ 630,722	\$ 865,248

b) The distribution of net revenue by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	\$ 47,230	\$ 53,512	\$ 71,115
Clinical research	408,367	577,210	794,133
Total	\$ 455,597	\$ 630,722	\$ 865,248

c) The distribution of income from operations by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 28,375	\$ 40,592	\$ 67,264
Rest of Europe	2,681	7,234	7,960
U.S.	15,216	19,166	20,547
Other	1,544	2,250	3,733
Total	\$ 47,816	\$ 69,242	\$ 99,504

d) The distribution of income from operations by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	\$ 2,297	\$ 3,717	\$ 5,564
Clinical research	45,519	65,525	93,940
Total	\$ 47,816	\$ 69,242	\$ 99,504

e) The distribution of property, plant and equipment, net, by geographical area was as follows:

	December 31, 2007	December 31, 2008
	(in thousands)	
Ireland	\$ 82,127	\$ 101,715
Rest of Europe	15,547	18,071
U.S.	29,072	43,976
Other	6,680	7,986
Total	\$ 133,426	\$ 171,748

f) The distribution of property, plant and equipment, net, by business segment was as follows:

	December 31, 2007	December 31, 2008
	(in thousands)	
Central laboratory	\$ 7,048	\$ 12,681
Clinical research	126,378	159,067
Total	\$ 133,426	\$ 171,748

g) The distribution of depreciation and amortization by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 5,099	\$ 5,972	\$ 8,684
Rest of Europe	2,489	3,738	6,162
U.S.	6,521	7,761	10,393
Other	840	1,537	2,489
Total	\$ 14,949	\$ 19,008	\$ 27,728

h) The distribution of depreciation and amortization by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	\$ 1,340	\$ 1,814	\$ 2,247
Clinical research	13,609	17,194	25,481
Total	\$ 14,949	\$ 19,008	\$ 27,728

i) The distribution of total assets by geographical area was as follows:

	December 31, 2007	December 31, 2008
	(in thousands)	
Ireland	\$ 202,293	\$ 234,159
Rest of Europe	161,746	165,624
U.S.	301,183	442,351
Other	27,916	25,151
Total	\$ 693,138	\$ 867,285

j) The distribution of total assets by business segment was as follows:

	December 31, 2007	December 31, 2008
	(in thousands)	
Central laboratory	\$ 40,562	\$ 62,031
Clinical research	652,576	805,254
Total	\$ 693,138	\$ 867,285

k) The distribution of capital expenditures by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 13,854	\$ 46,765	\$ 34,429
Rest of Europe	4,073	8,346	10,736
U.S.	10,905	15,727	21,774
Other	2,881	4,812	5,185
Total	\$ 31,713	\$ 75,650	\$ 72,124

l) The distribution of capital expenditures by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	\$ 2,538	\$ 3,874	\$ 8,607
Clinical research	29,175	71,776	63,517
Total	\$ 31,713	\$ 75,650	\$ 72,124

m) The following table sets forth the clients which represented 10% or more of the Company's net revenue in each of the periods set out below.

	Year ended December 31, (in thousands)		
	2006	2007	2008
Client A	*	*	*

* Net revenue did not exceed 10%.

n) The distribution of interest income by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 162	\$ —	\$ 221
Rest of Europe	2,737	2,819	1,637
U.S.	822	1,232	988
Other	44	90	35
Total	\$ 3,765	\$ 4,141	\$ 2,881

o) The distribution of interest income by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	\$ 97	\$ 182	\$ 108
Clinical research	3,668	3,959	2,773
Total	\$ 3,765	\$ 4,141	\$ 2,881

p) The distribution of the tax charge by geographical area was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Ireland	\$ 3,961	\$ 3,165	\$ 7,078
Rest of Europe	2,034	4,512	1,722
U.S.	4,411	6,755	9,224
Other	2,518	1,398	1,943
Total	\$ 12,924	\$ 15,830	\$ 19,967

q) The distribution of the tax charge by business segment was as follows:

	Year ended December 31, (in thousands)		
	2006	2007	2008
Central laboratory	(\$ 2,877)	\$ 679	(\$ 397)
Clinical research	15,801	15,151	20,363
Total	\$ 12,924	\$ 15,830	\$ 19,967

17. Supplemental Disclosure of Cash Flow Information

	Year ended December 31, (in thousands)		
	2006	2007	2008
Cash paid for interest	\$ 54	\$ 1,491	\$ 4,963
Cash paid for income taxes	\$ 11,632	\$ 13,632	\$ 19,543

18. New Accounting Pronouncements

In October 2008, the FASB issued FSP 157-3, *Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active* (FSP 157-3). FSP 157-3 clarifies the application of SFAS No. 157 in a market that is not active and addresses application issues such as the use of internal assumptions when relevant observable data does not exist, the use of observable information when the market is not active and the use of market quotes when assessing the relevance of observable and unobservable data. FSP 157-3 is effective for all periods presented in accordance with SFAS No. 157. The Company does not expect the adoption of FSP 157-3 to have a material impact on the financial statements.

In April 2008, the FASB issued FSP 142-3 *Determination of the Useful Life of Intangible Assets* (FSP 142-3). FSP 142-3 amends the factors an entity should consider in developing renewal or extension assumptions used in determining the useful life of recognized intangible assets under FASB Statement No. 142 *Goodwill and Other Intangible Assets* (SFAS No. 142). FSP 142-3 applies prospectively to intangible assets that are acquired individually or with a group of other assets in a business combination or asset acquisition. The Company does not expect the adoption of FSP 142-3 to have a material impact on the financial statements.

In December 2007, the FASB issued FASB Statement No. 141R, *Business Combinations* (SFAS No. 141R) and FASB Statement No. 160, *Noncontrolling Interests in Consolidated Financial Statements— an amendment to ARB No. 51* (SFAS No. 160). SFAS No. 141R and SFAS No. 160 require most identifiable assets, liabilities, noncontrolling interests, and goodwill acquired in a business combination to be recorded at “full fair value” and require noncontrolling interests (previously referred to as minority interests) to be reported as a component of equity, which changes the accounting for transactions with noncontrolling interest holders. Both Statements are effective for periods beginning on or after December 15, 2008, and earlier adoption is prohibited. SFAS No. 141R will be applied to business combinations occurring after the effective date. SFAS No. 160 will be applied prospectively to all noncontrolling interests, including any that arose before the effective date. The Company does not expect the adoption of SFAS No. 141R and SFAS No. 160 to have a material impact on the financial statements.

In September 2006, the FASB issued FASB Statement No. 157, *Fair Value Measurement* (SFAS No. 157). Statement 157 defines fair value, establishes a framework for the measurement of fair value, and enhances disclosures about fair value measurements. The Statement does not require any new fair value measures. The Statement is effective for fair value measures already required or permitted by other standards for fiscal years beginning after November 15, 2007. The Company was required to adopt SFAS No. 157 beginning on January 1, 2008. SFAS No. 157 is required to be applied prospectively, except for certain financial instruments. Any transition adjustment will be recognized as an adjustment to opening retained earnings in the year of adoption. In November 2007, the FASB proposed a one-year deferral of SFAS No. 157’s fair-value measurement requirements for nonfinancial assets and liabilities that are not required or permitted to be measured at fair value on a recurring basis. The adoption of SFAS No. 157 has not had a material impact on the financial statements.

19. Related Parties

As at December 31, 2008, Amarin Investment Holding Limited (a company controlled by Mr. Thomas Lynch), and Sunninghill Limited (a company controlled by Dr. John Climax) held 1.1 million and 1.5 million shares respectively in Amarin. These respective holdings equate to approximately 3.97% and 5.42% respectively, of Amarin’s issued share capital. Thomas Lynch also serves as Chairman and Chief Executive Officer of Amarin. Amarin is a neuroscience company focused on the research, development and commercialization of drugs for the treatment of central nervous system disorders. During the fiscal year ending May 31, 2005, Amarin contracted ICON Clinical Research Limited (a wholly owned subsidiary of ICON), to conduct a clinical trial on its behalf. The total potential value of this study is \$7 million. During the year ended December 31, 2008, the Company recognized \$0.2 million of revenue relating to the Amarin contract. At December 31, 2008, \$0.3 million was outstanding to be received from Amarin on this trial.

As at December 31, 2008, Dr. John Climax and Dr. Ronan Lambe held 3.05% and 2.94% respectively of the issued share capital of NuPathe Inc. (“NuPathe”). NuPathe is a specialty pharmaceutical company specializing in the acquisition and development of therapeutic products in the area of neuroscience. Prior to July 2008 Dr. Climax also served as a non-executive director and chairman of the compensation committee on the Board of NuPathe. During the year ending December 31, 2006, NuPathe engaged ICON Clinical Research Limited, a wholly owned subsidiary of ICON plc, in consulting and clinical trial related activities. During the year ended December 31, 2008, the Company recognized \$0.1 million relating to the NuPathe contract. There were no amounts outstanding as at December 31, 2008.

Mr Edward Roberts has served as Chairman of Merz GmbH since 2003. Merz is an independent German pharmaceutical company focused on the development of drugs for the treatment of illnesses in the fields of neurology and psychiatry. ICON Clinical Research Limited, a wholly owned subsidiary of ICON plc, has entered into a number of contracts with Merz, for the provision of consulting and clinical trial related activities. The total potential value of these contracts is \$44.1 million. During the prior year ended December 31, 2008, ICON recognized a total of \$7.6 million of revenue in relation to these activities. There were no amounts outstanding as at December 31, 2008.

Prior to June 25, 2007, Dr. Bruce Given served as the President and Chief Executive Officer of Encysive Pharmaceuticals Inc. (“Encysive”). Encysive is a biopharmaceutical company specializing in the development and commercialization of synthetic, small molecule compounds. As of December 31, 2007, Dr. Bruce Given’s holdings in Encysive was less than 0.1% of the issued share capital. During the year ending December 31, 2003, Encysive engaged ICON Clinical Research Limited (a wholly owned subsidiary of ICON), in consulting and clinical trial related activities. During the prior year ending December 31, 2007, ICON recognized a total of \$0.1 million of revenue in relation to these activities. No revenue was earned from these activities during the year ended December 31, 2008.

As of December 31, 2007, Dr. Ronan Lambe held 1.4 million shares in AGI Therapeutics Limited (“AGI”), a specialty pharmaceutical company focused on developing drug therapies for gastrointestinal diseases and disorders. In January 2006, Dr. Ronan Lambe was appointed a non-executive director of AGI and took up the position of non-executive Chairman from February 2006. During September 2004, AGI engaged ICON Clinical Research Limited (a wholly owned subsidiary of ICON), in consulting and clinical trial related activities. The total value of this study was \$2.8 million. No revenue was recognized during the years ended December 31, 2007 and December 31, 2008. There were no amounts outstanding as at December 31, 2007 and December 31, 2008.

SIGNATURES

The Registrant certifies that it meets all of the US requirements for filing on Form 20-F and has duly caused and authorized this annual report to be signed on its behalf.

ICON plc

Date February 19, 2009

/s/ Ciaran Murray
Ciaran Murray
Chief Financial Officer

INDEX TO EXHIBITS

Exhibit Number	Title
3.1	Amended Memorandum and Articles of Association (incorporated by reference to Exhibits 3.1 and 3.2 to the Form 6-k (File No. 333-08704) filed on December 5, 2008).
4.1	ICON plc Share Option Plan 2003, as updated on October 26, 2006, for the 2006 bonus issue, further updated on February 5, 2007 and updated on July 21, 2008, for the 2008 bonus issue (incorporated by reference to Exhibit 4.1 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).
4.2	ICON plc Consultants Share Option Plan 2008 (incorporated by reference to Exhibit 4.2 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).
4.3	ICON plc Employee Share Option Plan 2008 (incorporated by reference to Exhibit 4.3 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).
4.4	ICON plc Employees Restricted Share Unit Plan (incorporated by reference to Exhibit 4.4 to the Form S-8 (File No. 333-152802) filed on August 6, 2008).
8.1	List of Subsidiaries (incorporated by reference to Item 4 of Form 20-F filed herewith).
10.1(a)	Office Space Lease, dated September 25, 1998, between ICON Clinical Research, Inc. and O'Neill Lansdale Properties, L.P.
10.1(b)	Amended and Restated Office Space Lease, dated January 1, 2001, between ICON Clinical Research and 212 Church Associates, L.P.
10.1(c)	Amendment Number 1 to the Amended and Restated Office Space Lease, between ICON Clinical Research, Inc. and 212 C Associates, L.P.
10.1(d)	Amendment Number 2 to the Amended and Restated Office Space Lease, dated January 11, 2005, between ICON Clinical Research, Inc. and 212 C Associates, L.P.
10.2	Agreement of Lease, dated August 13, 2001, between ICON Clinical Research (UK) Limited, ICON plc and Capital Business Parks Globeside Limited.
10.3	Agreement of Lease, dated November 29, 2002, between ICON Laboratories, Inc. and MSM Reality Co. LLC, Davrick, LLC and Sholom Blau Co. LLC (together, the "Landlord").
10.4	Highwoods Properties Office Lease, dated February 17, 2003, between ICON Clinical Research, Inc. and Highwoods Realty Limited Partnership.
12.1*	Section 302 certifications.
12.2*	Section 906 certifications.
23.1	Consent of KPMG, Independent Registered Public Accounting Firm

* Filed herewith

**OFFICE SPACE LEASE
for**

212 Church Road, North Wales, Pennsylvania

by and between

**O'NEILL LANSDALE PROPERTIES, L.P.
(as Landlord)**

and

**ICON CLINICAL RESEARCH, INC.
(as Tenant)**

Date: September 25th, 1998

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THIS LEASE (the "Lease") is made the day of September, 1998 between O'NEILL LANSDALE PROPERTIES, L.P. (herein referred to as "Landlord") whose address is 1710 Walton Road, Suite 301, Blue Bell, Pennsylvania, 19422 and ICON CLINICAL RESEARCH, INC. (herein referred to as "Tenant") whose address is 190 West Germantown Pike, Norristown, Pennsylvania 19401.

PREAMBLE

BASIC LEASE PROVISIONS AND DEFINITIONS

In addition to other terms elsewhere defined in this Lease, the following terms whenever used in this Lease shall have only the meanings set forth in this section, unless such meanings are expressly modified, limited or expanded elsewhere herein.

1. **ADDITIONAL RENT** shall mean all sums in addition to Fixed Basic Rent payable by Tenant to Landlord or to third parties pursuant to the provisions of the Lease.
 2. **BASE YEAR COSTS** shall mean the Annual Operating Costs, as set forth in Section 6(b)(i), for the calendar year ending December 31, 1999 provided, however, that if the Building is not fully occupied during all or a portion of such calendar year, in order to increase the variable Annual Operating Costs to a level corresponding to ninety-five percent (95%) occupancy, Landlord shall, in accordance with sound accounting and management practices, determine the amount of variable Annual Operating Costs (i.e., those items which vary according to occupancy levels, that would have been paid had the Building been fully occupied and the amount so determined shall be deemed to have been the amount of variable Annual Operating Costs for such calendar year and the Landlord shall make the appropriate upward adjustment to the Base Year Costs; and provided further that Impositions (as defined in Section 6(b)(i)) shall be included at the greater of the assessed amount or the estimated amount therefor set forth on Exhibit H which reflects an Imposition reassessment based upon the redevelopment of the Property. Attached hereto as Exhibit H is a schedule of the anticipated Base Year Costs which reflects an anticipated line item breakdown of such costs for both Office Area (as defined below) and the Storage Space (as defined below).
 3. **BROKER(S)** shall mean Kelley & Associates, Inc. and Julien J. Studley, Inc.
 4. **BUILDING** shall mean 212 Church Road, North Wales, Pennsylvania as described on Exhibit A hereto.
 5. **PROPERTY** shall mean the Building together with the underlying land.
 6. **BUILDING HOLIDAYS** shall be those shown on Exhibit D.
 7. **COMMENCEMENT DATE** shall have the meaning given such term in Section 4 of the Lease.
 8. **RENT COMMENCEMENT DATE** shall be five (5) Business Days after the Commencement Date.
 9. **DEMISED PREMISES OR PREMISES** shall be a portion of the Building consisting of approximately Eighty One Thousand Three Hundred Six (81,306) gross rentable square feet as outlined on Exhibits A-1 and A-2 hereof. All measurements are subject to final measurement and agreement in accordance with 1996 BOMA standards.
-

10. **EXHIBITS** shall be the following, attached to this Lease and incorporated herein and made apart hereof:

Rider A	Renewal Option
Exhibit A	Location of Premises
Exhibit A-1	Office Area
Exhibit A-2	Storage Space
Exhibit B	Rules and Regulations
Exhibit C	Work Letter
Exhibit D	Building Holidays
Exhibit E	Tenant Estoppel Certificate
Exhibit F	Commencement Date Agreement
Exhibit G	Janitorial Specifications
Exhibit H	Base Year Costs

11. **EXPIRATION DATE** shall be the day before the tenth (10th) calendar year anniversary of the Rent Commencement Date.

12. **FIXED BASIC RENT** shall be the sum of the Fixed Basic Rent for the Office Area and the Fixed Basic Rent for the Storage Space.

Fixed Basic Rent for the Office Area shall be calculated and payable based upon the square footages (subject to adjustment as set forth in Paragraph 11 below) and rates set forth below (net of Tenant utilities):

Year	Rentable Sq. Ft.	Rate Per Rentable Sq. Foot	Yearly Rate	Monthly Installment
1	52,306	\$ 17.00	\$ 889,202.00	\$ 74,100.17
2	61,306	\$ 17.75	\$ 1,088,181.50	\$ 90,681.79
3	61,306	\$ 18.25	\$ 1,118,834.50	\$ 93,236.21
4	61,306	\$ 18.75	\$ 1,149,487.50	\$ 95,790.63
5	61,306	\$ 19.25	\$ 1,180,140.50	\$ 98,345.04
6	61,306	\$ 19.75	\$ 1,210,793.50	\$ 100,899.46
7	61,306	\$ 20.25	\$ 1,241,446.50	\$ 103,453.88
8	61,306	\$ 20.75	\$ 1,272,099.50	\$ 106,008.29
9	61,308	\$ 21.00	\$ 1,287,426.00	\$ 107,285.50
10	61,306	\$ 21.25	\$ 1,302,752.50	\$ 108,562.71

Fixed Basic Rent for the Storage Space shall be calculated and payable based upon the square footages (subject to adjustment as set forth in Paragraph 15 below) and rates set forth below (net of Tenant utilities):

Year	Rentable Sq. Ft.	Rate Per Rentable Sq. Foot	Yearly Rate	Monthly Installment
1	20,000	\$ 8.32	\$ 166,400.00	\$ 13,866.67
2	20,000	\$ 8.32	\$ 166,400.00	\$ 13,866.67
3	20,000	\$ 8.32	\$ 166,400.00	\$ 13,866.67
4	20,000	\$ 8.82	\$ 176,400.00	\$ 14,700.00
5	20,000	\$ 8.82	\$ 176,400.00	\$ 14,700.00
6	20,000	\$ 8.82	\$ 176,400.00	\$ 14,700.00
7	20,000	\$ 9.37	\$ 187,400.00	\$ 15,616.67
8	20,000	\$ 9.37	\$ 187,400.00	\$ 15,616.67
9	20,000	\$ 9.37	\$ 187,400.00	\$ 15,616.67
10	20,000	\$ 9.97	\$ 199,400.00	\$ 16,616.67

13. **OFFICE AREA** shall be approximately sixty one thousand three hundred and six (61,306) gross rentable square feet as depicted on Exhibit A-1 (the "Office Area"), provided, however, such Office Area may be expanded as set forth in Section 42 of the Lease. All measurements are subject to final measurement and agreement in accordance with 1996 BOMA standards.

14. **PERMITTED USE** shall be general office use, warehouse, lab, manufacturing and any other purpose permitted by law.

15. **PROPORTIONATE SHARE** shall mean one eighty six and 68/100 percent (86.68%).

16. **SECURITY DEPOSIT** shall be equal to One Hundred and Sixty Thousand Dollars (\$160,000.00) subject to Section 37 of the Lease.

17. **STORAGE SPACE** shall be approximately twenty thousand (20,000) gross rentable square feet as depicted on Exhibit A-2 (the "Storage Space"), provided, however, such Storage Space may be reduced as set forth in Section 42 of the Lease. All measurements are subject to final measurement and agreement in accordance with 1996 BOMA standards.

18. **TARGET DATE** shall have the meaning given such term in Schedule 1 to the Work Letter attached to this Lease as Exhibit C.

19. **TERM** shall mean ten (10) years from the Rent Commencement Date unless terminated or extended pursuant to any option or provision contained herein.

For and in consideration of the covenants herein contained, and upon the terms and conditions herein set forth, Landlord and Tenant, intending to be legally bound, agree as follows:

1. **Definitions.** The definitions set forth in the preceding Preamble shall apply to the same capitalized terms appearing in this Lease Agreement. Additional definitions are contained in Section 41 and throughout this Lease.

2. **Premises.** Landlord hereby demises and leases the Premises to Tenant and Tenant hereby leases and takes the Premises from Landlord for the Term and upon the terms, covenants, conditions, and provisions set forth in this Lease Agreement, including the Preamble (this "Lease"). The Tenant's interest in the Premises as tenant shall include the right, in common with Landlord and other occupants of the Building, to use driveways, sidewalks, loading and parking areas, lobbies, hallways and other facilities which are located within the Property and which are designated by Landlord from time to time for the use of all of the tenants of the Building (the "Common Facilities"). In addition to the foregoing, Tenant's interest in the Premises as tenant shall include the right, in common with the Landlord, to use that portion of the roof of the Building as shall be reasonably necessary for the installation and use of one or more microwave dishes or other communications antenna and associated equipment provided that the placement of such equipment is approved in writing by Landlord, in advance, such approval not to be unreasonably withheld, conditioned or delayed. Tenant shall have no obligation to pay rent for such right, but Tenant shall, at its sole cost and expense, maintain and repair any damage to the roof arising out of its use of the roof, comply with all applicable laws and obtain any necessary permits regarding such use. Upon the expiration or earlier termination of this Lease, Tenant shall remove all such equipment from the roof and repair any resulting damage thereto.

3. **Completion of Premises.** The Building and the Premises shall be completed in accordance with the Work Letter attached hereto as Exhibit C (herein called the "Work Letter") at Landlord's expense. All necessary work shall be commenced promptly following Landlord's execution of this Lease and shall be substantially completed on the Target Date set forth in the Preamble; provided, however, that the time for substantial completion of the Building and the Premises shall be extended for additional periods of time equal to the time lost by Landlord or Landlord's contractors, subcontractors or suppliers which is beyond such party's reasonable control due to strikes or other labor troubles, governmental restrictions and limitations, unavailability or delays in obtaining fuel, labor or materials, war or other national emergency, accidents, floods, defective materials, fire damage or other casualties, adverse weather conditions, the inability to obtain building or use and occupancy permits, or any cause similar or dissimilar to the foregoing which is beyond the reasonable control of Landlord or Landlord's contractors, subcontractors or suppliers ("Force Majeure"); and Tenant Delay (as defined in Exhibit C). The Building and the Premises shall be deemed "substantially completed" when (i) all of the work and installations required to improve the Building and Premises as delineated in the Work Letter ("Landlord Work") are completed in conformity with such Work Letter as determined by Tenant's Architect (as defined in the Work Letter) (subject, in the case of the Premises Work (as defined in Exhibit C) to minor dimensional variations due to construction being carried out within an existing structure and "punch list" items (as defined in the Work Letter, which shall be completed within thirty(30) days thereafter), and the HVAC (and all building utilities) shall be in good working order and be functioning in accordance with operating standards described in the Lease or in the Work Letter but in all events and in all aspects necessary to permit Tenant to occupy and fully utilize the Building and the Premises for its intended use, (ii) Tenant has received from Landlord all permits required for lawful use and occupancy of the Premises by the Tenant, and (iii) delivery to Tenant of a permanent or temporary Certificate of Occupancy for the Premises. No failure to deliver the Premises by the Target Date shall in any respect affect the validity or continuance of this Lease or any obligation of Tenant hereunder or extend the Term of the Lease provided, however, that the Commencement Date shall be delayed until such time as the Premises and the Building are substantially completed in accordance with this Section 3. In the event Landlord fails to substantially complete the Premises on or before the date which is sixty (60) days after the Target Date, then Tenant may elect to terminate this Lease or to extend the Target Date for an additional sixty (60) days by written notice to Landlord. If Tenant elects to extend the Target Date, Tenant shall be entitled to one (1) day of Rent abatement for each one (1) day of delay until the Premises are substantially completed. In the event the Landlord fails to substantially complete the Premises within the additional sixty (60) day period, then Tenant may terminate this Lease upon three (3) days prior written notice to Landlord. Once Landlord substantially completes the Premises, the Tenant shall no longer be entitled to exercise its right to terminate this Lease as set forth in this Section 3.

4. **Term.** The term of this Lease shall commence (the "Commencement Date") on the date Landlord delivers possession of the Premises to Tenant with the Building and Premises substantially completed (as set forth in Section 3 above). Following the Commencement Date, the term of this Lease, unless sooner terminated as expressly provided in this Lease, shall continue until the date of expiration of the term specified as the Term of Lease in the Preamble plus the number of days which remain in the calendar month in which such term expires (the "Term"). Upon request of Landlord, Tenant shall enter into a memorandum agreement stipulating the actual Commencement Date, Rent Commencement Date and Expiration Date of the Term substantially in the form attached hereto as Exhibit F.

5. **Use of Premises.** Tenant shall occupy the Premises throughout the Term and shall use the same for, and only for, the Permitted Use specified in the Preamble. The Building is designed to normal building standards for floor-loading capacity. Tenant shall not use the Premises in such ways which, in Landlord's reasonable judgment, exceed such load limits.

6. **Rent.** Unless otherwise specifically requested by Landlord at any time, Fixed Basic Rent, Additional Rent and any other rent or other sums due under this Lease (hereunder collectively referred to as Rent) shall be paid and delivered to Landlord's onsite property manager, if any, as agent for Landlord, in the amounts, time and manner more particularly provided in this Lease.

a) **Fixed Basic Rent.** Commencing on the Rent Commencement Date, Tenant shall pay Fixed Basic Rent in the amount specified in the Preamble, without notice or demand and without setoff or deduction, in equal monthly installments equal to one-twelfth of the Fixed Basic Rent (specified as Monthly Installments in the Preamble), in advance, on the first day of each calendar month during the Term. If the Rent Commencement Date falls on a day other than the first day of a calendar month, the Fixed Basic Rent shall be apportioned on a per diem basis for the period between the Rent Commencement Date and the first day of the first full calendar month in the Term and such apportioned sum shall be paid on the Rent Commencement Date.

b) **Additional Rent.** For each year (or part thereof) following the calendar year 1999, Tenant shall pay, as Additional Rent, its Proportionate Share of Annual Operating Costs to the extent same exceeds the Base Year Costs. Additional Rent shall be calculated and payable as follows:

i) **Annual Operating Costs.** The term "Annual Operating Costs" shall mean all costs Landlord reasonably and necessarily incurs from owning, operating and maintaining the Building and the lot or tract of land on which it is situated (the "Property"). Annual Operating Costs shall include, by way of example rather than limitation: insurance costs, including premiums; fees; Impositions (defined below); costs for repairs, maintenance and service contracts; management fees not to exceed \$0.40 per rentable square foot of the Premises for the first lease year not to increase by more than 3% per lease year thereafter; landscaping; snow removal; governmental permits fees; costs of compliance with governmental orders and regulations; administrative and overhead expenses; costs of furnishing water, sewer, electricity, gas, fuel, and other utility services, for use in common areas of the Building and Property; and the cost of janitorial service and trash removal; excluding, however, from Annual Operating Costs the following: costs which are treated as capital expenditures (except as provided in Sections 9(e) and 10(b)) under generally accepted accounting principles; mortgage debt or ground rents incurred by Landlord as owner of the Property; income, excess profits, corporate capital stock or franchise tax imposed or assessed upon Landlord, unless (but only to the extent) such tax or any similar tax is levied or assessed, in lieu of all or any part of any currently existing Imposition or an increase in any currently existing Imposition; leasing commissions, accountants', consultants' or attorneys' fees, costs and disbursement and other expenses incurred in connection with negotiations or disputes with tenants or prospective tenants or associated with the enforcement of any leases or the defense of Landlord's title to or interest in the Building in connection with any proceedings involving real property taxes other than disputes regarding tax assessment and reduction of real property taxes; costs of construction of the Building and related facilities and correction of defects in construction of the Building (including permit, license and inspection fees); costs of any items or services sold or provided to tenants (including Tenant) for which Landlord is entitled to be reimbursed by such tenants or which are not generally provided to all tenants of the Building; costs of any items covered by any warranty to the extent of the warranty coverage, all financing costs, fees and higher interest charges caused by Landlord's financing or refinancing the Building; all repairs to the interior of the Building of a structural nature (not made necessary by unusual use by Tenant (the parties agree that Tenant's use in accordance with this Lease shall not be deemed unusual)); costs incurred due to violation by Landlord or any tenant of the terms and conditions of any lease, governmental, law, order or regulation in existence as of the Commencement date; overhead and profit increment paid to subsidiaries or affiliates of Landlord, or to any party as a result of a noncompetitive selection process, for management or other services on or to the Building or for supplies or other materials, to the extent that the costs of such services, supplies or materials exceed the costs that would have been paid had the services, supplies or materials been provided by unaffiliated parties on a competitive basis; general overhead and administrative expenses except salaries of on-site property manager, management secretary and maintenance man (not to exceed the time devoted to the Building); any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord and others; rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, except equipment which is used in providing janitorial services and which is not affixed to the Building; all items and services for which Tenant reimburses Landlord or pays third persons or which Landlord provides selectively to one or more tenants or occupants of the Building (other than Tenant) without reimbursement; commissions, advertising, and promotional expenditures; costs incurred in managing or operating any parking facilities; resurfacing of the parking area or of the driveways on the Property; expenditures for which Landlord is reimbursed from any insurance carrier or from any other source; the cost of repairs or replacements incurred by reason of fire or other insured casualty or condemnation; depreciation; bad debt loss rent loss, or reserves for either of them; taxes other than Impositions; costs for sculpture, decorations, paintings or other objects of art in excess of amounts typically spent for such items in office buildings of comparable quality in the competitive area of the Building; costs, expenses or expenditures relating to the duties, liabilities or obligations of other tenants in the Building; costs incurred by Landlord arising out of its failure to perform or breach any of its covenants, agreements, representations, warranties; guarantees or indemnities made under this or any other lease in the Building; fines or penalties incurred by Landlord due to violations of or noncompliance with any applicable legal requirements; costs incurred in the removal, abatement or other treatment of underground storage tanks or hazardous substances present in the Building or on or under the Property; the costs of installing, operating and maintaining a specialty improvement, including, but not limited to an athletic, luncheon or recreational club or facility; the value or lost income to Landlord of any office space in the Building which is utilized for the management of the Building; the cost of any capital improvement (including lease payments for rented equipment the cost of which would constitute a capital expenditure if purchased), which may be required by any governmental authority under any governmental law, regulation or order that was applicable to the Building as of the Commencement Date; nor any other expense which under generally accepted accounting principles and practice would not be considered a normal maintenance or repair expense. "Impositions" shall mean all levies, taxes, assessments, charges, imposts, and burdens, of whatever kind and nature, ordinary and extraordinary, which are assessed or imposed during the Term by any federal, state or municipal government or public authority or under any law, ordinance or regulation thereof or pursuant to any recorded covenants or agreements upon or with respect to the Property or any part thereof, any improvements thereto, any personal property necessary to the operation thereof and owned by Landlord or this Lease but shall not include any federal, state or local income, franchise, capital stock, estate inheritance or transfer taxes.

ii) **Estimated Payments - Expense Statement and Reconciliation.**

(1) Landlord shall submit to Tenant as soon as reasonably possible (but in no event later than one hundred fifty (150) days) after the beginning of each calendar year of the Term, the following:

(a) a statement setting forth (i) the actual Annual Operating Costs for the previous calendar year of the Term and (ii) a calculation of Tenant's Proportionate Share of the increase above the Base Year Costs (the "Expense Statement"); and

(b) a statement of Landlord's good faith estimate of the Annual Operating Costs for the current calendar year and (2) a calculation of Tenant's Proportionate Share of the increase above the Base Year Costs for the current calendar year ("Tenant's Estimated Share"),

(2) Beginning with the next installment of Fixed Basic Rent due after the delivery of the aforesaid statements to Tenant, Tenant shall pay to Landlord, on account of its Proportionate Share of the Annual Operating Costs, the following:

(a) a sum equal to the product of one-twelfth (1/12) of Tenant's Estimated Share and the number of calendar months elapsed during the current calendar year up to and including the month payment is made, (less all amounts paid by Tenant on account of Tenant's Estimated Share for the current calendar year), plus any amounts due from Tenant to Landlord on account of Tenant's Proportionate Share of the increase in the Annual Operating Costs for any prior period(s) of time, less

(b) a sum equal to the amount, if any, by which the sum of all payments made by Tenant to Landlord on account of Tenant's Proportionate Share of the increase in the Annual Operating Costs for the previous calendar year exceed those actually specified in the Expense Statement (and any excess shall be applied against future payments of Tenant's Estimated Share).

(3) On the first day of each succeeding calendar month until such time as Tenant receives a new Expense Statement and statement of Tenant's Estimated Share, Tenant shall pay to Landlord, on account of its Proportionate Share of Annual Operating Costs, one-twelfth (1/12) of the then current Tenant's Estimated Share. Any payment due from Tenant to Landlord, or any refund due from Landlord to Tenant, on account of Annual Operating Costs not yet determined as of the expiration of the Term shall be made within thirty (30) days after submission to Tenant of the next Expense Statement,

c) **Disputes.** Unless Tenant, within one hundred and twenty (120) days after any Expense Statement is furnished, shall give notice to Landlord that Tenant disputes said statement, specifying in reasonable detail the basis for such dispute, each statement furnished to Tenant by Landlord under any provision of this Section shall be conclusively binding upon Tenant and Landlord as to the particular Expense Statement and the Additional Rent stated therein to be due from Tenant for the period represented thereby. Tenant shall have the right at reasonable times to examine the records used in making the aforesaid determinations, upon written notice in advance; provided, however, such disputed amount shall have been paid by Tenant to Landlord. In the event any such examination shall reveal an adverse variance in excess of 5% of the total operating expenses of which Tenant is required to pay their Proportionate Share, Landlord shall reimburse Tenant for the reasonable cost of such examination within thirty (30) days after demand and immediately refund Tenant its Proportionate Share of such obligation. Tenant shall make all payments of Additional Rent without delay and regardless of any pending dispute over the amount of Additional Rent that is due in accordance with the statements furnished by Landlord. Landlord shall have the right to retain a reasonable portion of Tenant's security deposit until all Additional Rent payable by Tenant is determined and paid.

d) **Independent Covenant; Survival.** Tenant's covenant to pay Rent is independent of any other covenant, agreement, term or condition of this Lease. Without limitation of any obligation of Tenant or Landlord under this Lease which shall survive the expiration of the Term, the obligation of Tenant to pay Rent shall survive the expiration of the Term.

7. **Insurance.**

a) **Liability.** Tenant, at Tenant's sole cost and expense, shall maintain and keep insurance in effect throughout the Term against liability for bodily injury (including death) and property damage in or about the Premises or the Property under a policy of comprehensive general public liability insurance, with such limits as to each as may be reasonably required by Landlord from time to time, but not less than \$2,000,000.00 for each person and \$5,000,000.00 in the aggregate for bodily injury, (including death) to more than one (1) person and \$2,000,000.00 for property damage. The policies of comprehensive general public liability insurance shall name Landlord and Tenant (and if requested, any mortgagee of Landlord) as the insured parties. Each such policy shall provide that it shall not be cancelable without at least thirty (30) days prior written notice to Landlord and to any mortgagee named in an endorsement thereto and shall be issued by an insurer and in a form satisfactory to Landlord. At least ten (10) days prior to the Commencement Date, and thereafter upon Landlord's request, a certificate of insurance shall be delivered to Landlord proving compliance with the foregoing requirements. If Tenant shall fail, refuse or neglect to obtain or to maintain any insurance that it is required to provide or to furnish Landlord with satisfactory evidence of coverage on any such policy upon demand, Landlord shall have the right to purchase such insurance. All payments made by Landlord for such insurance shall be recoverable by Landlord from Tenant, together with interest thereon, as Additional Rent promptly upon demand. Notwithstanding anything contained herein to the contrary, Tenant may self-insure all of its personal property situated within the Premises against property damage and destruction.

b) Landlord shall maintain throughout the term of this Lease commercial general liability insurance for the Common Facilities in such amount as Landlord, in its reasonable judgment, deems appropriate.

c) **Waiver of Subrogation.** The parties to this Lease each release the other, to the extent of the releasing party's insurance coverage, from any and all liability for any loss or damage covered by such insurance which may be inflicted upon the property of such party even if such loss or damage shall be brought about by the fault or negligence of the other party, its agents or employees. If any policy does not permit such a release of liability and a waiver of subrogation, and if the party to benefit therefrom requests that such a waiver be obtained, the other party agrees to obtain an endorsement to its insurance policies permitting such waiver of subrogation if it is available. If an additional premium is charged for such waiver, the party benefiting therefrom agrees to pay the amount of such additional premium promptly upon demand. In the event a party is unable to obtain such a waiver, it shall immediately notify the other party of its inability. In the absence of such notifications, each party shall be deemed to have obtained such waiver of subrogation.

d) **Increase of Premiums.** Tenant will not do anything or fail to do anything or permit anything to be done which will cause the cost of Landlord's insurance to increase or which will prevent Landlord from procuring insurance (including but not limited to public liability insurance) from companies, and in a form, satisfactory to Landlord. If any breach of this subsection (c) by Tenant shall cause the rate of fire or other insurance to be increased, Tenant shall pay the amount of such increase as Additional Rent promptly upon demand. If Tenant does anything or fails to do anything or permits anything to be done for which insurance cannot be obtained, Landlord may terminate this Lease after reasonable notice and opportunity to cure.

8. **Repairs and Maintenance.**

a) Tenant shall, throughout the Term and at Tenant's sole cost and expense, keep and maintain the Premises in a neat and orderly condition; and, upon expiration of the Term, Tenant shall leave the Premises in good order and condition, ordinary wear and tear, damage by fire or other casualty alone excepted, and for that purpose and except as stated, Tenant will make all necessary repairs and replacements. Tenant shall not permit any waste, damage or injury to the Premises. Tenant shall not use or permit the use of any portion of the Common Facilities for other than their intended use as reasonably specified by the Landlord from time to time.

b) Landlord shall, throughout the Term, make all necessary repairs to the Common Facilities, structural elements of the Premises and other improvements located on the Property and to maintain the plumbing, air conditioning and electrical systems, windows, floors, and all other items which constitute a part of the Premises and are installed or furnished by the Landlord; provided, however, that Landlord shall have no responsibility to make any repairs unless and until Landlord receives written notice of the need for such repair. Landlord shall keep and maintain all Common Facilities of the Property and any sidewalks, parking areas, curbs and access ways adjoining the Property in a clean and orderly condition, free of accumulation of dirt and rubbish and shall keep and maintain all landscaped areas within the Property in a neat and orderly condition. The expenses Landlord incurs in performing its obligations under this Paragraph 8(b) shall be included in the Annual Operating Costs under Section 6(b) above.

c) Notwithstanding the foregoing, repairs and replacements to the Premises and the Property arising out of or caused by Tenant's misuse of the Premises, by Tenant's installation of alterations, additions, improvements, trade fixtures or equipment in or upon the Premises or by any negligent act of Tenant or any employee, agent, contractor or invitee of Tenant shall be made at Tenant's sole cost and expense and Tenant shall pay Landlord the reasonable cost of any such repair or replacement, as Additional Rent, upon demand, but only to the extent that the cost of such repair or replacement is not covered by insurance required hereunder to be carried by Landlord.

9. **Utilities and Services.**

a) Landlord shall furnish the Premises with electricity, heating and air conditioning for the normal use and occupancy of the Premises as general offices twenty four hours per day each during the Term in accordance with the terms of the Work Letter. The HVAC equipment to be installed at the Premises shall provide interior conditions of 75 degrees dry bulb when the outside conditions are 93 degrees dry bulb for summer and 70 degrees dry bulb for winter when the outside conditions are 10 degrees dry bulb for winter. The Building air conditioning system will provide ventilation at a rate not less than 20 cubic feet per minute per person in office areas and not less than 75 cubic feet per minute per fixture for the public restrooms. Tenant agrees to pay as Additional Rent all charges for electricity and gas used by Tenant at the Premises based upon its metered usage as reasonably determined by Landlord unless the Premises is separately metered. If Tenant shall require electricity or install electrical equipment using current in excess of 110 volts or which will in any way increase the amount of electricity furnished by Landlord for general office use (including but not limited to electrical heating or refrigeration equipment of electronic data processing machines) after Landlord substantially completes the Premises as set forth in the Work Letter, Tenant will obtain prior written approval from Landlord and will pay, as Additional Rent, for the resulting additional direct expense to Landlord, including the expense resulting from the installation of any equipment and meters, promptly upon receipt of an invoice from Landlord.

b) Within the common areas of the Building and within the Premises, Landlord shall furnish: (i) adequate gas and electricity, (ii) hot and cold water and sewer, (iii) lavatory facilities and supplies, (iv) normal and customary cleaning services (on a five-day a week basis, Building Holidays excepted) after business hours, (v) heat and air conditioning in season, and Landlord shall supply (vi) landscaping, (vii) parking lot maintenance, (viii) common area maintenance and (ix) snow and ice removal ("Landlord's Services"). Tenant shall be responsible for its Proportionate Share of such services in accordance with Section 6(b) hereof. Landlord shall provide janitorial service to the Office Area in accordance with the specifications contained in Exhibit "G" hereto, five days per week, after regular business hours, and the costs of such service will be passed through to Tenant as set forth in Section 6; provided, however, that Tenant may elect to use its own janitorial service company, reasonably acceptable to Landlord, in which event Landlord's expenses for janitorial service to the Premises shall not be included in Annual Operating Expenses or in the Base Year Costs and Tenant shall be entitled to a reduction in the Fixed Basic Rent equal to the cost of providing such services to Tenant during the Base Year, computed on an annualized basis.

c) Landlord shall not be liable for any damages to Tenant resulting from the quality, quantity, failure, unavailability or disruption of any Landlord's Services beyond the reasonable control of Landlord.

d) Landlord's Services shall be provided in a manner consistent with the operation of comparable office buildings in the competitive area of the Building. Notwithstanding anything to the contrary contained in this Lease, if (i) Landlord ceases to furnish any Landlord's Service in the Building, and Tenant notifies Landlord of such cessation in writing (the "Interruption Notice"), (ii) such cessation does not arise as a result of the gross negligence of Tenant (iii) such cessation is not caused by a fire or other casualty (in which case Section 15 shall control), (iv) the repair or restoration of such service is reasonably within the control of Landlord, and (v) as a result of such cessation, the Premises or material portion thereof, is rendered untenantable (meaning that Tenant is unable to use the Premises or a substantial portion thereof in the normal course of its business) and Tenant, in fact ceases to use the Premises, or material portion thereof, then, commencing on the third (3rd) Business Day after the later to occur of the date the Premises (or material portion thereof) becomes untenantable, the date Tenant ceases to use such space and the date Tenant provides Landlord with an Interruption Notice, all Rent hereunder shall be abated on a per diem basis for each day of such interruption based upon the percentage of the Premises so rendered untenantable and not used by Tenant and such abatement shall continue until the date the Premises becomes tenantable again. Notwithstanding anything in this Lease to the contrary, if such period lasts for more than ninety (90) days, Tenant may terminate this Lease upon ten (10) days written notice to Landlord, provided, however, that if during the ten (10) day period following Tenant's notice to Landlord, Landlord shall restore such interrupted service, this Lease shall continue. In making all repairs and restorations hereunder, and in fulfilling its obligations under this Lease, Landlord shall use reasonable efforts to minimize the disruption of Tenant's use and enjoyment of the Premises. Notwithstanding the foregoing, in the event of an interruption of Landlord's Services involving imminent danger to persons or property, Tenant shall be permitted to take such actions as are reasonable under the circumstances to restore such services and Landlord shall reimburse Tenant for the actual cost incurred by Tenant in effectuating such restoration within fifteen (15) days after written demand therefor. If Landlord does not timely reimburse Tenant, Tenant may offset such costs against its rental obligations hereunder.

e) The cost of capital improvements which Landlord shall install or construct, with Tenant's prior written consent, for energy saving devices for the purpose of reducing operating expenses (as would be determined in the reasonable judgment of a landlord of a comparable building in the competitive area of the Building) shall be included in Annual Operating Costs, based upon the estimated life of the capital investment item, determined by Landlord in accordance with generally accepted accounting principles, and shall include a cost of capital funds adjustment equal to ten percent (10%) per year on the unamortized portion of all such costs. In no event shall Tenant pay Additional Rent attributable to the portion of the useful life of the capital improvement which falls outside the Term. Tenant's Proportionate Share of such expenses shall be included in the calculation of Additional Rent.

10. **Governmental Regulations.**

a) Landlord and Tenant shall comply with all laws, ordinances, notices, orders, rules, regulations and requirements of all federal, state and municipal government or any department, commission, board or officer thereof, or of the National Board of Fire Underwriters or any other body exercising similar functions, relating to the Premises or to the use or manner of use of the Property. Tenant shall not knowingly do or commit, or suffer to be done or committed anywhere in the Building, any act or thing contrary to any of the laws, ordinances, regulations and requirements referred to in this Section. Tenant shall give Landlord prompt written notice of any accident in the Premises and of any breakage, defect or failure in any of the systems or equipment servicing the Premises or any portion of the Premises.

b) In the event Landlord shall install or construct a capital improvement to the Building in compliance with governmental requirements which take effect after the commencement of the Term hereof, the cost of the capital improvement shall be included in Annual Operating Costs and shall be determined based upon the estimated life of the capital investment item, determined by Landlord in accordance with generally accepted accounting principles, and shall include a cost of capital funds adjustment equal to ten percent (10%) per year on the unamortized portion of all such costs. In no event shall Tenant pay Additional Rent attributable to the portion of the useful life of the capital improvement which falls outside the Term.

c) Tenant shall pay all taxes imposed upon Tenant's furnishings, trade fixtures, equipment or other personal property.

11. **Signs.** Tenant shall be entitled to place its sign at the entrance to the Demised Premises and on the exterior roof line of the Building provided, however, the design of such signs are approved by Landlord in writing which approval shall not be unreasonably withheld, conditioned or delayed and complies with all applicable governmental rules, regulating ordinances or other statutes. Except for the cost of the monument for signs to be erected at the Property, Tenant shall be solely responsible for all costs and expenses associated with the erection of any signs upon the Premises and shall be obligated to obtain and provide to Landlord any and all necessary permits prior to the placement or erection of such signs. Tenant's right to place its sign on the roof line of the Building shall be exclusive so long as Tenant occupies at least sixty percent (60%) of the Building. The other tenants of the Building, if any, shall be permitted to place their names and logos on the monument sign at the Building as well as on the Building adjacent to the entrance to their premises in accordance with the terms of their leases; provided, however, that no sign placed on the Building shall be more dominant than Tenant's sign.

12. **Alterations, Additions and Fixtures.**

a) Tenant shall have the right to install in the Premises any trade fixtures; provided, however, that no such installation and no removal thereof shall be permitted which affects any structural component of the Building or Premises and that Tenant shall repair and restore any damage or injury to the Premises or the Property caused by installation or removal.

b) Tenant shall not make or permit to be made any alterations, improvements or additions to the Premises or Property which affect the structural components of the Building without on each occasion first presenting plans and specifications to Landlord and obtaining Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, but may be conditioned upon compliance with reasonable requirements of Landlord including, without limitation, the filing of mechanics' lien waivers by Tenant's contractors and the submission of written evidence of adequate insurance coverage naming Landlord as an additional insured thereunder. All Tenant alterations, improvements or additions shall be made at Tenant's sole cost and expense and (i) Tenant shall supply any necessary permits; (ii) Tenant shall take or cause to be taken all steps that are otherwise required by Section 13 of this Lease and that are required or permitted by law in order to avoid the imposition of any mechanic's, laborer's or materialman's lien upon the Premises or the Property; (iii) Tenant shall use a contractor reasonably approved by Landlord; (iv) Tenant shall use reasonable efforts to avoid annoying or disturbing the occupants of the Building and of any adjoining real estate owned by Landlord; (v) Tenant shall cause the alterations, improvements or additions to be installed substantially in accordance with the approved plans and specifications and completed substantially according to a construction schedule approved by Landlord (if such approval was required under this Section 12); and (vi) Tenant shall provide insurance of the types and coverage amounts reasonably required by Landlord. Any and all alterations, improvements and additions to the Premises which are constructed, installed or otherwise made by Tenant shall be the property of Tenant until the expiration or sooner termination of this Lease; at that time all such alterations and additions other than trade fixtures and movable personal property shall remain on the Premises and become the Property of Landlord without payment by Landlord. Notwithstanding anything to the contrary contained in this Lease, Landlord may withhold its approval to any proposed alterations, additions or improvements to the Premises in its absolute and sole discretion with respect to any such alteration, addition or improvement which Landlord determines involves any modification to the Building's exterior or its structural systems, or any components thereof, impair the structural strength of the Building, reduce the value of the Property or are inconsistent with the standards of the Building.

13. **Mechanic's Liens.** Tenant shall promptly pay any contractors and materialmen who supply labor, work or materials to Tenant at the Premises or the Property so as to minimize the possibility of a lien attaching to the Premises or the Property. Tenant shall take all steps permitted by law in order to avoid the imposition of any mechanic's, laborer's or materialman's lien upon the Premises or the Property. Should any such lien or notice of lien be filed for work performed for Tenant other than by Landlord, Tenant shall cause such lien or notice of lien to be discharged of record by payment, deposit, bond or otherwise within twenty five (25) days after Tenant obtains knowledge of the filing thereof or after Tenant's receipt of notice thereof, whichever is earlier, regardless of the validity of such lien or claim. If Tenant shall fail to cause such lien or claim to be discharged and removed from record within such twenty five (25) day period, then, without obligation to investigate the validity thereof and in addition to any other right or remedy Landlord may have, Landlord may, but shall not be obligated to, contest the lien or claim or discharge it by payment, deposit, bond or otherwise; and Landlord shall be entitled to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest and costs. Any amounts so paid by Landlord and all costs and expenses including, without limitation, attorneys' fees incurred by Landlord in connection therewith, together with interest at a rate of ten percent (10%) per annum from the respective dates of Landlord's making such payment or incurring such cost or expense, which shall constitute Additional Rent payable hereunder promptly upon demand therefor. Except as otherwise expressly set forth herein, nothing in this Lease is intended to authorize Tenant to do or cause any work or labor to be done or any materials to be supplied for the account of Landlord, all of the same to be solely for Tenant's account and at Tenant's risk and expense. Further, notwithstanding anything to the contrary contained in this Lease, nothing contained in or contemplated by this Lease shall be deemed or construed in any way to constitute the consent or request by Landlord for the performance of any work or services or the furnishing of any materials for which any lien could be filed against the Premises or the Building or the Property or any part of any thereof, nor as giving Tenant any right, power or authority to contract or permit the performance of any work or services or the furnishing of any materials for which any lien could be filed against the Premises, the Building, the Property or any part of any thereof. Throughout this Lease the term "mechanic's lien" is used to include any lien, encumbrance or charge levied or imposed upon the Premises or the Property or any interest therein or income therefrom on account of any mechanic's, laborer's or materialman's lien or arising out of any debt or liability to or any claim or demand of any contractor, mechanic, supplier, materialman or laborer and shall include without limitation any mechanic's notice of intention given to Landlord or Tenant, any stop order given to Landlord or Tenant, any notice of refusal to pay naming Landlord or Tenant and any injunctive or equitable action brought by any person entitled to any mechanic's lien.

14. **Landlord's Right of Entry.**

a) Tenant shall permit Landlord and the authorized representatives of Landlord and of any mortgagee or any prospective mortgagee to enter the Premises at all reasonable times, with reasonable prior notice to Tenant, and with an authorized representative of Tenant, (except in the case of an emergency involving eminent danger to persons or property) for the purpose of making any necessary repairs to the Premises or to the Building and performing any work therein. During the progress of any work on the Premises or the Building, Landlord will use reasonable efforts to prevent inconvenience to Tenant, but shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage to Tenant by reason of making any repair or by bringing or storing materials, supplies, tools and equipment in the Premises during the performance of any work, and the obligations of Tenant under this Lease shall not be thereby affected in any manner whatsoever unless caused by the negligence or willful misconduct of the Landlord, its agents, contractors, or employees.

b) Landlord (with an authorized representative of Tenant) shall have the right at all reasonable times to, with reasonable prior notice to Tenant, enter and to exhibit the Premises for the purpose of inspection or showing the Premises in connection with a sale or mortgage and, during the last nine (9) months of the Term, to exhibit the Premises to any prospective tenant.

15. **Damage by Fire or Other Casualty.**

a) If all or any portion of the Premises or Building is damaged or destroyed by fire or other casualty, Tenant shall promptly notify Landlord whereupon Landlord shall, subject to the consent of Landlord's then mortgagee (which shall be given or denied within forty five (45) days of the date of such casualty) and to the conditions set forth in this Section 15, repair, rebuild or replace such damage and restore the Premises and Building to substantially the same condition as they were in immediately prior to such damage or destruction; provided, however, that Landlord shall only be obligated to restore such damage or destruction to the extent of the proceeds of fire and other extended coverage insurance policies required hereunder. Notwithstanding the foregoing, if the Premises is destroyed or damaged to the extent that in Landlord's sole reasonable judgment the Premises cannot be repaired or restored within one hundred eighty (180) days after such casualty, Landlord may, subject to the rights of Landlord's then mortgagee, terminate this Lease as of the date of such casualty by written notice to Tenant within forty-five (45) days after the date of such casualty.

b) The repair, rebuilding or replacement work shall be commenced promptly and completed with due diligence, taking into account the time reasonably required by Landlord to effect a settlement with, and procure insurance proceeds from, the insurer, and for delays beyond Landlord's reasonable control. In the event Landlord elects or is obligated to repair or restore the Premises and fails to complete such repair and restoration on or before two hundred and forty (240) days after the date of such casualty, then Tenant may terminate this Lease upon three (3) Business Days prior written notice to Landlord.

c) The net amount of any insurance proceeds recovered by reason of the damage or destruction of the Building (meaning the gross insurance proceeds excluding proceeds received pursuant to a rental coverage endorsement and the reasonable and out of pocket cost of adjusting the insurance claim and collecting the insurance proceeds) shall be applied towards the cost of restoration. Notwithstanding anything to the contrary in this Lease Agreement, if in Landlord's reasonable opinion the net insurance proceeds will not be adequate to complete such restoration, Landlord shall have the right to terminate this Lease as of the date of such casualty and all the unaccrued obligations of the parties hereto by sending a written notice of such termination to Tenant within 45 days after such casualty; provided, however, that Tenant may require Landlord, except during the last year of the Term (unless Tenant elects to extend the Term of this Lease in accordance with any right to renew pursuant to the terms of this Lease that Tenant may have at the time of such casualty even if the time for Tenant to notify Landlord of such election has not yet occurred, or if no such right exists, unless Tenant elects to extend the Lease for an additional five (5) year period upon the terms and conditions provided in Rider A as if such five (5) year period were an option period thereunder), to withdraw the notice of termination by agreeing to pay the cost of restoration in excess of the net insurance proceeds and by giving Landlord adequate security for such payment prior to the date reasonably agreed to by the parties. If the net insurance proceeds are more than adequate, the amount by which the net insurance proceeds exceed the cost of restoration will be retained by Landlord or applied to repayment of any mortgage secured by the Premises.

d) Landlord's obligation or election to restore the Premises under this Section and shall not, in any event, include the repair, restoration or replacement of the fixtures, improvements, alterations, furniture or any other personal property owned, installed, made by, or in the possession of Tenant, except to the extent covered by the Landlord's insurance required under Section 15(e).

e) Landlord shall maintain insurance against loss or damage to the Building by fire and such other casualties as are included within fire and extended coverage insurance on an all-risk insurance basis for the full replacement cost of the Building, together with a rental coverage endorsement or other comparable form of coverage. If Tenant is dispossessed of all or any portion of the Premises due to fire or other casualty, Tenant will receive an abatement of its Fixed Basic Rent and Additional Rent during the period Tenant is dispossessed according to the part of the Premises which is unusable by Tenant.

16. **Non-Abatement of Rent.** Except as otherwise expressly provided in this Lease, there shall be no abatement or reduction of the Fixed Basic Rent, Additional Rent or other sums payable hereunder for any cause whatsoever and this Lease shall not terminate, nor shall Tenant be entitled to surrender the Premises, in the event of fire, casualty or condemnation or any default by Landlord under this Lease.

17. **Indemnification.**

a) Unless such loss, costs or damages were caused by negligence or willful misconduct of Landlord, its employees, agents or contractors, Tenant hereby agrees to indemnify, defend and hold the Landlord and its employees, agents and contractors harmless from any loss, costs and damages (including reasonable attorney's fees and costs) suffered by Landlord, its agents, employees or contractors, as a result of any claim by a third party, its agents, employees or contractors arising from Tenant's occupancy of the Premises. Tenant shall control the defense of such third party claim and shall have the right to designate counsel acceptable to Landlord, such approval not be unreasonably withheld, to assume the defense of any such third party claim on behalf of itself and Landlord. Landlord shall not have the right to settle any claim without the consent of Tenant. Tenant shall not have the right to settle any claim without Landlord's consent, which consent shall not be unreasonably withheld other than settlements strictly for money damages for which Tenant agrees to be responsible. This indemnity shall survive the expiration or termination of this Lease,

b) If Landlord brings any action under this Lease Agreement, Tenant agrees in each case to pay Landlord's reasonable attorney's fees and other costs and expenses incurred by Landlord in connection therewith; provided, however, the Landlord prevails in such action. If Tenant brings any action under this Lease, Landlord agrees in each case to pay Tenant's reasonable attorney's fees and other costs and expenses incurred by Tenant in connection therewith; provided, however, the Tenant prevails in such action.

18. **Condemnation.**

a) **Termination.** If (i) all of the Premises are covered by a condemnation; or (ii) any of the Building or the Premises is covered by a condemnation and the Premises is rendered insufficient for the reasonable operation therein of Tenant's business; or (iii) subject to the provisions of subsection 18(b)(i) hereof, any of the Property is covered by a condemnation and, in Landlord's reasonable opinion, it would be impractical or the condemnation proceeds are insufficient to restore the remainder of the Property; then, in any such event, this Lease shall terminate and all obligations hereunder shall cease as of the date upon which possession is taken by the condemnor. Upon such termination the Fixed Basic Rent and all Additional Rent herein reserved shall be apportioned and paid in full by Tenant to Landlord to that date and all such rent prepaid for periods beyond that date shall forthwith be repaid by Landlord to Tenant.

b) **Partial Condemnation.**

i) If there is a partial condemnation and Landlord decides to terminate pursuant to subsection 18(a)(iii) hereof then Tenant may require Landlord, except during the last year of the Term (unless Tenant elects to extend the Term of this Lease in accordance with any right to renew, pursuant to the terms of this Lease that Tenant may have at the time of such condemnation, or if no such right exists, unless Tenant elects to extend the Lease for an additional five (5) year period upon the terms and conditions provided in Rider A as if such five (5) year period were an option period thereunder), to withdraw its notice of termination by: [A] giving Landlord written notice thereof within ten (10) days from transmission of Landlord's notice to Tenant of Landlord's intention to terminate, [B] agreeing to pay the cost of restoration in excess of the condemnation proceeds reduced by those sums reasonably expended by Landlord in collecting the condemnation proceeds, and [C] giving Landlord adequate security for such payment within such ten (10) day period.

ii) If there is a partial condemnation and this Lease has not been terminated pursuant to subsection (a) hereof, Landlord shall restore the Building and the improvements which are part of the Premises to a condition and size as nearly comparable as reasonably possible to the condition and size thereof immediately prior to the date upon which possession shall have been taken by the condemnor; provided, however, that Landlord shall only be obligated to restore such damage from condemnation to the extent possible with the award damage. If the condemnation proceeds are more than adequate to cover the cost of restoration and the Landlord's expenses in collecting the condemnation proceeds, any excess proceeds shall be retained by Landlord or applied to repayment of any mortgage secured by the Premises.

iii) If there is a partial condemnation and this Lease has not been terminated by pursuant to subsection (a) hereof, the obligations of Landlord and Tenant under this Lease shall be unaffected by such condemnation except that there shall be an equitable abatement for the balance of the Term of the Fixed Basic Rent proportionate to the Premises so taken and taking into account the nature and effect of any taking of the Common Areas on the Premises, and Tenant's Proportionate Share shall be recalculated, if necessary. In the event that the parties are unable to agree upon the amount of such abatement, either party may submit the issue to arbitration.

c) **Award.** In the event of a condemnation affecting Tenant, Tenant shall have the right to make a claim against the condemner for removal expenses and moving expenses, loss of business and any other claims Tenant may have; provided and to the extent, however, that such claims or payments do not reduce the sums otherwise payable by the condemner to Landlord. Except as aforesaid, Tenant hereby waives all claims against Landlord and against the condemner, and Tenant hereby assigns to Landlord all claims against the condemner including, without limitation, all claims for leasehold damages and diminution in value of Tenant's leasehold interest.

19. **Quiet Enjoyment.** Tenant, upon paying the Fixed Basic Rent, Additional Rent and other charges herein required and observing and keeping all covenants, agreements and conditions of this Lease, shall quietly have and enjoy the Premises during the Term without hindrance or molestation by anyone claiming by or through Landlord, subject, however, to the exceptions, reservations and conditions of this Lease.

20. **Rules and Regulations.** The Landlord hereby reserves the right to prescribe, from time to time, at its sole discretion, reasonable rules and regulations (herein called the "Rules and Regulations") attached hereto as Exhibit B governing the use and enjoyment of the Premises and the remainder of the Property. The Rules and Regulations shall not materially interfere with the Tenant's use and enjoyment of the Premises in accordance with the provisions of this Lease for the Permitted Use and shall not increase or modify Tenant's obligations under this Lease. In the event of a conflict between the Lease Agreement and such rules and regulations, the Lease Agreement shall control. The Tenant shall comply at all times with the Rules and Regulations and shall cause its agents, employees, invitees, visitors, and guests to do so, provided, such Rules and Regulations are uniformly enforced against all tenants in the Building.

21. **Assignment and Sublease.** Tenant may assign or sublease the within Lease to any party subject to the following:

a) In the event Tenant desires to assign this Lease or sublease seventy percent (70%) or more of the Premises to any other party, Tenant shall provide written notice of the terms and conditions of such assignment or sublease to Landlord prior to the effective date of any such sublease or assignment, and, prior to such effective date, the Landlord shall have the option, exercisable by written notice to Tenant within ten (10) business days of Landlord's receipt of written notice from Tenant, to (i) recapture all of the Premises ("Recapture Space") so that such prospective subtenant or assignee shall then become the sole tenant of Landlord hereunder, or (ii) recapture the Recapture Space for Landlord's own use, whereupon, in either case, Tenant shall be fully released from any and all obligations hereunder with respect to the Recapture Space, or (iii) consent to such assignment or subleasing as provided in Section 21(b).

b) In the event that the Landlord elects not to recapture the Recapture Space as hereinabove provided or in the event Tenant desires to sublease less than seventy percent (70%) of the Premises, the Tenant may nevertheless assign this Lease or sublet the whole or any portion of the Premises, subject to the Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, on the basis of the following terms and conditions:

i) The Tenant shall provide to the Landlord the name and address of the assignee or subtenant.

ii) The assignee or subtenant shall assume, by written instrument, all of the obligations of this Lease, and a copy of such assumption agreement shall be furnished to the Landlord within ten (10) days of its execution. Any sublease shall expressly acknowledge that said subtenant's rights against Landlord shall be no greater than those of Tenant.

iii) The Tenant and each assignee shall be and remain liable for the observance of all the covenants and provisions of this Lease, including, but not limited to, the payment of Fixed Basic Rent and Additional Rent reserved herein, through the entire Term of this Lease, as the same may be renewed, extended or otherwise modified.

iv) The Tenant and any assignee shall promptly pay to Landlord fifty percent (50%) of the net profit received from such subleasing or assignment. Net profit will be calculated after deducting the Tenant's direct costs of negotiating and implementing the sublease or assignment including brokerage fees at prevailing market rates.

v) In any event, the acceptance by the Landlord of any rent from the assignee or from any of the subtenants or the failure of the Landlord to insist upon a strict performance of any of the terms, conditions and covenants herein shall not release the Tenant herein, nor any assignee assuming this Lease, from any and all of the obligations herein during and for the entire Term of this Lease.

vi) Landlord shall require a Five Hundred Dollars (\$500.00) payment to cover its handling charges for each request for consent to any sublet or assignment prior to its consideration of the same. Tenant acknowledges that its sole remedy with respect to any assertion that Landlord's failure to consent to any sublet or assignment is unreasonable shall be the remedy of specific performance and Tenant shall have no other claim or cause of action against Landlord as a result of Landlord's actions in refusing to consent thereto.

c) Notwithstanding anything herein to the contrary, Landlord's consent shall not be required for any assignment or Sublease to any entity which controls Tenant or is controlled by Tenant or is under common control with Tenant.

d) In the event that any or all of Tenants interest in the Premises and/or this Lease is transferred by operation of law to any trustee, receiver, or other representative or agent of Tenant, or to Tenant as a debtor in possession, and subsequently any or all of Tenant's interest in the Premises and/or this Lease is offered or to be offered by Tenant or any trustee, receiver, or other representative or agent of Tenant as to its estate or property (such person, firm or entity being hereinafter referred to as the "Grantor", for assignment, conveyance, lease, or other disposition to a person, firm or entity other than Landlord (each such transaction being hereinafter referred to as a "Disposition"), it is agreed that Landlord has and shall have a right of first refusal to purchase, take, or otherwise acquire, the same upon the same terms and conditions as the Grantor thereof shall accept upon such Disposition to such other person, firm, or entity; and as to each such Disposition the Grantor shall give written notice to Landlord in reasonable detail of all of the terms and conditions of such Disposition within twenty (20) days next following its determination to accept the same but prior to accepting the same, and Grantor shall not make the Disposition until and unless Landlord has failed or refused to accept such right of first refusal as to the Disposition, as set forth herein. Landlord shall have sixty (60) days next following its receipt of the written notice as to such Disposition in which to exercise the option to acquire Tenant's interest by such Disposition, and the exercise of the option by Landlord shall be effected by notice to that effect sent to the Grantor; but nothing herein shall require Landlord to accept a particular Disposition or any Disposition, nor does the rejection of any one such offer of first refusal constitute a waiver or release of the obligation of the Grantor to submit other offers hereunder to Landlord. In the event Landlord accept such offer of first refusal, the transaction shall be consummated pursuant to the terms and conditions of the Disposition described in the notice to Landlord. In the event Landlord rejects such offer of first refusal, Grantor may consummate the Disposition with such other person, firm, or entity; but any decrease in price of more than two percent (2%) of the price sought from Landlord or any change in the terms of payment for such Disposition shall constitute a new transaction requiring a further option of first refusal to be given to Landlord hereunder.

e) Without limiting any of the provisions of this Section 21, if pursuant to the Federal Bankruptcy Code (herein referred to as the "Code"), or any similar law hereafter enacted having the same general purpose, Tenant is permitted to assign this Lease notwithstanding the restrictions contained in this Lease, adequate assurance of future performance by an assignee expressly permitted under such Code shall be deemed to mean the deposit of cash security, in an amount equal to the sum of one year's Fixed Basic Rent plus an amount equal to the Additional Rent for the calendar year preceding the year in which such assignment is intended to become effective, which deposit shall be held by Landlord for the balance of the Term, without interest, as security for the full performance of all of Tenant's obligations under this Lease, to be held and applied in the manner specified for any security deposit required hereunder,

f) Except as specifically set forth above, no portion of the Premises or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by assignment, mortgage, sublease, transfer, operation of law or act as the Tenant, nor shall Tenant pledge its interest in this Lease or in any security deposit required hereunder.

22. **Tenant's Relocation.** [Intentionally Deleted].

23. **Subordination.** This Lease and Tenant's rights hereunder shall be subject and subordinate at all times in lien and priority to any first mortgage or other primary encumbrance now or hereafter placed upon or affecting the Property or the Premises, and to any second mortgage or, encumbrance with the consent of the first mortgagee, and to all renewals, modifications, consolidations and extensions thereof, without the necessity of any further instrument or act on the part of Tenant. Tenant shall execute and deliver upon demand any further instrument or instruments confirming the subordination of this Lease to the lien of any such first mortgage or to the lien of any other mortgage, if requested to do so by Landlord with the consent of the first mortgagee, and any further instrument or instruments of attornment that may be desired by any such mortgagee or Landlord provided the form of such instrument is reasonably acceptable to such mortgagee and the Tenant. Notwithstanding the foregoing, said subordination is contingent upon the written agreement of the holder of such lien or mortgage agrees not to disturb the use and occupancy of the Premises in accordance with the terms of this Lease Agreement upon and foreclosure. Notwithstanding the foregoing, any mortgagee may at any time subordinate its mortgage to this Lease, without Tenant's consent, by giving notice in writing to tenant and thereupon this Lease shall be deemed prior to such mortgage without regard to their respective dates of execution and delivery. In that event such mortgagee shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution and delivery of the mortgage and had been assigned to such mortgagee. Landlord agrees that it will use best efforts to obtain and deliver to Tenant a subordination, non-disturbance and attornment agreement from the holder(s) of any mortgage nor other security interest affecting the Premises or Building.

24. **Curing Tenant's Defaults.** If Tenant defaults in the performance of any of its obligations hereunder, Landlord may, without any obligation to do so and in addition to any other rights it may have in law or equity, elect to cure such default on behalf of Tenant after written notice (except in the case of emergency involving imminent danger or damage to persons or property) to Tenant and opportunity to cure as provided in Section 26 hereof. Tenant shall reimburse Landlord upon demand for any sums paid or costs incurred by Landlord in curing such default, including interest thereon from the respective dates of Landlord's making the payments and incurring such costs, which sums and costs together with interest thereon shall be deemed Additional Rent payable within ten (10) days of demand.

25. **Surrender.**

a) At the expiration or earlier termination of the Term Tenant shall promptly yield up the Premises and all improvements, alterations and additions thereto, and all fixtures and equipment servicing the Premises in a condition which is clean of garbage and debris and broom clean and in the same condition, order and repair in which they are required to be kept throughout the Term, ordinary wear and tear and damage from casualty excepted.

b) If Tenant, or any person claiming through Tenant, continues to occupy the Premises after the expiration or earlier termination of the Term or any renewal thereof without prior written consent of Landlord, the tenancy under this Lease shall become, a month-to-month lease, under the same terms and conditions set forth in this Lease; except, however, that the Fixed Basic Rent during such continued occupancy shall be 150% of the amount set forth in subsection 6(a) and Tenant shall indemnify Landlord for any loss or damage incurred by reason of Tenant's failure to surrender the Premises. Anything to the contrary notwithstanding, any holding over by Tenant without Landlord's prior written consent shall constitute a default hereunder and shall be subject to all the remedies set forth in subsection 26(b) hereof.

26. **Defaults-Remedies.**

a) **Defaults by Tenant.** It shall be an event of default under this Lease if any one or more of the following events occurs:

i) Tenant fails to pay in full, when due, any and all installments of Fixed Basic Rent or Additional Rent or any other charges or payments due and payable under this Lease whether or not herein included as rent and the continuance of such failure for five (5) Business Days after written notice from Landlord,

ii) Tenant violates or fails to perform or otherwise breaches any agreement, term, covenant or condition contained in this Lease, where such failure continues for 30 days after written notice thereof from Landlord to Tenant, provided, however, that if the nature of the default is such that the same cannot reasonably be cured within such 30 day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

iii) Tenant abandons or vacates the Premises without notice and discontinues payment of Fixed Basic Rent, Additional Rent and other charges that have become due as well as all which will become due thereafter through the end of the Term.

iv) Tenant becomes insolvent or bankrupt in any sense or makes an assignment for the benefit of creditors or if a petition in bankruptcy or for reorganization or for an arrangement with creditors under any federal or state law is filed by or against Tenant, or a bill in equity or other proceeding for the appointment of a receiver or similar official for any of Tenant's assets is commenced, or if any of the real or personal property of Tenant shall be levied upon by any sheriff, marshal or constable; provided, however, that any proceeding brought by anyone other than Tenant under any bankruptcy, reorganization arrangement, insolvency, readjustment, receivership or similar law shall not constitute an-event of default until such proceeding, decree, judgment or order has continued unstayed for more than sixty (60) consecutive days.

v) Any of the events enumerated in subsections (a)(i) through (a) (iv) of this Section happen to any guarantor of this Lease.

b) **Landlord's Remedies.** Upon the occurrence of an event of default under this Lease, Landlord shall have all of the following rights:

i) Landlord may charge a late payment charge of five (5%) percent of any amount owed to Landlord pursuant to this Lease which is not paid within five (5) days of the due date which is set forth in the Lease or, if a due date is not specified in this Lease, within thirty (30) days of the mailing of a bill therefor by Landlord. Nothing in this Lease shall be construed as waiving any rights of Landlord arising out of any default of Tenant, by reason of Landlord's imposing or accepting any such late charge(s) and/or interest; the right to collect such late charge(s) and/or interest is separate and apart from any rights relating to remedies of Landlord after default by Tenant including, without limitation, the rights and remedies of Landlord provided herein.

ii) Landlord may re-enter the Premises and, at the option of Landlord, remove all persons and all or any property therefrom, either by summary dispossession proceedings or by any suitable action or proceeding at law or by force or otherwise, without being liable for prosecution or damages therefor, and Landlord may repossess and enjoy the Premises. Upon recovering possession of the Premises by reason of or based upon or arising out of a default on the part of Tenant, Landlord may, at Landlord's option, either terminate this Lease or make such alterations and repairs as may be necessary in order to relet the Premises and may relet the Premises or any part or parts thereof, either in Landlord's name or otherwise, for a term or terms which may, at Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and at such rent or rents and upon such other terms and conditions as in Landlord's sole discretion may seem advisable and to such person or persons as may in Landlord's discretion seem best; upon each such reletting all rents received by Landlord from such reletting shall be applied as follows: first, to the payment of ant costs and expenses of such reletting, including all costs of alterations and repairs; second, to the payment of any indebtedness other than Fixed Basic Rent, Additional Rent or other charges due hereunder from Tenant to Landlord; third, to the payment of Fixed Basic Rent, Additional Rent and other charges due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as it may become due and payable hereunder. If rentals received from reletting during any month are less than that to be paid during that month by Tenant, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises or the making of alterations or improvements thereto or the reletting thereof shall be construed as an election on the part of Landlord to terminate this Lease unless written notice of termination is given to Tenant. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises or, in the event that the Premises or any part or parts thereof are relet, for failure to collect the rent thereof under such reletting. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

iii) Landlord may terminate this Lease and the Term without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken. Upon any termination by Landlord as a result of an event of default by Tenant, Landlord shall be entitled to recover, all accrued but unpaid Rent as of the date of the event of default, (plus late fees and interest applicable thereto as provided herein), reasonable counsel fees incurred as a result of Tenant's default, Landlord's costs of reletting, and the parties acknowledge that Landlord's damages in the event of a default by Tenant shall be difficult to ascertain and as such agree that Landlord shall be entitled to recover from Tenant, as liquidated damages for Tenant's default, an amount equal to the amount of the Fixed Basic Rent and Additional Rent reserved for the balance of the Term, discounted to the date of payment using a discount factor often percent (10%) less the amount of rents actually received by Landlord as a result of Landlord's efforts to mitigate its damages, such rents to be applied as follows: first, to the payment of any costs and expenses of such reletting, including all costs of alterations and repairs; second, to the payment of any indebtedness other than Fixed Basic Rent, Additional Rent or other charges due hereunder from Tenant to Landlord; third, to the payment of Fixed Basic Rent, Additional Rent and other charges due and unpaid hereunder. All amounts as set forth herein shall be immediately due and payable from Tenant to Landlord upon demand therefor.

iv) WHEN THIS LEASE AND THE TERM OR ANY EXTENSION OR RENEWAL THEREOF SHALL HAVE BEEN TERMINATED ON ACCOUNT OF ANY DEFAULT BY TENANT, OR WHEN THE TERM HAS EXPIRED, IT SHALL BE LAWFUL FOR ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR AS ATTORNEY FOR TENANT AS WELL AS FOR ALL PERSONS CLAIMING BY , THROUGH OR UNDER TENANT, AND TO FILE AN AGREEMENT FOR ENTERING IN ANY COMPETENT COURT AN AMICABLE ACTION FOR JUDGMENT IN EJECTMENT AGAINST TENANT AND ALL PERSONS CLAIMING BY, THROUGH OR UNDER TENANT FOR THE RECOVERY BY LANDLORD OF POSSESSION OF THE PREMISES, FOR WHICH THIS LEASE SHALL BE A SUFFICIENT WARRANT; WHEREUPON, IF LANDLORD SO DESIRES, AN APPROPRIATE WRIT OF POSSESSION MAY ISSUE FORTHWITH, WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER, AND PROVIDED THAT IS FOR ANY REASON AFTER SUCH ACTION SHALL HAVE SEEN COMMENCED IT SHALL BE DETERMINED AND POSSESSION OF THE PREMISES REMAIN IN OR BE RESTORED TO TENANT, LANDLORD SHALL HAVE THE RIGHT FOR THE SAME DEFAULT AND UPON ANY SUBSEQUENT DEFAULT OR DEFAULTS, OR UPON THE TERMINATION OF THIS LEASE OR TENANTS RIGHT OF POSSESSION AS HEREINBEFORE SET FORTH, TO BRING ONE OR MORE FURTHER ACTIONS IN EJECTMENT AS HEREINBEFORE SET FORTH TO CONFESS JUDGMENT FOR THE RECOVERY OF POSSESSION OF THE PREMISES.

v) Notwithstanding anything in this Lease to the contrary, Landlord shall use commercially reasonable efforts to mitigate its damages in the event of a default by Tenant under this Lease.

c) **Landlord Default.** If Landlord shall fail to fulfill or perform, in whole or in part, any of its obligations under this Lease and such failure or nonperformance shall continue for a period of thirty (30) days after notice from Tenant to Landlord, provided, however, that if the nature of the default is such that the same cannot be reasonably be cured within such thirty (30) day period, Landlord shall not be deemed to be in default if Landlord shall, within such period, commence such cure and thereafter diligently prosecute same to completion, Tenant shall have the right to itself cure the default. In the event Tenant so undertakes to cure Landlord's default, Landlord shall reimburse Tenant for the actual costs Tenant reasonably incurs in effectuating such cure within fifteen (15) days from written demand therefore together with reasonable documentation. In the event Landlord does not timely reimburse Tenant for such costs, then Tenant may offset the cost of so doing against its rental obligations hereunder.

d) **Waiver of Jury Trial.** IT IS MUTUALLY AGREED BY AND BETWEEN LANDLORD AND TENANT THAT (A) THEY HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTER-CLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OF OCCUPANCY OF THE PREMISES OR CLAIM OF INJURY OR DAMAGE, AND (B) IN ANY ACTION AGAINST LANDLORD BY TENANT, THE LEGAL FEES OF THE PREVAILING PARTY WILL BE PAID BY THE OTHER PARTY TO THE ACTION.

e) **Non-Waiver.** No waiver by either party of any breach by the other party of any of such party's obligations, agreements or covenants herein shall be a waiver of any subsequent breach or of any other obligation, agreement or covenant, nor shall any forbearance by either party to seek a remedy for any event of default by the other party be a waiver by such party of any rights and remedies with respect to such or any subsequent event of default.

f) **Rights and Remedies Cumulative.** No right or remedy herein conferred upon or reserved to Landlord or Tenant is intended to be exclusive of any other right or remedy provided herein or by law, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

27. **Condition of Premises.** Tenant represents that the Property and the Premises, as same are to be developed by Landlord in accordance with the Work Letter attached as Exhibit C to this Lease, have been examined by Tenant and Tenant will accept them, the nature, condition and usability thereof or the use or uses to which the Premises and the Property or any part thereof may be put under present zoning ordinances or otherwise, once such Work is substantially completed. Tenant is not relying on any representation, covenant or warranty, express or implied, in fact or in law, by Landlord and waives all recourse to Landlord, except as expressly set forth in this Lease and except as to latent defects in such work. Landlord represents and warrants to Tenant that the zoning of the Property permits Tenant's intended use of the Property. Tenant's occupancy of the Premises shall constitute acceptance of the Work performed by Landlord pursuant to Section 3, except as otherwise provided therein and in Exhibit C.

28. **Hazardous Substances.**

a) Landlord and Tenant shall not cause or allow the generation, treatment, storage or disposal of Hazardous Substances on or near the Premises or Property. "Hazardous Substances" shall mean (i) any hazardous substance as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended, (ii) any hazardous waste or hazardous substance as those terms are defined in any local, state or Federal law, regulation or ordinance not inapplicable to the Premises and Property, or (iii) petroleum including crude oil or any fraction thereof. In the event Landlord or Tenant uses any Hazardous Substances. Landlord or tenant shall dispose of such substances in accordance with all applicable Federal, state and local laws, regulations and ordinances Notwithstanding the foregoing, Tenant's lawful use of cleaning supplies, copying fluids, other office and maintenance supplies and other substances ordinarily and customarily used by tenants of space similar to the Premises shall not be deemed to violate any of the provisions of this Lease.

b) Tenant agrees to indemnify, defend and hold harmless Landlord, its employees, agents, contractors, successors, assigns and invitees, ("Landlord Parties") from and against any and all damage, claim, liability, or loss, including reasonable attorneys' and other fees, ("Costs") arising out of or in any way connected to the generation, treatment, storage or disposal of Hazardous Substances by Tenant, its employees, agents, contractors, or invitees, successors or assigns, (the "Tenant Parties") on or near the Premises or Property. Landlord agrees to indemnify, defend and hold harmless the Tenant Parties from and against any and all Costs arising out of or in any way connected to the presence, generation, treatment, storage or disposal of Hazardous Substances by any Landlord Party or by any third party other than a Tenant Party, on, under or near the Premises or Property. In the event Landlord defaults in its obligations pursuant to this Section 28(b), Tenant may, after thirty (30) days prior written demand, offset all Costs against its rental obligations. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all Federal, state and local environmental laws, rules and ordinances, strict liability and common law.

c) Landlord and Tenant agree to notify each other immediately of any disposal of Hazardous Substances in the Premises or Property, of any discovery of Hazardous Substances in the Premises, or of any notice by a governmental authority or private party alleging or suggesting that a disposal of Hazardous Substances on or near the Premises or Property may have occurred. Furthermore, Landlord and Tenant agree to provide the other with full and complete access to any documents or information in its possession or control relevant to the question of the generation, treatment, storage, or disposal of Hazardous Substances on or near the Premises,

d) Except as set forth in that certain Phase 1 – Environmental Site Assessment of The Franke Contract Group, Lansdale, Pennsylvania Job Number OPG98005 prepared by OXFORD Engineers & Consultants, Inc., Landlord represents and warrants that, to the best of its knowledge, there are no Hazardous Substances in, under or about the Building. Landlord, at its sole cost and expense, shall comply with all applicable environmental laws, rules, ordinances, regulations or other requirements ("Environmental Requirements") other than Environmental Requirements applicable as a result of Tenant's activities on the Property; provided, however, Landlord's obligations hereunder shall not be deemed to require Landlord to conduct investigations or remediation in connection with the USEPA Superfund sites known as North Penn- Area 7 and North Penn- Area 6 unless Landlord is required to do so by any governmental entity; provided, however, that Landlord may in good faith contest any such requirement so long as Tenant's use and enjoyment of the Premises are not adversely affected.

29. **Recording.** Neither this Lease nor a memorandum of this Lease shall be recorded in any public records without the written consent of Landlord.

30. **Brokers' Commission.** Tenant represents and warrants to Landlord that the Brokers (as defined in the Preamble) are the sole brokers with whom Tenant has negotiated in bringing about this Lease and Tenant agrees to indemnify and hold Landlord and its mortgagee(s) harmless from any and all claims of other brokers and expenses in connection therewith arising out of or in connection with the negotiation of or the entering into this Lease by Landlord and Tenant. In the event the transactions contemplated herein are consummated, Landlord will pay to the Brokers a commission in accordance with a separate agreement between Brokers and Landlord. In no event shall Landlord's mortgagee(s) have any obligation to any broker involved in this transaction.

31. **Notices.** All notices, demands, requests, consents, certificates, and waivers required or permitted hereunder from either party to the other shall be in writing and sent by United States certified mail, return receipt requested, postage prepaid, or by recognized overnight courier, addressed as follows:

If to Tenant

ICON Clinical Research, Inc.
190 West Germantown Pike
Norristown PA 19401
Attn: Lois Valentine, Manager of Administration

with a copy to:

McCausland, Keen & Buckman
Radnor Court, Suite 160
259 North Radnor-Chester Road
Radnor, PA 19087-5240
Attn: Carol A. Cinotti, Esquire

If to Landlord:

O'Neill Lansdale Properties, L.P.
1710 Walton Road, Suite 301
Blue Bell, PA 19422
Attn: Stephen M. Spaeder

with a copy to:

Kevin W. Walsh, Esquire
Adelman Lavine Gold and Levin
Suite 1900; Two Penn Center Plaza
Philadelphia, PA 19102-1799

Either party may at any time, in the manner set forth for giving notices to the other, specify a different address to which notices to it shall thereafter be sent.

32. **Irrevocable Offer; No Option.** Although Tenant's execution of this Lease shall be deemed an offer irrevocable by Tenant, the submission of this Lease by Landlord to Tenant for examination shall not constitute a reservation of or option for the Premises. This Lease shall become effective only upon execution thereof by both parties and delivery thereof to Tenant,

33. **Inability to Perform.** If Landlord or Tenant is delayed or prevented from performing any of its obligations under this Lease (other than an obligation to pay money) by reason of strike, labor troubles, or any cause whatsoever beyond such party's control, the period of such delay or such prevention shall be deemed added to the time herein provided for the performance of any such obligation.

34 **Survival.** Notwithstanding anything to the contrary contained in this Lease, the expiration of the Term of this Lease, whether by lapse of time or otherwise, shall not relieve Tenant from its obligations accruing prior to the expiration of the Term.

35. **Corporate Tenants.** If Tenant is a corporation, the person(s) executing this Lease on behalf of Tenant hereby covenant(s) and warrant(s) that: Tenant is a duly formed corporation qualified to do business in the state in which the Property is located; Tenant will remain qualified to do business in said state throughout the Term and any renewals thereof; and such persons are duly authorized by such corporation to execute and deliver this Lease on behalf of the corporation.

36. **Waiver of Invalidity of Lease.** Each party agrees that it will not raise or assert as a defense to any obligation under the Lease or this or make any claim that the Lease is invalid or unenforceable due to any failure of this document to comply with ministerial requirements including, without limitation, requirements for corporate seals, attestations, witnesses, notarizations or other similar requirements and each party hereby waives the right to assert any such defenses or make any claim of invalidity or unenforceability due to any of the foregoing.

37. **Security Deposit.** As additional security for the full and prompt performance by Tenant of the terms and covenants of this Lease, Tenant has deposited with Landlord the Security Deposit, as set forth in the Preamble. The Security Deposit shall not constitute rent for any month (unless so applied by Landlord on account of Tenant's default hereunder). Tenant shall, upon demand, restore any portion of the Security Deposit which may be applied by Landlord to cure any default by Tenant hereunder. To the extent that Landlord has not applied the Security Deposit or any portion thereof on account of a default, the Security Deposit, or such remaining portion of the Security Deposit, shall be returned to Tenant, without interest, promptly following the termination of this Lease. In the event Tenant has not defaulted under the terms of this Lease beyond any notice and cure period, then commencing on the first day of the twenty fifth (25th) month following the Rent Commencement Date, the Landlord shall maintain the Security Deposit in a separate interest bearing, escrow account and all interest earned thereon shall be for the benefit of the Tenant.

38. **Estoppel Certificate.** Each of Landlord and Tenant shall from time to time, within five (5) days after request, execute, acknowledge and deliver to the other party a written instrument in recordable form, substantially in the form attached hereto as Exhibit E (a "Estoppel Certificate"), certifying (i) that this Lease is in full force and effect and has not been modified, supplemented or amended (or, if there have been modifications, supplements or amendments, that it is in full force and effect as modified, supplemented or amended, and stating suit modifications, supplements and amendments); (ii) the dates to which Fixed Basic Rent and Additional Rent and any other charges arising hereunder have been paid; (iii) the amount of any prepaid rents or credits due Tenant, if any; (iv) if applicable, that Tenant has accepted possession and has entered into occupancy of the Premises, and certifying the Commencement Date and the Termination Date; (v) whether or not, to the best of such party's knowledge, all conditions under the Lease to be performed by the other party prior thereto have been satisfied and whether or not the other party is then in default in the performance of any covenant, agreement or condition contained in this Lease and specifying each, if any, unsatisfied condition and each, if any, default of which such party may have knowledge; and (vi) any other fact or condition reasonably requested. Any certification delivered pursuant to the provisions of this Article shall be intended to be relied upon by the other party and any mortgagee or prospective mortgagee or other lender or purchaser of the Property or of any interest therein, or prospective assignee of this Lease, subtenant of the Property or other party.

39. **Rights Reserved by Landlord.** Landlord waives no rights, except those that may be specifically waived herein, and explicitly retains all other rights including, without limitation, the following rights, each of which Landlord may exercise without prior notice to Tenant and without liability to Tenant for damage or injury to property, person or business on account of the exercise thereof, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises and shall not give rise to any claim for set-off or abatement of Rent or any other claim:

a) To change the name or street address of the Building with the prior written consent of Tenant.

b) Subject to Section 11 above, to install, affix and maintain any and all signs on the exterior and on the interior of the Building.

c) Subject to the terms of this Lease, to decorate or to make repairs, alterations, additions, or improvements, whether structural or otherwise, in and about the Building, or any part thereof, and for such purposes to enter upon the Premises and during the continuance of any of such work, to temporarily close doors, entry ways, public space and corridors in the Building and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Tenant's obligations hereunder, so long as the Premises are reasonably accessible and usable.

d) To furnish door keys for the entry door(s) in the Premises on the Commencement Date and to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises. Tenant agrees to purchase only from Landlord additional duplicate keys as required, to change no locks, and not to affix locks on doors without the prior written consent of the Landlord. Upon the expiration of the Term or Tenant's right to possession, Tenant shall return all keys to Landlord and shall disclose to Landlord the combination of any safes, cabinets or vaults left in the Premises.

e) To designate and approve all window coverings used in the Building.

f) To enter the Premises in accordance with Section 14(a), and, subject to Section 14(b) in the last nine (9) months of the Term, to show the Premises to prospective tenants at reasonable times and, if vacated or abandoned, to show the Premises at any time.

g) To erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances thereto, in and through the Premises provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

h) To grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Building, provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

i) To alter the layout, design and/or use of the Building in such manner as Landlord, in its sole discretion, deems appropriate, so long as the character of the Building as a first class office building is maintained, provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

40. **Miscellaneous.**

a) **Entire Agreement.** This Lease represents the entire agreement between the parties hereto and there are no collateral or oral agreements or understandings between Landlord and Tenant with respect to the Premises or the Property. No rights, easements or licenses are acquired in the Property or any land adjacent to the Property by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease.

b) **Modification.** This Lease shall not be modified in any manner except by an instrument in writing executed by the parties.

c) **Interpretation.** The masculine (or neuter) pronoun, singular number, shall include the masculine, feminine and neuter genders and the singular and plural number.

d) **Exhibits.** Each writing or plan referred to herein as being attached as an Exhibit or otherwise designated herein as an Exhibit hereto is hereby made a part hereof.

e) **Captions and Headings.** The captions and headings of sections, subsections and the table of contents herein are for convenience only and are not intended to indicate all of the subject matter in the text and they shall not be deemed to limit, construe, affect or alter the meaning of any provisions of this Lease and are not to be used in interpreting this Lease of for any other purpose in the event of any controversy.

f) **Interest.** Wherever interest is required to be paid hereunder, such interest shall be at the highest rate permitted under law but not in excess of ten percent (10%)

g) **Severability.** If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

h) **Joint and Several Liability.** If two or more individuals, corporations, partnerships or other persons (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other persons to pay the Rent and perform all other obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other persons shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other legal entity, the members of which are, by virtue of any applicable law or regulation, subject to personal liability, the liability of each such member shall be joint and several.

i) **No Representations by Landlord.** Landlord and Landlord's agents have made no representations, agreements, conditions, warranties, understandings or promises, either oral or written, other than as expressly set forth herein, with respect to this Lease, the Premises and/or the Building.

j) **Relationship of Parties.** This Lease shall not create any relationship between the parties other than that of Landlord and Tenant.

k) **Choice of Law.** The terms of this Lease shall be construed under the laws of the Commonwealth of Pennsylvania, and that exclusive jurisdiction and venue shall be in the Court of Common Pleas of the County in which the Property is located.

41. **Additional Definitions.**

a) "Date of this Lease" or "date of this Lease" shall mean the date of acceptance of this Lease by the Landlord, following execution and delivery thereof to Landlord by Tenant and that date shall be inserted in the space provided in the Preamble.

b) "Landlord" as used herein includes the Landlord named above as well as its successors and assigns, each of whom shall have the same rights, remedies, powers, authorities and privileges as he would have had he originally signed this lease as Landlord. Any such person, whether or not named herein, shall have no liability hereunder after ceasing to hold title to the Premises other than liability for obligations existing at the time of the transfer of title. Neither Landlord nor any principal of Landlord nor any owner of the Building or the Lot, whether disclosed or undisclosed, shall have any personal liability with respect to any of the provisions of this Lease or the Premises, and if Landlord is in breach or default with respect to Landlord's obligations under this Lease or otherwise, Tenant shall look solely to the equity of Landlord in the Premises for the satisfaction of Tenant's remedies.

c) "Tenant" as used herein includes the Tenant named above as well as its heirs, successors and assigns, each of which shall be under the same obligations, liabilities and disabilities and each of which shall have the same rights, privileges and powers as it would have possessed had it originally signed this Lease as Tenant. Each and every person named above as Tenant shall be bound formally and severally by the terms, covenants and agreements contained herein. However, no such rights, privileges or powers shall inure to the benefit of any assignee of Tenant, immediate or remote, unless the assignment to such assignee is made in accordance with the terms of this Lease. Any notice required or permitted by the terms of this Lease may be given by or to any one of the persons named above as Tenant, and shall have the same force and effect as if given by or to all of them.

d) "Mortgage" and "Mortgagee" as used herein includes any lien or encumbrance on the Premises or the Property or on any part of or interest in or appurtenance to any of the foregoing, including without limitation any ground rent or ground lease if Landlord's interest is or becomes a leasehold estate. The word "mortgagee" is used herein to include the holder of any mortgage, including any ground Landlord if Landlord's interest is or becomes a leasehold estate. Wherever any right is given to a mortgagee, that; right may be exercised on behalf of such mortgagee by any representative or servicing agent of such mortgagee.

e) "Person" as used herein includes a natural person, a partnership, a corporation, an association, and any other form of business association or entity.

f) "Property" as used herein shall mean the Building and the lot, tract or parcel of land on which the Building is situated.

g) "Rent" or "rent" as used herein shall mean all Fixed Basic Rent and Additional Rent reserved under this Lease.

42. **Tenant's Right to Expand Office Area.** Tenant shall have a right to expand the Office Area to include all or a portion of the areas which are deemed Storage Space on Exhibit A-2. If tenant elects to expand such Office Area, the additional space shall be added to the Office Area by amendment to this Lease, which amendment (the "Amendment") shall adjust the number of rentable square feet of space included in the Office Area and the Storage Space, a corresponding adjustment in the current escalated Fixed Basic Rent schedules for the Office Area and the Storage Space as set forth in the Preamble and such other Changes as may be appropriate and as are agreed to by the parties. In the event Tenant elects to expand the Office Area, the Tenant shall be entitled to a tenant improvement Allowance in the amount of Thirty Dollars (\$30.00) per rentable square foot of such additional space which sum shall be reduced by \$0.25 per calendar month from the Rent Commencement Date through the effective date of the Amendment and shall be payable by Landlord to Tenant promptly upon presentation of invoices for tenant improvement work. In the event Tenant does not fully utilize the Tenant Improvement Allowance associated with the expanded Office Area, such excess amounts will be credited against Tenant's obligation to pay Rent.

43. Tenant's Right of First Offer.

a) Tenant shall have a right of first offer ("Right of Offer") with respect to the leasing of any space in the Building ("Offer Space") as such space becomes available for leasing by the Landlord, provided that there is not an event of default continuing in accordance with the terms and conditions of the Lease, Tenant is in possession of the Demised Premises pursuant to this Lease and subject to the following conditions:

i) Landlord shall offer such Offer Space to Tenant in writing (the "Landlord Notification") on the terms set forth in Section 43(a)(ii), before entering into a lease with another tenant for the Offer Space. Tenant may accept the Offer Space only by delivering to Landlord written notice of such acceptance of the entire Offer Space within ten (10) Business Days of the Landlord Notification. If Tenant fails to accept the Offer Space within such ten (10) Business Day period, Tenant will be deemed to have irrevocably waived its Right of Offer for that particular Offer Space and Landlord may enter into a lease for the Offer Space at any rental rate with other persons or entities subject; however, to Section 44 hereof. If Landlord fails to lease the Offer Space within ninety (90) days, then it must be offered to Tenant again in accordance with this Section 43. Tenant must accept the Offer Space offered pursuant to this provision in whole and not in part. Once Tenant exercises its Right of Offer with respect to the Offer Space, the exercise will be irrevocable.

ii) All of the terms and conditions of this Lease will apply to any Offer Space leased by Tenant, effective as of the date of delivery to Tenant of such Offer Space. The term of the lease with respect to the Offer Space shall be coterminous with the Term applicable to the original Premises. The Fixed Basic Rent rate for the Offer Space will be the then current escalated Fixed Basic Rent payable under this Lease and Tenant's Proportionate Share shall be increased in proportion to the square footage of any Offer Space leased by Tenant and provided there is two (2) or more years remaining in the current Term of the Lease, or, if not, provided Tenant elects to extend the Term of the Lease pursuant to any existing option, then Tenant shall be entitled to a tenant allowance for Tenant improvements as follows: (i) in the event all or any portion of the Offer Space had been used as an office by the last tenant then Tenant shall be entitled to a tenant improvement allowance with respect to the portion of the Offer Space so previously used equal to \$12.00 per rentable square foot or (ii) in the event the all or a portion of the Offer Space had not been used as an office by the last tenant, then Tenant shall be entitled to a tenant improvement allowance with respect to the portion of the Offer Space not so previously used as set forth in Section 42 above, and which shall be payable by Landlord to Tenant promptly upon presentation of invoices for tenant improvement work. If Tenant does not fully utilize the tenant improvement allowance, such excess shall be credited against Tenant's obligation to pay Rent. Landlord will have no liability to Tenant if any Tenant of the Offer Space wrongfully holds over. In the event such Tenant wrongfully holds over, Landlord will attempt in good faith to cause such Tenant to vacate the Offer Space.

44. Tenant's Right of First Refusal.

a) Tenant shall have a right of first refusal ("Right of Refusal") to lease any additional space in the Building which becomes available during the Term ("Additional Space"). If Landlord has Additional Space available and receives a bona fide offer (the "Offer") to lease the Additional Space from a third party ("Offeror") which Landlord is willing to accept, Landlord shall send written notice to Tenant, which notice shall set forth the terms of the third party offer ("Landlord's Notification"). Within ten (10) Business Days after receipt of Landlord's notice, Tenant shall reply by written notice either accepting the Additional Space on the same terms and conditions of the third party offer, or rejecting the same. Failure to respond within the ten (10) day period shall constitute a rejection of the Additional Space. If Tenant accepts the Additional Space, the Additional Space shall be added to the Premises by amendment to this Lease, which shall include an adjustment of tenant's Proportionate Share to include such Additional Space and such other changes as may be appropriate and as are agreed to by the parties. In the event Tenant rejects the Offer, then Landlord may proceed to enter into a lease for such Additional Space with the Offeror on terms no more favorable than contained in the Offer provided such lease is executed by the Landlord and the Offeror and the Offeror takes possession of the Additional Space within six (6) months from the date of the Offer. In the event a new offer is tendered or received by Landlord, Landlord must again submit such new offer to Tenant in accordance with this Section 43.

b) All of the terms and conditions of this Lease will apply to any Additional Space leased by Tenant, except as otherwise provided in Landlord's Notification, effective as of the date of delivery to Tenant of the Additional Space. Tenant's Proportionate Share shall be increased in proportion to the square footage of any Additional Space leased by Tenant, The term of this Lease with respect to the Additional Space shall be coterminous with the Term of this Lease with respect to the original Premises. Landlord will have no liability to Tenant if any tenant of the Additional Space wrongfully holds over. In the event such tenant wrongfully holds over, Landlord will attempt in good faith to cause such tenant to vacate the Additional Space.

c) During the term hereof (or until the entire Building is leased) Landlord shall not enter into any other lease for space in the Building which has an initial term in excess of five (5) years or which grants such tenants right to renew for any period beyond the initial five (5) years which is not subject to Tenant's rights herein without first obtaining Tenant's written consent.

45. **Contingency.** Landlord shall deliver to Tenant within five (5) Business Days of the date this Lease is fully executed by the parties hereto an executed Subordination, Non-Disturbance and Attornment Agreement ("SNDA") from Landlord's mortgagee lender in a form reasonably satisfactory to Tenant. In the event Landlord fails to deliver the executed SNDA as required, then Tenant may elect, by written notice to Landlord given within three (3) Business Days of such five (5) Business Day period, to terminate this Lease.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

SPECIFICATIONS FOR JANITORIAL SERVICES

Daily

1. All desks and other furniture will be dusted with specifically treated dust cloths.
2. All windowsills, chair rails, baseboards, moldings, partitions, picture frames under six feet (6') in height will be hand dusted and wiped clean.
3. All floors will be dust mopped with specially treated dust mops.
4. All bright metal work will be maintained and kept in a clean, polished condition.
5. All drinking fountains will be thoroughly cleaned and sanitized.
6. All stairways will be swept with a chemically treated dust mop and wet mopped as needed.
7. Replacement of light bulbs as needed
8. All elevators will be wet mopped, one coat of finish applied to floor and machine buffed. If floors are carpeted, carpet will be vacuumed nightly. Interior of cabs will be wiped clean and all metal hardware polished.
9. Empty, clean and dust all wastepaper baskets, ash trays, receptacles, etc.
10. Remove trash and wastepaper to designated areas.
11. Carpeting and rugs to be swept in all trafficked areas nightly and ail areas, including offices, conference rooms, lobbies vacuumed once a week.
12. All tile floors in all areas will maintain a satin finish. Trafficked areas to receive regularly programmed floor maintenance to insure luster and remove black marks and scuffs. Cafeteria done nightly.

Lavatories:

1. Floors to be swept and washed using antiseptic liquid detergent.
 2. Bowls, urinals and basins will be cleaned nightly. A safe antiseptic and deodorant bowl cleaner will be used.
 3. All metal and mirrors will be cleaned and polished.
 4. Fill and maintain mechanical operations of all tissue, towel, soap, and sanitary napkin dispensers. Material to be supplied from contractor's stock.
 5. Remove wastepaper and refuse.
-

Miscellaneous**Weekly**

1. Spot clean all interior partitions glass as required.
2. Remove fingerprints, smudges and scuff marks from all vertical and horizontal surfaces (doors, walls, sills) under six feet (6') in height.
3. Wash and refinish resilient floors in public areas, strip, wax and polish as needed.

Monthly

1. Polish and buff (no wax) resilient floors in tenant areas as needed.
2. Dust all louvers, grills and other then flush light fixtures.

Quarterly

1. Dust clean all vertical surfaces: such as walls, partitions, doors, etc, not reached in nightly cleaning, e.g. above six feet (6') in height.
2. Dust and wipe clean all venetian blinds.

Every Four Months

1. Wax and buff all resilient flooring in tenant areas, or as needed. Floors shall be stripped, re-waxed, and buffed where required.. Unusual traffic conditions will receive special attention.
2. Wash windows, inside and outside.

EXHIBIT H

BASE YEAR COSTS

**212 CHURCH RD
OPERATING
EXPENSE**

	<u>ANNUALIZED</u>	<u>SF</u>
BUILDING SECURITY	7,480	\$ 0.08
ELEVATOR MAINTENANCE	NA	NA
EXTERIOR MAINTENANCE	29,920	\$ 0.32
EXTERMINATING	935	\$ 0.01
HVAC CONTRACT	9,350	\$ 0.10
JANITORIAL SUPPLIES/SERVICE	83,215	\$ 0.89
REPAIRS MAINTENANCE	21,605	\$ 0.23
TRASH REMOVAL	11,220	\$ 0.12
COMMON ELECTRIC	7,480	\$ 0.08
WATER & SEWER	9,350	\$ 0.10
MANAGEMENT FEES	37,400	\$ 0.40
OFFICE SUPPLIES/STATIONARY	1,170	\$ 0.02
TELEPHONE	4,675	\$ 0.05
INSURANCE	15,895	\$ 0.17
REAL ESTATE TAXES	<u>130,422</u>	<u>\$ 1.39</u>
	<u>370,717</u>	<u>\$ 3.96</u>

AMENDED AND RESTATED OFFICE LEASE

for

212 Church Road, Upper Gwynedd, Pennsylvania

by and between

**212 CHURCH ASSOCIATES, L.P.
(as Landlord)**

and

**ICON CLINICAL RESEARCH, INC.
(as Tenant)**

Dated: January 1, 2001

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THIS AMENDED AND RESTATED LEASE (the "Lease") is made as of the 1st day of January, 2001 between 212 CHURCH ASSOCIATES, L.P., a Delaware limited partnership (hereinafter referred to as "Landlord"), whose address is c/o First Evergreen, 101 Eisenhower Parkway, Roseland, New Jersey 07068; and ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation (hereinafter referred to as "Tenant"), with offices at 212 Church Road, Upper Gwynedd Township, Pennsylvania 19486.

PREAMBLE
BASIC LEASE PROVISIONS AND DEFINITIONS

In addition to other terms elsewhere defined in this Lease, the following terms whenever used in this Lease shall have only the meanings set forth in this section, unless such meanings are expressly modified, limited or expanded elsewhere herein.

1. **ADDITIONAL RENT** shall mean all sums in addition to Fixed Basic Rent payable by Tenant to Landlord or to third parties pursuant to the provisions of the Lease.
 2. **BROKER(S)** shall mean Julien J. Studley, Inc.
 3. **BUILDING** shall mean 212 Church Road, Upper Gwynedd Township, Pennsylvania as described on Exhibit A hereto.
 4. **BUILDING HOLIDAYS** shall be those shown on Exhibit D.
 5. **COMMENCEMENT DATE** shall be January 1, 2001.
 6. **DEMISED PREMISES OR PREMISES** shall consist of approximately Ninety-three Thousand Seven Hundred Ninety-five (93,795) gross rentable square feet located in the Building.
 7. **EXHIBITS** shall be the following, attached to this Lease and incorporated herein and made a part hereof:

Rider A	Renewal Option
Exhibit A	Building
Exhibit B	Rules and Regulations
Exhibit C	Intentionally Omitted
Exhibit D	Building Holidays
Exhibit E	Tenant Estoppel Certificate
Exhibit F	Guaranty
Exhibit G	General Waiver of Liens
 8. **EXPENSE STOP** shall mean the actual Annual Operating Costs incurred during calendar year 1999 (estimated to be approximately Four and 00/100 (\$4.00) Dollars per rentable square foot per year).
 9. **EXPIRATION DATE** shall be 11:59 p.m. on April 30, 2011.
 10. **FIXED BASIC RENT** Fixed Basic Rent for the Premises shall be as set forth below (net
-

Date	Rentable Sq. Ft.	Rate Per Rentable Sq. Ft.	Yearly Installment	Monthly Installment
01/01/01-01/31/01	93,795	\$ 17.75	\$ 1,664,861.25	\$ 138,738.44
02/01/01-01/31/02	93,795	\$ 18.25*	\$ 1,711,758.75*	\$ 142,646.56*
02/01/02-01/31/03	93,795	\$ 19.75	\$ 1,852,451.25	\$ 154,370.94
02/01/03-01/31/04	93,795	\$ 20.25	\$ 1,899,348.75	\$ 158,279.06
02/01/04-01/31/05	93,795	\$ 20.75	\$ 1,946,246.25	\$ 162,187.19
02/01/05-01/31/06	93,795	\$ 21.25	\$ 1,993,143.75	\$ 166,095.31
02/01/06-01/31/07	93,795	\$ 21.75	\$ 2,040,041.25	\$ 170,003.44
02/01/07-01/31/08	93,795	\$ 22.00	\$ 2,063,490.00	\$ 171,957.50
02/01/08-01/31/09	93,795	\$ 22.25	\$ 2,086,938.75	\$ 173,911.56
02/01/09-01/31/10	93,795	\$ 22.75	\$ 2,133,836.25	\$ 177,819.69
02/01/10-01/31/11	93,795	\$ 23.25	\$ 2,180,733.75	\$ 181,727.81
02/01/11-04/30/11	93,795	\$ 23.75	\$ 2,227,631.25	\$ 185,635.98

*Subject to increase as set forth in Section 27 hereof.

11. **LOCKBOX ADDRESS** shall mean 212 Church Associates, L.P., P.O. Box 18249, Newark, New Jersey 07191.
12. **PROPERTY** shall mean the Building together with the underlying land.
13. **PROPERTY MANAGER** shall mean Insignia, Esg, Inc., 70 East Swedesford Road, Malvern, Pennsylvania 19355.
14. **PROPORTIONATE SHARE** shall mean one hundred percent (100%).
15. **SECURITY DEPOSIT** shall be equal to One Hundred and Sixty Thousand Dollars (\$160,000.00) subject to Section 37 of the Lease.
16. **TERM** shall mean ten (10) years four (4) months from the Commencement Date unless terminated or extended pursuant to any option or provision contained herein.

WITNESSETH

WHEREAS, Landlord's predecessor-in-interest, O'Neill Lansdale Properties, L.P., and Tenant entered into an Office Space Lease dated September 25, 1998, as amended July 22 and November 2, 1999 and February 24, 2000 and further amended November 17, 2000 (hereinafter the "Original Lease"), whereby Tenant is presently in possession of premises (hereinafter "Premises") containing approximately 93,795 gross rentable square feet of space in the building (hereinafter the "Building") located at 212 Church Road in Upper Gwynedd Township, Pennsylvania; and

WHEREAS, Landlord and Tenant desire to amend and restate the Original Lease as hereinafter provided.

NOW THEREFORE, for and in consideration of the covenants herein contained, and upon the terms and conditions herein set forth, Landlord and Tenant, intending to be legally bound, agree as follows:

1. **Definitions.** The definitions set forth in the preceding Preamble shall apply to the same capitalized terms appearing in this Lease. Additional definitions are contained in Section 41 and throughout this Lease.

2. **Premises.** Landlord hereby demises and leases the Premises to Tenant and Tenant hereby leases and takes the Premises from Landlord for the Term and upon the terms, covenants, conditions, and provisions set forth in this Lease, including the Preamble. The Tenant's interest in the Premises as tenant shall include the right, in common with Landlord to use driveways, sidewalks, loading and parking areas and other facilities which are located within the Property (the "Common Facilities"). Landlord's use of the Common Facilities shall be for the limited purpose of complying with all applicable laws and its obligations hereunder. In addition to the foregoing, Tenant's interest in the Premises as tenant shall include the right, in common with the Landlord, to use that portion of the roof of the Building as shall be reasonably necessary for the installation and use of one or more microwave dishes or other communications antenna and associated equipment provided that the placement of such equipment is approved in writing by Landlord, in advance, such approval not to be unreasonably withheld, conditioned or delayed. Tenant shall have no obligation to pay rent for such right, but Tenant shall, at its sole cost and expense, maintain and repair any damage to the roof arising out of its use of the roof, comply with all applicable laws and obtain any necessary permits regarding such use. Upon the expiration or earlier termination of this Lease, Tenant shall remove all such equipment from the roof and repair any resulting damage thereto. Notwithstanding anything to the contrary contained herein, Landlord expressly reserves the right to use the balance of the roof as it deems appropriate in its sole discretion, provided, however, such use by Landlord shall not unreasonably interfere with the rights granted to Tenant hereunder.

3. **Intentionally Omitted.**

4. **Term.** The term of this Lease shall commence on the Commencement Date and expire on the Expiration Date specified in the Preamble.

5. **Use of Premises.** Tenant shall occupy the Premises throughout the Term and shall use the same for, and only for, the Permitted Use specified in the Preamble. The Building is designed to normal building standards for floor-loading capacity. Tenant shall not use the Premises in such ways which, in Landlord's reasonable judgment, exceed such load limits.

6. **Rent.** Unless otherwise specifically requested by Landlord at any time, Fixed Basic Rent, Additional Rent and any other rent or other sums due under this Lease (hereunder collectively referred to as Rent) shall be paid to Landlord at the Lockbox Address set forth in the Preamble, in the amounts, time and manner more particularly provided in this Lease.

a) **Fixed Basic Rent.** Commencing on the Commencement Date and continuing through the Term, Tenant shall pay Fixed Basic Rent in the amount specified in the Preamble, without notice or demand and without setoff or deduction, in equal monthly installments equal to one-twelfth of the Fixed Basic Rent (specified as Monthly Installments in the Preamble), in advance, on the first day of each calendar month during the Term. If the Commencement Date falls on a day other than the first day of a calendar month, the Fixed Basic Rent shall be apportioned on a per diem basis for the period between the Commencement Date and the first day of the first full calendar month in the Term and such apportioned sum shall be paid on the Commencement Date.

b) **Additional Rent.** Commencing on the Commencement Date and continuing through the Term, Tenant shall pay to Landlord as Additional Rent, its Proportionate Share of Annual Operating Costs to the extent same exceeds the Expense Stop. Additional Rent shall be calculated and payable as follows:

i) **Annual Operating Costs.** The term “Annual Operating Costs” shall mean all costs Landlord reasonably and necessarily incurs from owning, operating and maintaining the Building and the lot or tract of land on which it is situated (the “Property”). Annual Operating Costs shall include, by way of example rather than limitation: insurance costs, including premiums; fees; Impositions (defined below); costs for repairs, maintenance and service contracts; management fees (not to exceed \$.412 per rentable square foot per annum of the Premises for the first lease year, not to increase by more than three (3%) percent per lease year thereafter), landscaping; snow removal; governmental permits fees; costs of compliance with governmental orders and regulations; administrative and overhead expenses; costs of furnishing water, sewer, electricity, gas, fuel, and other utility services, for use in common areas of the Building and Property; and the cost of janitorial service and trash removal; excluding, however, from Annual Operating Costs the following: costs which are treated as capital expenditures (except as provided in Sections 9(e) and 10(b)) under generally accepted accounting principles; mortgage debt or ground rents incurred by Landlord as owner of the Property; income, excess profits, corporate capital stock or franchise tax imposed or assessed upon Landlord, unless (but only to the extent) such tax or any similar tax is levied or assessed, in lieu of all or any part of any currently existing Imposition or an increase in any currently existing Imposition; leasing commissions, accountants’, consultants’ or attorneys’ fees, costs and disbursement and other expenses incurred in the defense of Landlord’s title to or interest in the Building and in connection with any proceedings involving real property taxes other than disputes regarding tax assessment and reduction of real property taxes; costs of construction of the Building and related facilities and correction of defects in construction of the Building (including permit, license and inspection fees); costs of any items covered by any warranty to the extent of the warranty coverage, all financing costs, fees and higher interest charges caused by Landlord’s financing or refinancing the Building; all repairs to the interior of the Building of a structural nature (not made necessary by unusual use by Tenant (the parties agree that Tenant’s use in accordance with this Lease shall not be deemed unusual); costs incurred due to violation by Landlord of the terms and conditions of any lease governmental, law order or regulation in existence as of the Commencement Date; overhead and profit increment paid to subsidiaries or affiliates of Landlord, or to any party as a result of a noncompetitive selection process, for management or other services on or to the Building or for supplies or other materials, to the extent that the costs of such services, supplies or materials exceed the costs that would have been paid had the services, supplies or materials been provided by unaffiliated parties on a competitive basis; general overhead and administrative expenses except salaries of on-site property manager, management secretary and maintenance man (not to exceed the time devoted to the Building); any compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord and others; rentals and other related expenses incurred in leasing air conditioning systems, elevators or other equipment ordinarily considered to be of a capital nature, except equipment which is used in providing janitorial services and which is not affixed to the Building; all items and services for which Tenant reimburses Landlord or pays third persons; commissions, advertising, and promotional expenditures; costs incurred in managing or operating any parking facilities; resurfacing of the parking area or of the driveways on the Property; expenditures for which Landlord is reimbursed from any insurance carrier or from any other source; the cost of repairs or replacements incurred by reason of fire or other insured casualty or condemnation; depreciation; bad debt loss, rent loss, or reserves for either of them; taxes other than Impositions; costs for sculpture, decorations, paintings or other objects of art in excess of amounts typically spent for such items in office buildings of comparable quality in the competitive area of the Building; costs incurred by Landlord arising out of its failure to perform or breach any of its covenants, agreements, representations, warranties, guarantees or indemnities made under this Lease; fines or penalties incurred by Landlord due to violations of or non-compliance with any applicable legal requirements; costs incurred in the removal, abatement or other treatment of underground storage tanks or hazardous substances present in the Building or on or under the Property; the costs of installing, operating and maintaining a specialty improvement, including, but not limited to an athletic, luncheon or recreational club or facility; the value or lost income to Landlord of any office space in the Building which is utilized for the management of the Building; the cost of any capital improvement (including lease payments for rented equipment the cost of which would constitute a capital expenditure if purchased), which may be required by any governmental authority under any governmental law, regulation or order that was applicable to the Building as of the Commencement Date; nor any other expense which under generally accepted accounting principles and practice would not be considered a normal maintenance or repair expense. “Impositions” shall mean all levies, taxes, assessments, charges, imposts, and burdens, of whatever kind and nature, ordinary and extraordinary, which are assessed or imposed during the Term by any federal, state or municipal government or public authority or under any law, ordinance or regulation thereof or pursuant to any recorded covenants or agreements upon or with respect to the Property or any part thereof, any improvements thereto, any personal property necessary to the operation thereof and owned by Landlord or this Lease but shall not include any federal, state or local income, franchise, capital stock, estate inheritance or transfer taxes.

ii) **Estimated Payments - Expense Statement and Reconciliation.**

(1) Landlord shall submit to Tenant as soon as reasonably possible (but in no event later than one hundred fifty (150) days) after the beginning of each calendar year of the Term, the following:

(a) a statement setting forth (i) the actual Annual Operating Costs for the previous calendar year of the Term and (ii) a calculation of Tenant's Proportionate Share of the increase above the Expense Stop (the "Expense Statement"); and

(b) a statement of Landlord's good faith estimate of the Annual Operating Costs for the current calendar year and (2) a calculation of Tenant's Proportionate Share of the increase above the Expense Stop for the current calendar year ("Tenant's Estimated Share").

(2) Beginning with the next installment of Fixed Basic Rent due after the delivery of the aforesaid statements to Tenant, Tenant shall pay to Landlord, on account of its Proportionate Share of the Annual Operating Costs, the following:

(a) a sum equal to the product of one-twelfth (1/12) of Tenant's Estimated Share and the number of calendar months elapsed during the current calendar year up to and including the month payment is made (less all amounts paid by Tenant on account of Tenant's Estimated Share for the current calendar year), plus any amounts due from Tenant to Landlord on account of Tenant's Proportionate Share of the increase in the Annual Operating Costs for any prior period(s) of time, less

(b) a sum equal to the amount, if any, by which the sum of all payments made by Tenant to Landlord on account of Tenant's Proportionate Share of the increase in the Annual Operating Costs for the previous calendar year exceed those actually specified in the Expense Statement (and any excess shall be applied against future payments of Tenant's Estimated Share).

(3) On the first day of each succeeding calendar month until such time as Tenant receives a new Expense Statement and statement of Tenant's Estimated Share, Tenant shall pay to Landlord, on account of its Proportionate Share of Annual Operating Costs, one-twelfth (1/12) of the then current Tenant's Estimated Share. Any payment due from Tenant to Landlord, or any refund due from Landlord to Tenant, on account of Annual Operating Costs not yet determined as of the expiration of the Term shall be made within thirty (30) days after submission to Tenant of the next Expense Statement.

c) **Disputes.** Unless Tenant, within one hundred and twenty (120) days after any Expense Statement is furnished, shall give notice to Landlord that Tenant disputes said statement, specifying in reasonable detail the basis for such dispute, each statement furnished to Tenant by Landlord under any provision of this Section shall be conclusively binding upon Tenant and Landlord as to the particular Expense Statement and the Additional Rent stated therein to be due from Tenant for the period represented thereby. Tenant shall have the right at reasonable times to examine the records used in making the aforesaid determinations, upon written notice in advance; provided, however, such disputed amount shall have been paid by Tenant to Landlord. In the event any such examination shall reveal an adverse variance in excess of 5% of the total operating expenses of which Tenant is required to pay their Proportionate Share, Landlord shall reimburse Tenant for the reasonable cost of such examination within thirty (30) days after demand and immediately refund Tenant its Proportionate Share of such obligation. Tenant shall make all payments of Additional Rent without delay and regardless of any pending dispute over the amount of Additional Rent that is due in accordance with the statements furnished by Landlord. Landlord shall have the right to retain a reasonable portion of Tenant's security deposit until all Additional Rent payable by Tenant is determined and paid.

d) **Independent Covenant; Survival.** Tenant's covenant to pay Rent is independent of any other covenant, agreement, term or condition of this Lease. Without limitation of any obligation of Tenant or Landlord under this Lease which shall survive the expiration of the Term, the obligation of Tenant to pay Rent shall survive the expiration of the Term.

7. **Insurance.**

a) **Tenant Liability.** Tenant, at Tenant's sole cost and expense, shall maintain and keep insurance in effect throughout the Term against liability for bodily injury (including death) and property damage in or about the Premises or the Property under a policy of comprehensive general public liability insurance, with such limits as to each as may be reasonably required by Landlord from time to time, but not less than \$2,000,000.00 for each person and \$5,000,000.00 in the aggregate for bodily injury (including death) to more than one (1) person and \$2,000,000.00 for property damage. The policies of comprehensive general public liability insurance shall name Landlord and Tenant (and if requested, any mortgagee of Landlord) as the insured parties. Each such policy shall provide that it shall not be cancelable without at least thirty (30) days prior written notice to Landlord and to any mortgagee named in an endorsement thereto and shall be issued by an insurer and in a form satisfactory to Landlord. At least ten (10) days prior to the Commencement Date, and thereafter upon Landlord's request, a certificate of insurance shall be delivered to Landlord proving compliance with the foregoing requirements. If Tenant shall fail, refuse or neglect to obtain or to maintain any insurance that it is required to provide or to furnish Landlord with satisfactory evidence of coverage on any such policy upon demand, Landlord shall have the right to purchase such insurance. All payments made by Landlord for such insurance shall be recoverable by Landlord from Tenant, together with interest thereon, as Additional Rent promptly upon demand. Notwithstanding anything contained herein to the contrary, Tenant may self-insure all of its personal property situated within the Premises against property damage and destruction.

b) **Landlord Liability.** Landlord shall maintain throughout the term of this Lease commercial general liability insurance for the Common Facilities in such amount as Landlord, in its reasonable judgment, deems appropriate.

c) **Waiver of Subrogation.** The parties to this Lease each release the other, to the extent of the releasing party's insurance coverage, from any and all liability for any loss or damage covered by such insurance which may be inflicted upon the property of such party even if such loss or damage shall be brought about by the fault or negligence of the other party, its agents or employees. If any policy does not permit such a release of liability and a waiver of subrogation, and if the party to benefit therefrom requests that such a waiver be obtained, the other party agrees to obtain an endorsement to its insurance policies permitting such waiver of subrogation if it is available. If an additional premium is charged for such waiver, the party benefitting therefrom agrees to pay the amount of such additional premium promptly upon demand. In the event a party is unable to obtain such a waiver, it shall immediately notify the other party of its inability. In the absence of such notifications, each party shall be deemed to have obtained such waiver of subrogation.

d) **Increase of Premiums.** Tenant will not do anything or fail to do anything or permit anything to be done which will cause the cost of Landlord's insurance to increase or which will prevent Landlord from procuring insurance (including but not limited to public liability insurance) from companies, and in a form, satisfactory to Landlord. If any breach of this subsection (c) by Tenant shall cause the rate of fire or other insurance to be increased, Tenant shall pay the amount of such increase as Additional Rent promptly upon demand. If Tenant does anything or fails to do anything or permits anything to be done for which insurance cannot be obtained, Landlord may terminate this Lease after reasonable notice and opportunity to cure.

8. Repairs and Maintenance.

a) Tenant shall, throughout the Term and at Tenant's sole cost and expense, keep and maintain the Premises in a neat and orderly condition; and, upon expiration of the Term, Tenant shall leave the Premises in good order and condition, ordinary wear and tear, damage by fire or other casualty alone excepted, and for that purpose and except as stated, Tenant will make all necessary repairs and replacements. Tenant shall not permit any waste, damage or injury to the Premises. Tenant shall not use or permit the use of any portion of the Common Facilities for other than their intended use as reasonably specified by the Landlord from time to time.

b) Landlord shall, throughout the Term, make all necessary repairs to the Common Facilities, structural elements of the Premises and other improvements located on the Property and to maintain the plumbing, air conditioning and electrical systems, windows, floors, and all other items which constitute a part of the Premises and are installed or furnished by the Landlord; provided, however, that Landlord shall have no responsibility to make any repairs unless and until Landlord receives written notice of the need for such repair. Landlord shall keep and maintain all Common Facilities of the Property and any sidewalks, parking areas, curbs and access ways adjoining the Property in a clean and orderly condition, free of accumulation of dirt and rubbish and shall keep and maintain all landscaped areas within the Property in a neat and orderly condition. The expenses Landlord incurs in performing its obligations under this Paragraph 8(b) shall be included in the Annual Operating Costs under Section 6(b) above.

c) Notwithstanding the foregoing, repairs and replacements to the Premises and the Property arising out of or caused by Tenant's misuse of the Premises, by Tenant's installation of alterations, additions, improvements, trade fixtures or equipment in or upon the Premises or by any negligent act of Tenant or any employee, agent, contractor or invitee of Tenant shall be made at Tenant's sole cost and expense and Tenant shall pay Landlord the reasonable cost of any such repair or replacement, as Additional Rent, upon demand, but only to the extent that the cost of such repair or replacement is not covered by insurance required hereunder to be carried by Landlord.

9. **Utilities and Services.**

a) Landlord shall furnish the Premises with electricity, heating and air conditioning for the normal use and occupancy of the Premises as general offices twenty four hours per day each during the Term. The HVAC equipment at the Premises shall provide interior conditions of 75 degrees dry bulb when the outside conditions are 93 degrees dry bulb for summer and 70 degrees dry bulb for winter when the outside conditions are 10 degrees dry bulb for winter. The Building air conditioning system shall provide ventilation at a rate not less than 20 cubic feet per minute per person in office areas and not less than 75 cubic feet per minute per fixture for the public restrooms. Tenant agrees to pay as Additional Rent all charges for electricity and gas used by Tenant at the Premises based upon its metered usage as reasonably determined by Landlord unless the Premises is separately metered. If Tenant shall require electricity or install electrical equipment using current in excess of 110 volts or which will in any way increase the amount of electricity furnished by Landlord for general office use (including but not limited to electrical heating or refrigeration equipment or electronic data processing machines), Tenant will obtain prior written approval from Landlord and will pay, as Additional Rent, for the resulting additional direct expense to Landlord, including the expense resulting from the installation of any equipment and meters, promptly upon receipt of an invoice from Landlord.

b) Within the common areas of the Building and within the Premises, Landlord shall furnish: (1) adequate gas and electricity, (ii) hot and cold water and sewer, (iii) lavatory facilities and supplies, (iv) normal and customary cleaning services (on a five-day a week basis, Building Holidays excepted) after business hours, (v) heat and air conditioning in season, and Landlord shall supply (vi) landscaping, (vii) parking lot maintenance, (viii) common area maintenance and (ix) snow and ice removal ("Landlord's Services"). Tenant shall be responsible for its Proportionate Share of such services in accordance with Section 6(b) hereof. Notwithstanding anything contained to the contrary in Section 6(b)(i) herein, Tenant acknowledges that it has elected to use its own janitorial service company, which company has been approved by Landlord. As a result of the foregoing, Landlord's expenses for janitorial service to the Premises shall not be included in Annual Operating Expenses or calculated into the Expense Stop, and Tenant shall be entitled to a credit against the Fixed Basic Rent in an amount equal to Seventy-four Thousand Six Hundred Seventy-six and 66 (\$74,676.66) Dollars per annum which shall be credited monthly against the Fixed Basic Rent in the amount of Six Thousand Two Hundred Twenty-three and 06/100 (\$6,223.06) Dollars. At any time during the Term, if Tenant shall cease to use its own janitorial service company, Landlord, upon thirty (30) days prior notice, shall provide janitorial service to Tenant, five days per week, after regular business hours, and the costs of such service will be added to the Annual Operating Expenses and passed through to Tenant as set forth in Section 6.

c) Landlord shall not be liable for any damages to Tenant resulting from the quality, quantity, failure, unavailability or disruption of any Landlord's Services beyond the reasonable control of Landlord.

d) Landlord's Services shall be provided in a manner consistent with the operation of comparable office buildings in the competitive area of the Building. Notwithstanding anything to the contrary contained in this Lease, if (i) Landlord ceases to furnish any Landlord's Service in the Building, and Tenant notifies Landlord of such cessation in writing (the "Interruption Notice"), (ii) such cessation does not arise as a result of the gross negligence of Tenant, (iii) such cessation is not caused by a fire or other casualty (in which case Section 15 shall control), (iv) the repair or restoration of such service is reasonably within the control of Landlord, and (v) as a result of such cessation, the Premises or material portion thereof, is rendered untenable (meaning that Tenant is unable to use the Premises or a substantial portion thereof in the normal course of its business) and Tenant, in fact ceases to use the Premises, or material portion thereof, then, commencing on the third (3rd) Business Day after the later to occur of the date the Premises (or material portion thereof) becomes untenable, the date Tenant ceases to use such space and the date Tenant provides Landlord with an Interruption Notice, all Rent hereunder shall be abated on a per diem basis for each day of such interruption based upon the percentage of the Premises so rendered untenable and not used by Tenant and such abatement shall continue until the date the Premises becomes tenable again. Notwithstanding anything in this Lease to the contrary, if such period lasts for more than ninety (90) days, Tenant may terminate this Lease upon ten (10) days written notice to Landlord, provided, however, that if during the ten (10) day period following Tenant's notice to Landlord, Landlord shall restore such interrupted service, this Lease shall continue. In making all repairs and restorations hereunder, and in fulfilling its obligations under this Lease, Landlord shall use reasonable efforts to minimize the disruption of Tenant's use and enjoyment of the Premises. Notwithstanding the foregoing, in the event of an interruption of Landlord's Services involving imminent danger to persons or property, Tenant shall be permitted to take such actions as are reasonable under the circumstances to restore such services and Landlord shall reimburse Tenant for the actual cost incurred by Tenant in effectuating such restoration within fifteen (15) days after written demand therefor. If Landlord does not timely reimburse Tenant, Tenant may offset such costs against its rental obligations hereunder.

e) The cost of capital improvements which Landlord shall install or construct, with Tenant's prior written consent, for energy saving devices for the purpose of reducing operating expenses (as would be determined in the reasonable judgment of a landlord of a comparable building in the competitive area of the Building) shall be included in Annual Operating Costs, based upon the estimated life of the capital investment item, determined by Landlord in accordance with generally accepted accounting principles, and shall include a cost of capital funds adjustment equal to ten percent (10%) per year on the unamortized portion of all such costs. In no event shall Tenant pay Additional Rent attributable to the portion of the useful life of the capital improvement which falls outside the Term. Tenant's Proportionate Share of such expenses shall be included in the calculation of Additional Rent.

10. **Governmental Regulations.**

a) Landlord and Tenant shall comply with all laws, ordinances, notices, orders, rules, regulations and requirements of all federal, state and municipal government or any department, commission, board of officer thereof, or of the National Board of Fire Underwriters or any other body exercising similar functions, relating to the Premises or to the use or manner of use of the Property. Tenant shall not knowingly do or commit, or suffer to be done or committed anywhere in the Building, any act or thing contrary to any of the laws, ordinances, regulations and requirements referred to in this Section. Tenant shall give Landlord prompt written notice of any accident in the Premises and of any breakage, defect or failure in any of the systems or equipment servicing the Premises or any portion of the Premises.

b) In the event Landlord shall install or construct a capital improvement to the Building in compliance with governmental requirements which take effect after the commencement of the Term hereof, the cost of the capital improvement shall be included in Annual Operating Costs and shall be determined based upon the estimated life of the capital investment item, determined by Landlord in accordance with generally accepted accounting principles, and shall include a cost of capital funds adjustment equal to ten percent (10%) per year on the unamortized portion of all such costs. In no event shall Tenant pay Additional Rent attributable to the portion of the useful life of the capital improvement which falls outside the Term.

c) Tenant shall pay all taxes imposed upon Tenant's furnishings, trade fixtures, equipment or other personal property.

11. **Signs.** Tenant shall be entitled to place its sign at the entrance to the Demised Premises and on the exterior roof line of the Building; provided, however, the design of such signs are approved by Landlord in writing which approval shall not be unreasonably withheld, conditioned or delayed and complies with all applicable governmental rules, regulating ordinances or other statutes. Except for the cost of the monument for signs to be erected at the Property, Tenant shall be solely responsible for all costs and expenses associated with the erection of any signs upon the Premises and shall be obligated to obtain and provide to Landlord any and all necessary permits prior to the placement or erection of such signs. Tenant's right to place its sign on the roof line of the Building shall be exclusive so long as Tenant occupies at least sixty percent (60%) of the Building.

12. **Alterations, Additions and Fixtures.**

a) Tenant shall have the right to install in the Premises any trade fixtures; provided, however, that no such installation and no removal thereof shall be permitted which affects any structural component of the Building or Premises and that Tenant shall repair and restore any damage or injury to the Premises or the Property caused by installation or removal.

b) Tenant shall not make or permit to be made any alterations, improvements or additions to the Premises or Property which affect the structural components of the Building without on each occasion first presenting plans and specifications to Landlord and obtaining Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, but may be conditioned upon compliance with reasonable requirements of Landlord including, without limitation, the filing of mechanics' lien waivers by Tenant's contractors and the submission of written evidence of adequate insurance coverage naming Landlord as an additional insured thereunder. All Tenant alterations, improvements or additions shall be made at Tenant's sole cost and expense and: (i) Tenant shall supply any necessary permits; (ii) Tenant shall take or cause to be taken all steps that are otherwise required by Section 13 of this Lease and that are required or permitted by law in order to avoid the imposition of any mechanic's, laborer's or materialman's lien upon the Premises or the Property; (iii) Tenant shall use a contractor reasonably approved by Landlord; (iv) Tenant shall use reasonable efforts to avoid annoying or disturbing the occupants of the Building and of any adjoining real estate owned by Landlord; (v) Tenant shall cause the alterations, improvements or additions to be installed substantially in accordance with the approved plans and specifications and completed substantially according to a construction schedule approved by Landlord (if such approval was required under this Section 12); and (vi) Tenant shall provide insurance of the types and coverage amounts reasonably required by Landlord. Any and all alterations, improvements and additions to the Premises which are constructed, installed or otherwise made by Tenant shall be the property of Tenant until the expiration or sooner termination of this Lease; at that time all such alterations and additions other than trade fixtures and movable personal property shall remain on the Premises and become the property of Landlord without payment by Landlord. Notwithstanding anything to the contrary contained in this Lease, Landlord may withhold its approval to any proposed alterations, additions or improvements to the Premises in its absolute and sole discretion with respect to any such alteration, addition or improvement which Landlord determines involves any modification to the Building's exterior or its structural systems, or any components thereof, impair the structural strength of the Building, reduce the value of the Property or are inconsistent with the standards of the Building.

13. **Mechanic's Liens.** Tenant shall promptly pay any contractors and materialmen who supply labor, work or materials to Tenant at the Premises or the Property so as to minimize the possibility of a lien attaching to the Premises or the Property. Tenant shall take all steps permitted by law in order to avoid the imposition of any mechanic's, laborer's or materialman's lien upon the Premises or the Property. Should any such lien or notice of lien be filed for work performed for Tenant other than by Landlord, Tenant shall cause such lien or notice of lien to be discharged of record by payment, deposit, bond or otherwise within twenty-five (25) days after Tenant obtains knowledge of the filing thereof or after Tenant's receipt of notice thereof, whichever is earlier, regardless of the validity of such lien or claim. If Tenant shall fail to cause such lien or claim to be discharged and removed from record within such twenty-five (25) day period, then, without obligation to investigate the validity thereof and in addition to any other right or remedy Landlord may have, Landlord may, but shall not be obligated to, contest the lien or claim or discharge it by payment, deposit, bond or otherwise; and Landlord shall be entitled to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest and costs. Any amounts so paid by Landlord and all costs and expenses including, without limitation, attorneys' fees incurred by Landlord in connection therewith, together with interest at a rate of ten percent (10%) per annum from the respective dates of Landlord's making such payment or incurring such cost or expense, which shall constitute Additional Rent payable hereunder promptly upon demand therefor. Except as otherwise expressly set forth herein, nothing in this Lease is intended to authorize Tenant to do or cause any work or labor to be done or any materials to be supplied for the account of Landlord, all of the same to be solely for Tenant's account and at Tenant's risk and expense. Further, notwithstanding anything to the contrary contained in this Lease, nothing contained in or contemplated by this Lease shall be deemed or construed in any way to constitute the consent or request by Landlord for the performance of any work or services or the furnishing of any materials for which any lien could be filed against the Premises or the Building or the Property or any part of any thereof, nor as giving Tenant any right, power or authority to contract or permit the performance of any work or services or the furnishing of any materials for which any lien could be filed against the Premises, the Building, the Property or any part of any thereof. Throughout this Lease the term "mechanic's lien" is used to include any lien, encumbrance or charge levied or imposed upon the Premises or the Property or any interest therein or income therefrom on account of any mechanic's, laborer's or materialman's lien or arising out of any debt or liability to or any claim or demand of any contractor, mechanic, supplier, materialman or laborer and shall include without limitation any mechanic's notice of intention given to Landlord or Tenant, any stop order given to Landlord or Tenant, any notice of refusal to pay naming Landlord or Tenant and any injunctive or equitable action brought by any person entitled to any mechanic's lien.

14. **Landlord's Right of Entry.**

a) Tenant shall permit Landlord and the authorized representatives of Landlord and of any mortgagee or any prospective mortgagee to enter the Premises at all reasonable times, with reasonable prior notice to Tenant, and with an authorized representative of Tenant, (except in the case of an emergency involving eminent danger to persons or property) for the purpose of making any necessary repairs to the Premises or to the Building and performing any work therein. During the progress of any work on the Premises or the Building, Landlord will use reasonable efforts to prevent inconvenience to Tenant, but shall not be liable for inconvenience, annoyance, disturbance, loss of business or other damage to Tenant by reason of making any repair or by bringing or storing materials, supplies, tools and equipment in the Premises during the performance of any work, and the obligations of Tenant under this Lease shall not be thereby affected in any manner whatsoever unless caused by the negligence or willful misconduct of the Landlord, its agents, contractors, or employees.

b) Landlord (with an authorized representative of Tenant) shall have the right at all reasonable times to, with reasonable prior notice to Tenant, enter and to exhibit the Premises for the purpose of inspection or showing the Premises in connection with a sale or mortgage and, during the last nine (9) months of the Term, to exhibit the Premises to any prospective tenant.

15. **Damage by Fire or Other Casualty.**

a) If all or any portion of the Premises or Building is damaged or destroyed by fire or other casualty, Tenant shall promptly notify Landlord whereupon Landlord shall, subject to the consent of Landlord's then mortgagee (which shall be given or denied within forty-five (45) days of the date of such casualty) and to the conditions set forth in this Section 15, repair, rebuild or replace such damage and restore the Premises and Building to substantially the same condition as they were in immediately prior to such damage or destruction; provided, however, that Landlord shall only be obligated to restore such damage or destruction to the extent of the proceeds of fire and other extended coverage insurance policies required hereunder. Notwithstanding the foregoing, if the Premises is destroyed or damaged to the extent that in Landlord's sole reasonable judgment the Premises cannot be repaired or restored within one hundred eighty (180) days after such casualty, Landlord may, subject to the rights of Landlord's then mortgagee, terminate this Lease as of the date of such casualty by written notice to Tenant within forty-five (45) days after the date of such casualty.

b) The repair, rebuilding or replacement work shall be commenced promptly and completed with due diligence, taking into account the time reasonably required by Landlord to effect a settlement with, and procure insurance proceeds from, the insurer, and for delays beyond Landlord's reasonable control. In the event Landlord elects or is obligated to repair or restore the Premises and fails to complete such repair and restoration on or before two hundred and forty (240) days after the date of such casualty, then Tenant may terminate this Lease upon three (3) Business Days prior written notice to Landlord.

c) The net amount of any insurance proceeds recovered by reason of the damage or destruction of the Building (meaning the gross insurance proceeds excluding proceeds received pursuant to a rental coverage endorsement and the reasonable and out of pocket cost of adjusting the insurance claim and collecting the insurance proceeds) shall be applied towards the cost of restoration. Notwithstanding anything to the contrary in this Lease, if in Landlord's reasonable opinion the net insurance proceeds will not be adequate to complete such restoration, Landlord shall have the right to terminate this Lease as of the date of such casualty and all the unaccrued obligations of the parties hereto by sending a written notice of such termination to Tenant within 45 days after such casualty; provided, however, that Tenant may require Landlord, except during the last year of the Term (unless Tenant elects to extend the Term of this Lease in accordance with any right to renew pursuant to the terms of this Lease that Tenant may have at the time of such casualty even if the time for Tenant to notify Landlord of such election has not yet occurred, or if no such right exists, unless Tenant elects to extend the Lease for an additional five (5) year period upon the terms and conditions provided in Rider A as if such five (5) year period were an option period thereunder), to withdraw the notice of termination by agreeing to pay the cost of restoration in excess of the net insurance proceeds and by giving Landlord adequate security for such payment prior to the date reasonably agreed to by the parties. If the net insurance proceeds are more than adequate, the amount by which the net insurance proceeds exceed the cost of restoration will be retained by Landlord or applied to repayment of any mortgage secured by the Premises.

d) Landlord's obligation or election to restore the Premises under this Section and shall not, in any event, include the repair, restoration or replacement of the fixtures, improvements, alterations, furniture or any other personal property owned, installed, made by, or in the possession of Tenant, except to the extent covered by the Landlord's insurance required under Section 15(e).

e) Landlord shall maintain insurance against loss or damage to the Building by fire and such other casualties as are included within fire and extended coverage insurance on an all-risk insurance basis for the full replacement cost of the Building, together with a rental coverage endorsement or other comparable form of coverage. If Tenant is dispossessed of all or any portion of the Premises due to fire or other casualty, Tenant will receive an abatement of its Fixed Basic Rent and Additional Rent during the period Tenant is dispossessed according to the part of the Premises which is unusable by Tenant.

16. **Non-Abatement of Rent.** Except as otherwise expressly provided in this Lease, there shall be no abatement or reduction of the Fixed Basic Rent, Additional Rent or other sums payable hereunder for any cause whatsoever and this Lease shall not terminate, nor shall Tenant be entitled to surrender the Premises, in the event of fire, casualty or condemnation or any default by Landlord under this Lease.

17. **Indemnification.**

a) Unless such loss, costs or damages were caused by negligence or willful misconduct of Landlord, its employees, agents or contractors, Tenant hereby agrees to indemnify, defend and hold the Landlord and its employees, agents and contractors harmless from any loss, costs and damages (including reasonable attorney's fees and costs) suffered by Landlord, its agents, employees or contractors, as a result of any claim by a third party, its agents, employees or contractors arising from Tenant's occupancy of the Premises. Tenant shall control the defense of such third party claim and shall have the right to designate counsel acceptable to Landlord, such approval not be unreasonably withheld, to assume the defense of any such third party claim on behalf of itself and Landlord. Landlord shall not have the right to settle any claim without the consent of Tenant. Tenant shall not have the right to settle any claim without Landlord's consent, which consent shall not be unreasonably withheld other than settlements strictly for money damages for which Tenant agrees to be responsible. This indemnity shall survive the expiration or termination of this Lease.

b) If Landlord brings any action under this Lease, Tenant agrees in each case to pay Landlord's reasonable attorney's fees and other costs and expenses incurred by Landlord in connection therewith; provided, however, the Landlord prevails in such action. If Tenant brings any action under this Lease, Landlord agrees in each case to pay Tenant's reasonable attorney's fees and other costs and expenses incurred by Tenant in connection therewith; provided, however, the Tenant prevails in such action.

18. **Condemnation.**

a) **Termination.** If (i) all of the Premises are covered by a condemnation; or (ii) any of the Building or the Premises is covered by a condemnation and the Premises is rendered insufficient for the reasonable operation therein of Tenant's business; or (iii) subject to the provisions of subsection 18(b)(i) hereof, any of the Property is covered by a condemnation and, in Landlord's reasonable opinion, it would be impractical or the condemnation proceeds are insufficient to restore the remainder of the Property; then, in any such event, this Lease shall terminate and all obligations hereunder shall cease as of the date upon which possession is taken by the condemnor. Upon such termination the Fixed Basic Rent and all Additional Rent herein reserved shall be apportioned and paid in full by Tenant to Landlord to that date and all such rent prepaid for periods beyond that date shall forthwith be repaid by Landlord to Tenant.

b) **Partial Condemnation.**

i) If there is a partial condemnation and Landlord decides to terminate pursuant to subsection 18(a)(iii) hereof then Tenant may require Landlord, except during the last year of the Term (unless Tenant elects to extend the Term of this Lease in accordance with any right to renew pursuant to the terms of this Lease that Tenant may have at the time of such condemnation, or if no such right exists, unless Tenant elects to extend the Lease for an additional five (5) year period upon the terms and conditions provided in Rider A as if such five (5) year period were an option period thereunder), to withdraw its notice of termination by: [A] giving Landlord written notice thereof within ten (10) days from transmission of Landlord's notice to Tenant of Landlord's intention to terminate, [B] agreeing to pay the cost of restoration in excess of the condemnation proceeds reduced by those sums reasonably expended by Landlord in collecting the condemnation proceeds, and [C] giving Landlord adequate security for such payment within such ten (10) day period.

ii) If there is a partial condemnation and this Lease has not been terminated pursuant to subsection (a) hereof, Landlord shall restore the Building and the improvements which are part of the Premises to a condition and size as nearly comparable as reasonably possible to the condition and size thereof immediately prior to the date upon which possession shall have been taken by the condemnor; provided, however, that Landlord shall only be obligated to restore such damage from condemnation to the extent possible with the award damage. If the condemnation proceeds are more than adequate to cover the cost of restoration and the Landlord's expenses in collecting the condemnation proceeds, any excess proceeds shall be retained by Landlord or applied to repayment of any mortgage secured by the Premises.

iii) If there is a partial condemnation and this Lease has not been terminated by pursuant to subsection (a) hereof, the obligations of Landlord and Tenant under this Lease shall be unaffected by such condemnation except that there shall be an equitable abatement for the balance of the Term of the Fixed Basic Rent proportionate to the Premises so taken and taking into account the nature and effect of any taking of the Common Areas on the Premises, and Tenant's Proportionate Share shall be recalculated, if necessary. In the event that the parties are unable to agree upon the amount of such abatement, either party may submit the issue to arbitration.

c) **Award.** In the event of a condemnation affecting Tenant, Tenant shall have the right to make a claim against the condemnor for removal expenses and moving expenses, loss of business and any other claims Tenant may have; provided and to the extent, however, that such claims or payments do not reduce the sums otherwise payable by the condemnor to Landlord. Except as aforesaid, Tenant hereby waives all claims against Landlord and against the condemnor, and Tenant hereby assigns to Landlord all claims against the condemnor including, without limitation, all claims for leasehold damages and diminution in value of Tenant's leasehold interest.

19. **Quiet Enjoyment.** Tenant, upon paying the Fixed Basic Rent, Additional Rent and other charges herein required and observing and keeping all covenants, agreements and conditions of this Lease, shall quietly have and enjoy the Premises during the Term without hindrance or molestation by anyone claiming by or through Landlord, subject, however, to the exceptions, reservations and conditions of this Lease.

20. **Rules and Regulations.** The Landlord hereby reserves the right to prescribe, from time to time, at its sole discretion, reasonable rules and regulations (herein called the "Rules and Regulations") attached hereto as **Exhibit B** governing the use and enjoyment of the Premises and the remainder of the Property. The Rules and Regulations shall not materially interfere with the Tenant's use and enjoyment of the Premises in accordance with the provisions of this Lease for the Permitted Use and shall not increase or modify Tenant's obligations under this Lease. In the event of a conflict between the Lease and such rules and regulations, the Lease shall control. The Tenant shall comply at all times with the Rules and Regulations and shall cause its agents, employees, invitees, visitors, and guests to do so.

21. **Assignment and Sublease.** Tenant may assign or sublease the within Lease to any party subject to the following:

a) In the event Tenant desires to assign this Lease or sublease seventy percent (70%) or more of the Premises to any other party, Tenant shall provide written notice of the terms and conditions of such assignment or sublease to Landlord prior to the effective date of any such sublease or assignment, and, prior to such effective date, the Landlord shall have the option, exercisable by written notice to Tenant within ten (10) business days of Landlord's receipt of written notice from Tenant, to (i) recapture all of the Premises ("Recapture Space") so that such prospective subtenant or assignee shall then become the sole tenant of Landlord hereunder, or (ii) recapture the Recapture Space for Landlord's own use, whereupon, in either case, Tenant shall be fully released from any and all obligations hereunder with respect to the Recapture Space, or (iii) consent to such assignment or subleasing as provided in Section 21(b).

b) In the event that the Landlord elects not to recapture the Recapture Space as hereinabove provided or in the event Tenant desires to sublease less than seventy percent (70%) of the Premises, the Tenant may nevertheless assign this Lease or sublet the whole or any portion of the Premises, subject to the Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed, on the basis of the following terms and conditions:

i) The Tenant shall provide to the Landlord the name and address of the assignee or subtenant.

ii) The assignee or subtenant shall assume, by written instrument, all of the obligations of this Lease, and a copy of such assumption agreement shall be furnished to the Landlord within ten (10) days of its execution. Any sublease shall expressly acknowledge that said subtenant's rights against Landlord shall be no greater than those of Tenant.

iii) The Tenant and each assignee shall be and remain liable for the observance of all the covenants and provisions of this Lease, including, but not limited to, the payment of Fixed Basic Rent and Additional Rent reserved herein, through the entire Term of this Lease, as the same may be renewed, extended or otherwise modified.

iv) The Tenant and any assignee shall promptly pay to Landlord fifty percent (50%) of the net profit received from such subleasing or assignment. Net profit will be calculated after deducting the Tenant's direct costs of negotiating and implementing the sublease or assignment including brokerage fees at prevailing market rates.

v) In any event, the acceptance by the Landlord of any rent from the assignee or from any of the subtenants or the failure of the Landlord to insist upon a strict performance of any of the terms, conditions and covenants herein shall not release the Tenant herein, nor any assignee assuming this Lease, from any and all of the obligations herein during and for the entire Term of this Lease.

vi) Landlord shall require a Five Hundred Dollars (\$500.00) payment to cover its handling charges for each request for consent to any sublet or assignment prior to its consideration of the same. Tenant acknowledges that its sole remedy with respect to any assertion that Landlord's failure to consent to any sublet or assignment is unreasonable shall be the remedy of specific performance and Tenant shall have no other claim or cause of action against Landlord as a result of Landlord's actions in refusing to consent thereto.

c) Notwithstanding anything herein to the contrary, Landlord's consent shall not be required for any assignment or Sublease to any entity which controls Tenant or is controlled by Tenant or is under common control with Tenant.

d) In the event that any or all of Tenant's interest in the Premises and/or this Lease is transferred by operation of law to any trustee, receiver, or other representative or agent of Tenant, or to Tenant as a debtor in possession, and subsequently any or all of Tenant's interest in the Premises and/or this Lease is offered or to be offered by Tenant or any trustee, receiver, or other representative or agent of Tenant as to its estate or property (such person, firm or entity being hereinafter referred to as the "Grantor", for assignment, conveyance, lease, or other disposition to a person, firm or entity other than Landlord (each such transaction being hereinafter referred to as a "Disposition"), it is agreed that Landlord has and shall have a right of first refusal to purchase, take, or otherwise acquire, the same upon the same terms and conditions as the Grantor thereof shall accept upon such Disposition to such other person, firm, or entity; and as to each such Disposition the Grantor shall give written notice to Landlord in reasonable detail of all of the terms and conditions of such Disposition within twenty (20) days next following its determination to accept the same but prior to accepting the same, and Grantor shall not make the Disposition until and unless Landlord has failed or refused to accept such right of first refusal as to the Disposition, as set forth herein. Landlord shall have sixty (60) days next following its receipt of the written notice as to such Disposition in which to exercise the option to acquire Tenant's interest by such Disposition, and the exercise of the option by Landlord shall be effected by notice to that effect sent to the Grantor; but nothing herein shall require Landlord to accept a particular Disposition or any Disposition, nor does the rejection of any one such offer of first refusal constitute a waiver or release of the obligation of the Grantor to submit other offers hereunder to Landlord. In the event Landlord accepts such offer of first refusal, the transaction shall be consummated pursuant to the terms and conditions of the Disposition described in the notice to Landlord. In the event Landlord rejects such offer of first refusal, Grantor may consummate the Disposition with such other person, firm, or entity; but any decrease in price of more than two percent (2%) of the price sought from Landlord or any change in the terms of payment for such Disposition shall constitute a new transaction requiring a further option of first refusal to be given to Landlord hereunder.

e) Without limiting any of the provisions of this Section 21, if pursuant to the Federal Bankruptcy Code (herein referred to as the "Code"), or any similar law hereafter enacted having the same general purpose, Tenant is permitted to assign this Lease notwithstanding the restrictions contained in this Lease, adequate assurance of future performance by an assignee expressly permitted under such Code shall be deemed to mean the deposit of cash security in an amount equal to the sum of one year's Fixed Basic Rent plus an amount equal to the Additional Rent for the calendar year preceding the year in which such assignment is intended to become effective, which deposit shall be held by Landlord for the balance of the Term, without interest, as security for the full performance of all of Tenant's obligations under this Lease, to be held and applied in the manner specified for any security deposit required hereunder.

f) Except as specifically set forth above, no portion of the Premises or of Tenant's interest in this Lease may be acquired by any other person or entity, whether by assignment, mortgage, sublease, transfer, operation of law or act of the Tenant, nor shall Tenant pledge its interest in this Lease or in any security deposit required hereunder.

22. **Tenant's Relocation.** [Intentionally Deleted].

23. **Subordination.** This Lease and Tenant's rights hereunder shall be subject and subordinate at all times in lien and priority to any first mortgage or other primary encumbrance now or hereafter placed upon or affecting the Property or the Premises, and to any second mortgage or encumbrance with the consent of the first mortgagee, and to all renewals, modifications, consolidations and extensions thereof, without the necessity of any further instrument or act on the part of Tenant. Tenant shall execute and deliver upon demand any further instrument or instruments confirming the subordination of this Lease to the lien of any such first mortgage or to the lien of any other mortgage, if requested to do so by Landlord with the consent of the first mortgagee, and any further instrument or instruments of attornment that may be desired by any such mortgagee or Landlord provided the form of such instrument is reasonably acceptable to such mortgagee and the Tenant. Notwithstanding the foregoing, said subordination is contingent upon the written agreement of the holder of such lien or mortgagee agrees not to disturb the use and occupancy of the Premises in accordance with the terms of this Lease upon any foreclosure. Notwithstanding the foregoing, any mortgagee may at any time subordinate its mortgage to this Lease, without Tenant's consent, by giving notice in writing to Tenant and thereupon this Lease shall be deemed prior to such mortgage without regard to their respective dates of execution and delivery. In that event such mortgagee shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution and delivery of the mortgage and had been assigned to such mortgagee. Landlord agrees that it will use all commercially reasonable efforts to obtain and deliver to Tenant a subordination, non-disturbance and attornment agreement, from the holder(s) of any mortgage or other security interest affecting the Premises or Building.

24. **Curing Tenant's Defaults.** If Tenant defaults in the performance of any of its obligations hereunder, Landlord may, without any obligation to do so and in addition to any other rights it may have in law or equity, elect to cure such default on behalf of Tenant after written notice (except in the case of emergency involving imminent danger or damage to persons or property) to Tenant and opportunity to cure as provided in Section 26 hereof. Tenant shall reimburse Landlord upon demand for any sums paid or costs incurred by Landlord in curing such default, including interest thereon from the respective dates of Landlord's making the payments and incurring such costs, which sums and costs together with interest thereon shall be deemed Additional Rent payable within ten (10) days of demand.

25. **Surrender.**

a) At the expiration or earlier termination of the Term Tenant shall promptly yield up the Premises and all improvements, alterations and additions thereto, and all fixtures and equipment servicing the Premises in a condition which is clean of garbage and debris and broom clean and in the same condition, order and repair in which they are required to be kept throughout the Term, ordinary wear and tear and damage from casualty excepted.

b) If Tenant, or any person claiming through Tenant, continues to occupy the Premises after the expiration or earlier termination of the Term or any renewal thereof without prior written consent of Landlord, the tenancy under this Lease shall become, a month-to-month lease, under the same terms and conditions set forth in this Lease; except, however, that the Fixed Basic Rent during such continued occupancy shall be 150% of the amount set forth in subsection 6(a) and Tenant shall indemnify Landlord for any loss or damage incurred by reason of Tenant's failure to surrender the Premises. Anything to the contrary notwithstanding, any holding over by Tenant without Landlord's prior written consent shall constitute a default hereunder and shall be subject to all the remedies set forth in subsection 26(b) hereof.

26. **Defaults-Remedies.**

a) **Defaults by Tenant.** It shall be an event of default under this Lease if any one or more of the following events occurs:

i) Tenant fails to pay in full, when due, any and all installments of Fixed Basic Rent or Additional Rent or any other charges or payments due and payable under this Lease whether or not herein included as rent and the continuance of such failure for five (5) Business Days after written notice from Landlord.

ii) Tenant violates or fails to perform or otherwise breaches any agreement, term, covenant or condition contained in this Lease, where such failure continues for 30 days after written notice thereof from Landlord to Tenant, provided, however, that if the nature of the default is such that the same cannot reasonably be cured within such 30 day period, Tenant shall not be deemed to be in default if Tenant shall within such period commence such cure and thereafter diligently prosecute the same to completion.

iii) Tenant abandons or vacates the Premises without notice and discontinues payment of Fixed Basic Rent, Additional Rent and other charges that have become due as well as all which will become due thereafter through the end of the Term.

iv) Tenant becomes insolvent or bankrupt in any sense or makes an assignment for the benefit of creditors or if a petition in bankruptcy or for reorganization or for an arrangement with creditors under any federal or state law is filed by or against Tenant, or a bill in equity or other proceeding for the appointment of a receiver or similar official for any of Tenant's assets is commenced, or if any of the real or personal property of Tenant shall be levied upon by any sheriff, marshal or constable; provided, however, that any proceeding brought by anyone other than Tenant under any bankruptcy, reorganization arrangement, insolvency, readjustment, receivership or similar law shall not constitute an event of default until such proceeding, decree, judgment or order has continued unstayed for more than sixty (60) consecutive days.

v) Any of the events enumerated in subsections (a)(i) through (a)(iv) of this Section happen to any guarantor of this Lease.

b) **Landlord's Remedies.** Upon the occurrence of an event of default under this Lease, Landlord shall have all of the following rights:

i) Landlord may charge a late payment charge of five (5%) percent of any amount owed to Landlord pursuant to this Lease which is not paid within five (5) days of the due date which is set forth in the Lease or, if a due date is not specified in this Lease, within thirty (30) days of the mailing of a bill therefor by Landlord. Nothing in this Lease shall be construed as waiving any rights of Landlord arising out of any default of Tenant, by reason of Landlord's imposing or accepting any such late charge(s) and/or interest; the right to collect such late charge(s) and/or interest is separate and apart from any rights relating to remedies of Landlord after default by Tenant including, without limitation, the rights and remedies of Landlord provided herein.

ii) Landlord may re-enter the Premises and, at the option of Landlord, remove all persons and all or any property therefrom, either by summary dispossession proceedings or by any suitable action or proceeding at law or by force or otherwise, without being liable for prosecution or damages therefor, and Landlord may repossess and enjoy the Premises. Upon recovering possession of the Premises by reason of or based upon or arising out of a default on the part of Tenant, Landlord may, at Landlord's option, either terminate this Lease or make such alterations and repairs as may be necessary in order to relet the Premises and may relet the Premises or any part or parts thereof, either in Landlord's name or otherwise, for a term or terms which may, at Landlord's option, be less than or exceed the period which would otherwise have constituted the balance of the Term of this Lease and at such rent or rents and upon such other terms and conditions as in Landlord's sole discretion may seem advisable and to such person or persons as may in Landlord's discretion seem best; upon each such reletting all rents received by Landlord from such reletting shall be applied as follows: first, to the payment of any costs and expenses of such reletting, including all costs of alterations and repairs; second, to the payment of any indebtedness other than Fixed Basic Rent, Additional Rent or other charges due hereunder from Tenant to Landlord; third, to the payment of Fixed Basic Rent, Additional Rent and other charges due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as it may become due and payable hereunder. If rentals received from reletting during any month are less than that to be paid during that month by Tenant, Tenant shall pay any such deficiency to Landlord. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises or the making of alterations or improvements thereto or the reletting thereof shall be construed as an election on the part of Landlord to terminate this Lease unless written notice of termination is given to Tenant. Landlord shall in no event be liable in any way whatsoever for failure to relet the Premises or, in the event that the Premises or any part or parts thereof are relet, for failure to collect the rent thereof under such reletting. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

iii) Landlord may terminate this Lease and the Term without any right on the part of Tenant to waive the forfeiture by payment of any sum due or by other performance of any condition, term or covenant broken. Upon any termination by Landlord as a result of an event of default by Tenant, Landlord shall be entitled to recover, all accrued but unpaid Rent as of the date of the event of default, (plus late fees and interest applicable thereto as provided herein), reasonable counsel fees incurred as a result of Tenant's default, Landlord's costs of reletting, and the parties acknowledge that Landlord's damages in the event of a default by Tenant shall be difficult to ascertain and as such agree that Landlord shall be entitled to recover from Tenant, as liquidated damages for Tenant's default, an amount equal to the amount of the Fixed Basic Rent and Additional Rent reserved for the balance of the Term, discounted to the date of payment using a discount factor of ten percent (10%) less the amount of rents actually received by Landlord as a result of Landlord's efforts to mitigate its damages; such rents to be applied as follows: first, to the payment of any costs and expenses of such reletting, including all costs of alterations and repairs; second, to the payment of any indebtedness other than Fixed Basic Rent, Additional Rent or other charges due hereunder from Tenant to Landlord; third, to the payment of Fixed Basic Rent, Additional Rent and other charges due and unpaid hereunder. All amounts as set forth herein shall be immediately due and payable from Tenant to Landlord upon demand therefor.

iv) WHEN THIS LEASE AND THE TERM OR ANY EXTENSION OR RENEWAL THEREOF SHALL HAVE BEEN TERMINATED ON ACCOUNT OF ANY DEFAULT BY TENANT, OR WHEN THE TERM HAS EXPIRED, IT SHALL BE LAWFUL FOR ANY ATTORNEY OF ANY COURT OF RECORD TO APPEAR AS ATTORNEY FOR TENANT AS WELL AS FOR ALL PERSONS CLAIMING BY, THROUGH OR UNDER TENANT, AND TO FILE AN AGREEMENT FOR ENTERING IN ANY COMPETENT COURT AN AMICABLE ACTION FOR JUDGMENT IN EJECTMENT AGAINST TENANT AND ALL PERSONS CLAIMING BY, THROUGH OR UNDER TENANT FOR THE RECOVERY BY LANDLORD OF POSSESSION OF THE PREMISES, FOR WHICH THIS LEASE SHALL BE A SUFFICIENT WARRANT; WHEREUPON, IF LANDLORD SO DESIRES, AN APPROPRIATE WRIT OF POSSESSION MAY ISSUE FORTHWITH, WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER, AND PROVIDED THAT IS FOR ANY REASON AFTER SUCH ACTION SHALL HAVE BEEN COMMENCED IT SHALL BE DETERMINED AND POSSESSION OF THE PREMISES REMAIN IN OR BE RESTORED TO TENANT, LANDLORD SHALL HAVE THE RIGHT FOR THE SAME DEFAULT AND UPON ANY SUBSEQUENT DEFAULT OR DEFAULTS, OR UPON THE TERMINATION OF THIS LEASE OR TENANT'S RIGHT OF POSSESSION AS HEREINBEFORE SET FORTH, TO BRING ONE OR MORE FURTHER ACTIONS IN EJECTMENT AS HEREINBEFORE SET FORTH TO CONFESS JUDGMENT FOR THE RECOVERY OF POSSESSION OF THE PREMISES.

v) Notwithstanding anything in this Lease to the contrary, Landlord shall use commercially reasonable efforts to mitigate its damages in the event of a default by Tenant under this Lease.

c) **Landlord Default.** If Landlord shall fail to fulfill or perform, in whole or in part, any of its obligations under this Lease and such failure or nonperformance shall continue for a period of thirty (30) days after notice from Tenant to Landlord, provided, however, that if the nature of the default is such that the same cannot be reasonably be cured within such thirty (30) day period, Landlord shall not be deemed to be in default if Landlord shall, within such period, commence such cure and thereafter diligently prosecute same to completion, Tenant shall have the right to itself cure the default. In the event Tenant so undertakes to cure Landlord's default, Landlord shall reimburse Tenant for the actual costs Tenant reasonably incurs in effectuating such cure within fifteen (15) days from written demand therefore together with reasonable documentation. In the event Landlord does not timely reimburse Tenant for such costs, then Tenant may offset the cost of so doing against its rental obligations hereunder,

d) **Waiver of Jury Trial.** IT IS MUTUALLY AGREED BY AND BETWEEN LANDLORD AND TENANT THAT (A) THEY HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTER-CLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, TENANT'S USE OR OCCUPANCY OF THE PREMISES OR CLAIM OF INJURY OR DAMAGE, AND (B) IN ANY ACTION AGAINST LANDLORD BY TENANT, THE LEGAL FEES OF THE PREVAILING PARTY WILL BE PAID BY THE OTHER PARTY TO THE ACTION.

e) **Non-Waiver.** No waiver by either party of any breach by the other party of any of such party's obligations, agreements or covenants herein shall be a waiver of any subsequent breach or of any other obligation, agreement or covenant, nor shall any forbearance by either party to seek a remedy for any event of default by the other party be a waiver by such party of any rights and remedies with respect to such or any subsequent event of default.

f) **Rights and Remedies Cumulative.** No right or remedy herein conferred upon or reserved to Landlord or Tenant is intended to be exclusive of any other right or remedy provided herein or by law, but each shall be cumulative and in addition to every other right or remedy given herein or now or hereafter existing at law or in equity or by statute.

27. **Condition of Premises.**

a) Tenant hereby acknowledges to Landlord that is fully familiar with the condition of the Premises and that Tenant agrees to lease the Premises in its "AS IS" condition as of the date hereof. Landlord warrants and represents that it has received no notice, nor has it any reason to believe that the Permitted Use of the Premises is in violation of the current zoning of the Property. In consideration of Tenant leasing the Premises in its "AS IS" condition, Landlord hereby agrees to provide Tenant with a cash allowance equal to Five Hundred Thousand and 00/100 (\$500,000.00) Dollars (hereinafter referred to as the "Construction Allowance"), for the purpose of making additional leasehold improvements, which Construction Allowance shall be paid to Tenant provided Tenant is not in default beyond any applicable cure period pursuant to any of the terms and provisions of the Lease, within thirty (30) days of Landlord's receipt of bona fide paid invoices, executed lien waivers from all relevant contractors for the work for which Tenant is seeking reimbursement in form and substance substantially as set forth in Exhibit G attached hereto, or such other documentation reasonably requested by Landlord reflecting that Tenant has incurred such costs for any such leasehold improvements. Any cost of such leasehold improvements which shall be in excess of the aforesaid Construction Allowance shall be paid by Tenant. To the extent the cost of the leasehold improvements shall be less than the Construction Allowance, such excess shall be credited against Tenant's obligations to pay Fixed Rent next due under the terms of this Lease.

b) Upon Landlord's payment to Tenant of the Construction Allowance set forth in Section 27(a) above, the Fixed Basic Rent as set forth in Preamble Section 10 for the period ending December 31, 2001 shall be increased to \$19.25 per rentable square foot per annum, \$1,805,553.75 per annum, which shall be payable in equal Monthly Installments of \$142,646.56, in advance, on the first day of each calendar month. In the event Landlord pays Tenant the Construction Allowance on a day other than the first day of a calendar month, the incremental additional Monthly Installment of Fixed Basic Rent, e.g. \$7,816:25 (hereinafter referred to as the "Monthly Installment of Incremental Fixed Basic Rent"), shall be apportioned on a per diem basis from the day the Construction Allowance is paid to Tenant to the last day of the calendar month in which the Construction Allowance is paid to Tenant. The Monthly Installment of Incremental Fixed Basic Rent shall be paid by Tenant to Landlord within fifteen (15) days of the date Landlord pays Tenant the Construction Allowance.

28. **Hazardous Substances.**

a) Landlord and Tenant shall not cause or allow the generation, treatment, storage or disposal of Hazardous Substances on or near the Premises or Property. "Hazardous Substances" shall mean (i) any hazardous substance as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 et seq., as amended, (ii) any hazardous waste or hazardous substance as those terms are defined in any local, state or Federal law, regulation or ordinance not inapplicable to the Premises and Property, or (iii) petroleum including crude oil or any fraction thereof. In the event Landlord or Tenant uses any Hazardous Substances, Landlord or Tenant shall dispose of such substances in accordance with all applicable Federal, state and local laws, regulations and ordinances. Notwithstanding the foregoing, Tenant's lawful use of cleaning supplies, copying fluids, other office and maintenance supplies and other substances ordinarily and customarily used by tenants of space similar to the Premises shall not be deemed to violate any of the provisions of this Lease.

b) Tenant agrees to indemnify, defend and hold harmless Landlord, its employees, agents, contractors, successors, assigns and invitees, ("Landlord Parties") from and against any and all damage, claim, liability, or loss, including reasonable attorneys' and other fees, ("Costs") arising out of or in any way connected to the generation, treatment, storage or disposal of Hazardous Substances by Tenant, its employees, agents, contractors, or invitees, successors or assigns, (the "Tenant Parties") on or near the Premises or Property. Landlord agrees to indemnify, defend and hold harmless the Tenant Parties from and against any and all Costs arising out of or in any way connected to the presence, generation, treatment, storage or disposal of Hazardous Substances by any Landlord Party or by any third party other than a Tenant Party, on, under or near the Premises or Property. In the event Landlord defaults in its obligations pursuant to this Section 28(b), Tenant may, after thirty (30) days prior written demand, offset all Costs against its rental obligations. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all Federal, state and local environmental laws, rules and ordinances, strict liability and common law.

c) Landlord and Tenant agree to notify each other immediately of any disposal of Hazardous Substances in the Premises or Property, of any discovery of Hazardous Substances in the Premises, or of any notice by a governmental authority or private party alleging or suggesting that a disposal of Hazardous Substances on or near the Premises or Property may have occurred. Furthermore, Landlord and Tenant agree to provide the other with full and complete access to any documents or information in its possession or control relevant to the question of the generation, treatment, storage, or disposal of Hazardous Substances on or near the Premises.

d) Except as set forth in that certain Phase 1 Environmental Site Assessment of The Franke Contract Group, Lansdale, Pennsylvania Job Number OPG98005 prepared by OXFORD Engineers & Consultants, Inc., Landlord represents and warrants that, to the best of its knowledge, there are no Hazardous Substances in, under or about the Building. Landlord, at its sole cost and expense, shall comply with all applicable environmental laws, rules, ordinances, regulations or other requirements ("Environmental Requirements") other than Environmental Requirements applicable as a result of Tenant's activities on the Property; provided, however, Landlord's obligations hereunder shall not be deemed to require Landlord to conduct investigations or remediation in connection with the USEPA Superfund sites known as North Penn-Area 7 and North Penn - Area 6 unless Landlord is required to do so by any governmental entity; provided, however, that Landlord may in good faith contest any such requirement so long as Tenant's use and enjoyment of the Premises are not adversely affected.

29. **Recording.** Neither this Lease nor a memorandum of this Lease shall be recorded in any public records without the written consent of Landlord.

30. **Brokers' Commission.** Tenant represents and warrants to Landlord that the Brokers (as defined in the Preamble) are the sole brokers with whom Tenant has negotiated in bringing about this Lease and Tenant agrees to indemnify and hold Landlord and its mortgagee(s) harmless from any and all claims of other brokers and expenses in connection therewith arising out of or in connection with the negotiation of or the entering into this Lease by Landlord and Tenant. In the event the transactions contemplated herein are consummated, Landlord will pay to the Brokers a commission in accordance with a separate agreement between Brokers and Landlord. In no event shall Landlord's mortgagee(s) have any obligation to any broker involved in this transaction.

31. **Notices.** All notices, demands, requests, consents, certificates, and waivers required or permitted hereunder from either party to the other shall be in writing and sent by United States certified mail, return receipt requested, postage prepaid, or by recognized overnight courier, addressed as follows:

If to Tenant:

ICON Clinical Research, Inc.
190 West Germantown Pike
Norristown, PA 19401
Attn: Lois Valentine, Director of Administration

with a copy to:

McCausland, Keen & Buckman
Radnor Court, Suite 160
259 North Radnor-Chester Road
Radnor, PA 19087-5240
Attn: Stephan K. Pahides, Esq.

If to Landlord:

212 Church Associates, L.P.
c/o First Evergreen
101 Eisenhower Parkway
Roseland, New Jersey 07068
Attn: Mr. Mark S. Green

with a copy to:

Dollinger & Dollinger, P.A.
Mack-Cali Centre II
One Mack Centre Drive
Paramus, New Jersey 07652
Attn: Martin E. Dollinger, Esq.

Either party may at any time, in the manner set forth for giving notices to the other, specify a different address to which notices to it shall thereafter be sent. Notices shall be deemed effective upon receipt or rejection by the addressee.

32. **Irrevocable Offer: No Option.** Although Tenant's execution of this Lease shall be deemed an offer irrevocable by Tenant, the submission of this Lease by Landlord to Tenant for examination shall not constitute a reservation of or option for the Premises. This Lease shall become effective only upon execution thereof by both parties and delivery thereof to Tenant.

33. **Inability to Perform.** If Landlord or Tenant is delayed or prevented from performing any of its obligations under this Lease (other than an obligation to pay money) by reason of strike, labor troubles, or any cause whatsoever beyond such party's control, the period of such delay or such prevention shall be deemed added to the time herein provided for the performance of any such obligation.

34. **Survival.** Notwithstanding anything to the contrary contained in this Lease, the expiration of the Term of this Lease, whether by lapse of time or otherwise, shall not relieve Tenant from its obligations accruing prior to the expiration of the Term.

35. **Corporate Tenants.** If Tenant is a corporation, the person(s) executing this Lease on behalf of Tenant hereby covenant(s) and warrant(s) that: Tenant is a duly formed corporation qualified to do business in the state in which the Property is located; Tenant will remain qualified to do business in said state throughout the Term and any renewals thereof; and such persons are duly authorized by such corporation to execute and deliver this Lease on behalf of the corporation.

36. **Waiver of Invalidity of Lease.** Each party agrees that it will not raise or assert as a defense to any obligation under the Lease or this or make any claim that the Lease is invalid or unenforceable due to any failure of this document to comply with ministerial requirements including, without limitation, requirements for corporate seals, attestations, witnesses, notarizations or other similar requirements and each party hereby waives the right to assert any such defenses or make any claim of invalidity or unenforceability due to any of the foregoing.

37. **Security Deposit.** As additional security for the full and prompt performance by terms and covenants of this Lease, Tenant has deposited with Landlord the Security Deposit, as set forth in the Preamble. Provided Tenant is able to demonstrate to Landlord's reasonable satisfaction, now and at all times during the Term hereof, a minimum net worth of at least Seven Million and 00/100 (\$7,000,000.00), Tenant shall not be required to deposit any additional Security Deposit with Landlord. In the event Tenant's net worth at any time during the Term hereof is less than Seven Million and 00/100 (\$7,000,000.00) Dollars, then and for so long as said net worth deficiency shall continue, the Security Deposit set forth in the Preamble shall be increased to an amount equal to two (2) Monthly Installments of the then current Fixed Basic Rent. The Security Deposit shall not constitute rent for any month (unless so applied by Landlord on account of Tenant's default hereunder). Tenant shall, upon demand, restore any portion of the Security Deposit which may be applied by Landlord to cure any default by Tenant hereunder. To the extent that Landlord has not applied the Security Deposit or any portion thereof on account of a default, the Security Deposit, or such remaining portion of the Security Deposit, shall be returned to Tenant, without interest, promptly following the termination of this Lease. Landlord shall maintain the Security Deposit in a separate interest bearing, escrow account and all interest earned thereon shall be for the benefit of the Tenant.

38. **Estoppel Certificate.** Each of Landlord and Tenant shall from time to time, within five (5) days after request, execute, acknowledge and deliver to the other party a written instrument in recordable form, substantially in the form attached hereto as Exhibit E (an “Estoppel Certificate”), certifying (i) that this Lease is in full force and effect and has not been modified, supplemented or amended (or, if there have been modifications, supplements or amendments, that it is in full force and effect as modified, supplemented or amended, and stating such modifications, supplements and amendments); (ii) the dates to which Fixed Basic Rent and Additional Rent and any other charges arising hereunder have been paid; (iii) the amount of any prepaid rents or credits due Tenant, if any; (iv) if applicable, that Tenant has accepted possession and has entered into occupancy of the Premises, and certifying the Commencement Date and the Expiration Date; (v) whether or not, to the best of such party’s knowledge, all conditions under the Lease to be performed by the other party prior thereto have been satisfied and whether or not the other party is then in default in the performance of any covenant, agreement or condition contained in this Lease and specifying each, if any, unsatisfied condition and each, if any, default of which such party may have knowledge; and (vi) any other fact or condition reasonably requested. Any certification delivered pursuant to the provisions of this Article shall be intended to be relied upon by the other party and any mortgagee or prospective mortgagee or other lender or purchaser of the Property or of any interest therein, or prospective assignee of this Lease, subtenant of the Property or other party.

39. **Rights Reserved by Landlord.** Landlord waives no rights, except those that may be specifically waived herein, and explicitly retains all other rights including, without limitation, the following rights, each of which Landlord may exercise without prior notice to Tenant and without liability to Tenant for damage or injury to property, person or business on account of the exercise thereof, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant’s use or possession of the Premises and shall not give rise to any claim for set-off or abatement of Rent or any other claim:

- a) To change the name or street address of the Building with the prior written consent of Tenant.
- b) Subject to Section 11 above, to install, affix and maintain any and all signs on the exterior and on the interior of the Building.
- c) Subject to the terms of this Lease, to decorate or to make repairs, alterations, additions, or improvements, whether structural or otherwise, in and about the Building, or any part thereof, and for such purposes to enter upon the Premises and during the continuance of any of such work, to temporarily close doors, entry ways, public space and corridors in the Building and to interrupt or temporarily suspend services or use of facilities, all without affecting any of Tenant’s obligations hereunder, so long as the Premises are reasonably accessible and usable.

d) To furnish door keys for the entry door(s) in the Premises on the Commencement Date and to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises. Tenant agrees to purchase only from Landlord additional duplicate keys as required, to change no locks, and not to affix locks on doors without the prior written consent of the Landlord. Upon the expiration of the Term or Tenant's right to possession, Tenant shall return all keys to Landlord and shall disclose to Landlord the combination of any safes, cabinets or vaults left in the Premises.

e) To designate and approve all window coverings used in the Building.

f) To enter the Premises in accordance with Section 14(a), and, subject to Section 14(b) in the last nine (9) months of the Term, to show the Premises to prospective tenants at reasonable times and, if vacated or abandoned, to show the Premises at any time.

g) To erect, use and maintain pipes, ducts, wiring and conduits, and appurtenances thereto, in and through the Premises provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

h) To grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Building, provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

i) To alter the layout, design and/or use of the Building in such manner as Landlord, in its sole discretion, deems appropriate, so long as the character of the Building as a first class office building is maintained, provided Tenant's use and occupancy of the Premises in accordance with the terms of this Lease are not materially affected thereby.

40. **Miscellaneous.**

a) **Entire Agreement.** This Lease represents the entire agreement between the parties hereto and there are no collateral or oral agreements or understandings between Landlord and Tenant with respect to the Premises or the Property. No rights, easements or licenses are acquired in the Property or any land adjacent to the Property by Tenant by implication or otherwise except as expressly set forth in the provisions of this Lease.

b) **Modification.** This Lease shall not be modified in any manner except by an instrument in writing executed by the parties.

c) **Interpretation.** The masculine (or neuter) pronoun, singular number, shall include the masculine, feminine and neuter genders and the singular and plural number.

d) **Exhibits.** Each writing or plan referred to herein as being attached as an Exhibit or otherwise designated herein as an Exhibit hereto is hereby made a part hereof.

e) **Captions and Headings.** The captions and headings of sections, subsections and the table of contents herein are for convenience only and are not intended to indicate all of the subject matter in the text and they shall not be deemed to limit, construe, affect or alter the meaning of any provisions of this Lease and are not to be used in interpreting this Lease or for any other purpose in the event of any controversy.

f) **Interest.** Wherever interest is required to be paid hereunder, such interest shall be at the highest rate permitted under law but not in excess of ten percent (10%).

g) **Severability.** If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

h) **Joint and Several Liability.** If two or more individuals, corporations, partnerships or other persons (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each such individual, corporation, partnership or other persons to pay the Rent and perform all other obligations hereunder shall be deemed to be joint and several, and all notices, payments and agreements given or made by, with or to any one of such individuals, corporations, partnerships or other persons shall be deemed to have been given or made by, with or to all of them. In like manner, if Tenant shall be a partnership or other legal entity, the members of which are, by virtue of any applicable law or regulation, subject to personal liability, the liability of each such member shall be joint and several.

i) **No Representations by Landlord.** Landlord and Landlord's agents have made no representations, agreements, conditions, warranties, understandings or promises, either oral or written, other than as expressly set forth herein, with respect to this Lease, the Premises and/or the Building.

j) **Relationship of Parties.** This Lease shall not create any relationship between the parties other than that of Landlord and Tenant.

k) **Choice of Law.** The terms of this Lease shall be construed under the laws of the Commonwealth of Pennsylvania, and that exclusive jurisdiction and venue shall be in the Court of Common Pleas of the County in which the Property is located.

41. **Additional Definitions.**

a) "Date of this Lease" or "date of this Lease" shall mean the date of acceptance of this Lease by the Landlord, following execution and delivery thereof to Landlord by Tenant and that date shall be inserted in the space provided in the Preamble.

b) "Landlord" as used herein includes the Landlord named above as well as its successors and assigns, each of whom shall have the same rights, remedies, powers, authorities and privileges as he would have had he originally signed this lease as Landlord. Any such person, whether or not named herein, shall have no liability hereunder after ceasing to hold title to the Premises other than liability for obligations existing at the time of the transfer of title. Neither Landlord nor any principal of Landlord nor any owner of the Building or the Lot, whether disclosed or undisclosed, shall have any personal liability with respect to any of the provisions of this Lease or the Premises, and if Landlord is in breach or default with respect to Landlord's obligations under this Lease or otherwise, Tenant shall look solely to the equity of landlord in the Premises for the satisfaction of Tenant's remedies.

c) "Tenant" as used herein includes the Tenant named above as well as its heirs, successors and assigns, each of which shall be under the same obligations, liabilities and disabilities and each of which shall have the same rights, privileges and powers as it would have possessed had it originally signed this Lease as Tenant. Each and every person named above as Tenant shall be bound formally and severally by the terms, covenants and agreements contained herein. However, no such rights, privileges or powers shall inure to the benefit of any assignee of Tenant, immediate or remote, unless the assignment to such assignee is made in accordance with the terms of this Lease. Any notice required or permitted by the terms of this Lease may be given by or to any one of the persons named above as Tenant, and shall have the same force and effect as if given by or to all of them.

d) "Mortgage" and "Mortgagee" as used herein includes any lien or encumbrance on the Premises or the Property or on any part of or interest in or appurtenance to any of the foregoing, including without limitation any ground rent or ground lease if Landlord's interest is or becomes a leasehold estate. The word "mortgagee" is used herein to include the holder of any mortgage, including any ground Landlord if Landlord's interest is or becomes a leasehold estate. Wherever any right is given to a mortgagee, that right may be exercised on behalf of such mortgagee by any representative or servicing agent of such mortgagee.

e) "Person" as used herein includes a natural person, a partnership, a corporation, an association, and any other form of business association or entity.

f) "Property" as used herein shall mean the Building and the lot, tract or parcel of land on which the Building is situated.

g) "Rent" or "rent" as used herein shall mean all Fixed Basic Rent and Additional Rent reserved under this Lease.

42. **Lease Condition.** Intentionally deleted.

43. **Guaranty.** In consideration for Landlord agreeing to provide Tenant with the Construction Allowance set forth in Section 27 of this Lease, Tenant agrees to provide Landlord with a guaranty from its parent company, ICON PLC, in form and substance attached hereto and made a part hereof as Exhibit F, which agreement shall guaranty the repayment of the then outstanding and unamortized Construction Allowance to Landlord in the event Tenant defaults in its obligation to pay Fixed Basic Rent or Additional Rent. The Construction Allowance shall be amortized over a period of ten (10) years with principal and interest payable at the rate of Ninety-Three Thousand Seven Hundred Ninety-Five and 00/100 (\$93,795.00) Dollars per annum.

44. **Access to Adjoining Property.** Landlord agrees to cooperate with Tenant in connection with Tenant's desire to install an underground conduit and/or an above-ground enclosed walkway between the Property and the adjoining property leased or to be leased by Tenant, provided, however, that Landlord shall not be obligated to incur any costs or expenses in connection therewith. Such conduit and walkway shall be constructed and installed in accordance with the terms and conditions set forth in Section 12(6) of this Lease, provided, however, Tenant agrees, at Landlord's option, to remove such conduit and/or walkway at the expiration or sooner termination of this Lease and repair and restore any damage or injury to the Premises or the Property caused by such installation or removal.

45. **Existing Lease.** The parties acknowledge that upon execution and delivery of this Lease to both parties, the Original Lease shall terminate, except for the following, which shall survive said termination: (i) the Fourth Amendment Construction Allowance in the original amount of One Hundred Forty-Eight Thousand Seven Hundred Forty and 00/100 (\$148,740.00) Dollars and the Construction Allowance in the original amount of Four Hundred Ninety-Nine Thousand Eight Hundred Fifty and 00/100 (\$499,850.00) Dollars provided for in the Fourth Amendment dated November 17, 2000 totaling Six Hundred Forty-Eight Thousand Five Hundred Ninety and 00/100 (\$648,590.00) Dollars, of which, as of the date of this Lease, Five Hundred Fifty-Five Thousand Thirty-One and 00/100 (\$555,031.00) Dollars has heretofore been paid to or paid on behalf of Tenant, and Ninety-Three Thousand Five Hundred Fifty-Nine and 00/100 (\$93,559.00) Dollars remains and shall be payable to Tenant in accordance with Section 27 of this Lease; (ii) any terms and conditions set forth in the Original Lease which survive the expiration and/or sooner termination of the Original Lease; (iii) any third party claims brought against Tenant or Landlord arising out of any actions or omissions by Landlord or Tenant which occurred during the term of the Original Lease and (iv) any warranties or representations (x) made by Landlord with respect to the Landlord Work and (y) made by Tenant with respect to the Tenant Work, as set forth in Exhibit C to the Original Lease.

RIDER A

RENEWAL OPTION

Tenant is hereby granted two (2) options to renew this Lease upon the following terms and conditions:

At the time of the exercise of each option to renew and at the time of the said renewal, the Tenant shall not be in default in accordance with the terms and provisions of this Lease, and shall be in possession of the Premises pursuant to this Lease.

Notice of the exercise of the option shall be sent to the Landlord in writing at least nine (9) months but not more than twelve (12) months before the expiration of the current term of this Lease.

Each renewal term shall be for a period of five (5) years, to commence at the expiration of the Term of this Lease, or the first renewal term, as applicable, and all of the terms and conditions of this Lease, other than the Fixed Basic Rent, shall apply during any such renewal term.

The annual Fixed Basic Rent to be paid during each renewal term shall not be less than that paid for the Premises during the last year of the original term of the Lease, or the last year of the first renewal term, as applicable. However, if the fair rental value per square foot at the commencement of the renewal term shall exceed the rent as established in the preceding sentence, the Tenant shall pay such fair rental value. In determining the fair rental value, the Landlord shall notify Tenant of the fair rental value as established by Landlord. Should Tenant dispute Landlord's determination, then the Tenant shall be free to, at the Tenant's sole cost and expense, employ the services of an appraiser familiar with office buildings located within the North Wales, Pennsylvania area comparable to the Building, who shall be a member of MAI and who shall render an appraisal. If the Landlord and the Tenant's appraiser cannot agree on the fair rental value, or in such case, on an independent appraiser acceptable to both, either party may request the American Arbitration Association to appoint such independent appraiser who shall be a member of MAI familiar with office buildings in the area of the Building who shall render an appraisal, and in such event the judgment of a majority of the three appraisers shall be final and binding upon the parties. The parties shall share equally in the cost of any such independent appraiser. Pending resolution of the issue of fair rental value, the Tenant shall pay the Landlord as of commencement of the renewal term, the Fixed Basic Rent as established by Landlord, subject to retroactive adjustment upon final determination of this issue. Any payments which are required as a result of a retroactive adjustment shall be made by the party required to make a payment within fifteen (15) days of such determination.

EXHIBIT A

(BUILDING)

EXHIBIT B

RULES AND REGULATIONS

1. **OBSTRUCTION OF PASSAGEWAYS:** The sidewalks, entrance, passages, courts, elevators, vestibules, stairways, corridors and public parts of the Building shall not be obstructed or encumbered by Tenant or used by Tenant for any purpose other than ingress and egress. If the Premises are situated on the ground floor with direct access to the street, then Landlord shall, at Landlord's expense, keep the sidewalks and curbs directly in front of the Premises clean and free from ice, snow and refuse.
 2. **WINDOWS:** Windows in the Premises shall not be covered or obstructed by Tenant. No bottles, parcels or other articles shall be placed on the window sills, in the halls, or in any other part of the Building other than the Premises. No article shall be thrown out of the doors or windows of the Premises.
 3. **PROJECTIONS FROM BUILDING:** No awnings, air-conditioning units, or other fixtures shall be attached to the outside walls or the window sills of the Building or otherwise affixed so as to project from the Building, without prior written consent of Landlord.
 4. **FLOOR COVERING:** Tenant shall not lay linoleum or other similar floor covering so that the same shall come in direct contact with the floor of the Premises. If linoleum or other similar floor covering is desired to be used, an interlining of builder's deadening felt shall first be fixed to the floor by a paste or other material that may easily be removed with water, the use of cement or other similar adhesive material being expressly prohibited.
 5. **INTERFERENCE WITH OCCUPANTS OF BUILDING:** Tenant shall not make, or permit to be made, any unseemly or disturbing noises or odors and shall not interfere with other tenants or those having business with them. Tenant will keep all mechanical apparatus in the Premises free of vibration and noise which may be transmitted beyond the limits of the Premises.
 6. **LOCK KEYS:** No additional locks or bolts of any kind shall be placed on any of the doors or windows by Tenant. Tenant shall, on the termination of Tenant's tenancy, deliver to Landlord all keys to any space within the Building either furnished to or otherwise procured by Tenant, and in the event of the loss of any keys furnished, Tenant shall pay to Landlord the cost thereof. Tenant, before closing and leaving the Premises, shall ensure that all windows are closed and entrance doors locked. Nothing in this Paragraph 7 shall be deemed to prohibit Tenant from installing a burglar alarm within the Premises, provided: (1) Tenant obtains Landlord's consent which will not be unreasonably withheld or delayed; (2) Tenant supplies Landlord with copies of the plans and specifications of the system; (3) such installation shall not damage the Building; and (4) all costs of installation shall be borne solely by Tenant.
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7. **PROHIBITED ON PREMISES:** Tenant shall not conduct, or permit any other person to conduct, any auction upon the Premises, manufacture or store goods, wares or merchandise upon the Premises without the prior written approval of Landlord, except the storage of usual supplies and inventory to be used by Tenant in the conduct of his business, permit the Premises to be used for gambling, make any unusual noises in the Building, permit to be played musical instrument on the Premises, permit any radio to be played, or television, recorded or wired music in such loud manner as to disturb or annoy other tenants, or permit any unusual odors to be produced on the Premises. Tenant shall not permit any portion of the Premises to be occupied as an office for a public stenographer or typewriter, or for the storage, manufacture, or sale of intoxicating beverages, narcotics, tobacco in any form or as a barber or manicure shop. Canvassing, soliciting and peddling in the Building and the Premises are prohibited and Tenant shall cooperate to prevent the same. No bicycles, vehicles or animals of any kind shall be brought into or kept in or about the Premises.
8. **PLUMBING, ELECTRIC AND TELEPHONE WORK:** Plumbing facilities shall not be used for any purpose other than those for which they were constructed; and no sweepings, rubbish, ashes, newspaper or other substances of any kind shall be thrown into them. Waste and excessive or unusual amounts of electricity or water is prohibited.
9. **SAFES AND OTHER HEAVY EQUIPMENT:** Landlord reserves the right to prescribe the weight and position of all safes and other heavy equipment so as to distribute properly the weight thereof and to prevent any unsafe condition from arising.
10. **ADVERTISING:** Landlord shall have the right to prohibit any advertising by Tenant which in Landlord's reasonable opinion tends to impair the reputation of the Building or its desirability as a building for offices, and upon written notice from Landlord, Tenant shall refrain from or discontinue such advertising.
11. **NON-OBSERVANCE OR VIOLATION OF RULES BY OTHER TENANTS:** Landlord shall not be responsible to Tenant for non-observance or violation of any of these rules and regulations by any other tenant.
12. **AFTER HOURS USE:** Landlord reserves the right to exclude from the Building between the hours of 6:00 p.m. and 8:00 a.m. and at all hours on Saturdays, Sundays and Building Holidays, all persons who do not present a pass to the Building signed by the Tenant. Each Tenant shall be responsible for all persons for whom such a pass is issued and shall be liable to the Landlord for the acts of such persons.
13. **PARKING:** Tenant and its employees shall park their cars only in those portions of the parking area designated by Landlord.
14. **HEALTH AND SAFETY:** The Tenant shall be responsible for initiating, maintaining and supervising all health and safety precautions and/or programs required by Law in connection with the Tenant's use and occupancy of the Premises.

EXHIBIT C

[INTENTIONALLY OMITTED]

EXHIBIT D

BUILDING HOLIDAYS

* NEW YEAR'S DAY *

* MEMORIAL DAY *

* INDEPENDENCE DAY *

* LABOR DAY *

* THANKSGIVING DAY *

* CHRISTMAS DAY *

EXHIBIT E

ESTOPPEL CERTIFICATE

TO: _____ (“_____”) pursuant to that certain _____ Agreement (the “Agreement”) dated _____, 200__, by and between _____ and _____ (“Landlord”).

1. The undersigned (“Tenant”) is the lessee under that certain Lease dated _____, 20__, by and between _____, as Landlord, and _____, as Tenant (the “Lease”), covering a portion of those certain premises commonly known and designated as _____, Pennsylvania, consisting of approximately _____ square feet (the “Premises”). A true, complete and correct copy of the Lease is attached hereto as Exhibit “A”.

2. The Lease has not been modified, changed, altered or amended in any respect (except as indicated following this sentence) and is the only lease or agreement between the undersigned and the Landlord affecting the Premises. If none, state “none”. _____

3. The undersigned has made no agreements with Landlord or its agents or employees, which are not described in the Lease concerning free rent, partial rent, rebate of rental payments or any other type of rental concession with respect to the Lease (except as indicated following this sentence). If none, state “none”. _____

4. The undersigned accepted possession of the Premises on _____, 20__, currently occupies the Premises and has been open for business since _____, 20__. The current term of the Lease began on _____, 20__. The current term of the Lease will expire on, _____, 20__, and Tenant has no present right to cancel or terminate the Lease under the terms thereof, or otherwise. No rent payable pursuant to the Lease has been prepaid for more than two (2) months, and no monies otherwise payable to Landlord under the Lease have been paid in advance of the due date therefor as set forth in the Lease. The fixed minimum rent currently being paid under the Lease is \$_____ per month. Future changes to the fixed minimum rental are as set forth in the Lease. The undersigned also pays amounts for insurance and property tax escalations based upon the square footage of the Premises subject to the Lease, as set forth in the Lease, which amounts have been paid to and including _____, 200__.

5. The Lease is fully valid obligation of the undersigned and enforceable against the undersigned and is currently in full force and effect. Neither the undersigned, or to the knowledge of the undersigned, the [other party] is in default thereunder, and all conditions and obligations on the part of [the other party] to be fulfilled under the terms of the Lease have been satisfied or fully performed including, without limitation, all required tenant improvements, allowances, alterations, installations and construction, and payment therefor has been made in full. Tenant has no present offset, claim, defense or counterclaim against any rent or other sum payable by Tenant under the Lease or against any other obligation of Tenant under the Lease except as set forth in Paragraph 7 below. To the knowledge of the undersigned, no condition exists which with the giving of notice or the passage of time, or both, would constitute a default under the Lease.

6. Tenant has not suffered any assignment of the Lease or sublet the Premises or any portion thereof, and no person or entity, other than Tenant, has any possessory interest in the Premises or right to occupy the Premises or any portion thereof, except as permitted under the Lease.

7. Tenant claims no right, title or interest in or to the Premises or right to possession of the Premises, except as Tenant under the terms of the Lease. The Lease does not contain and the undersigned does not have any outstanding options or rights of first refusal to purchase the Premises or any portion thereof or the real property of which the Premises are a part, except as otherwise set forth below. If none, state "none".

8. No actions, whether voluntary or otherwise, are pending against the undersigned under the bankruptcy laws of the United States or any state thereof, and the undersigned knows of no fact or pending or threatened claim or litigation that might result in the insolvency or bankruptcy of Tenant.

9. The undersigned is a [corporation] [limited partnership] [general partnership] duly organized and validly existing and in good standing under the laws of the State of _____ [and qualified to do business in the State where the Premises is located]. [_____, a _____, owns and holds all of the issued and outstanding stock in and of the undersigned, and is a separate and distinct entity from Tenant].

10. To the knowledge of the undersigned, Tenant's occupancy of the Premises complies fully with all local, state and federal laws, ordinances, codes, rules, regulations and orders including, without limitation, those concerning hazardous wastes, hazardous materials, asbestos, oil and underground storage tanks. In addition, to the knowledge of the undersigned, no such hazardous wastes, hazardous materials, asbestos, oil or underground storage tanks have been or are incorporated in, stored on or under, released from, treated on, transported to or from or disposed of, on or from the Premises or any portion thereof.

11. To the knowledge of the undersigned, all inspections, licenses, permits, consents, permissions, approvals and certificates required, whether by law, regulation or insurance standards, to be made or issued with respect to the conduct of Tenant's business, the Premises and the use and occupancy of the Premises by Tenant have been made by or issued by all necessary private parties, the appropriate governmental or quasi-governmental authorities or other authorities having jurisdiction over the Premises and/or Tenant's business, are in full force and effect, and the undersigned has not received notification from any such authority that Tenant or the Premises is in material noncompliance with such laws, regulations or standards, that the Premises is being used, operated or occupied unlawfully or that Tenant has failed to obtain such inspections, permits, consents, permissions, approvals, licenses or certificates, as the case may be. The undersigned has not received notice of any violation or failure to conform with any such law, ordinance, regulation, standard, license, permit, consent, permission, approval or certificate.

12. All insurance policies required to be maintained by the undersigned under the Lease have been maintained, are in full force and effect and all premiums with respect thereto have been paid in full.

13. Upon receipt of notice of the closing of the purchase and sale of the Premises as set forth in the Agreement, Tenant shall recognize _____ as Landlord under the Lease, and all payments of rent and other sums due to Landlord under the Lease and all communications permitted or required under the Lease shall be directed to _____ c/o _____, and all communications permitted or required under the Lease shall be directed to Tenant at the address for Tenant set forth in the Lease (except as otherwise indicated following this sentence), unless and until otherwise specified in written notice by the party to whom notice is to be given at such address. If none, state "none".

14. This certification is made to induce _____ [to enter into the Agreement] [to provide financing to Landlord [Tenant]] [to sublease the Premises or accept the assignment of this Lease] knowing that _____ is relying upon the truth of this Estoppel Certificate in [entering into the Agreement,] [providing such financing] [subleasing the Premises or accepting the assignment of this Lease] and that [the acquisition of the Premises by _____ pursuant to the Agreement] [the assumption of the Lease by _____ pursuant to the Agreement] [the financing provided to Landlord] [the subleasing of the Premises] shall be deemed good and valuable consideration to Tenant for the foregoing representations made by the undersigned.

Dated this _____ day of _____, 2000.

TENANT:

a

BY:

Name:

Title:

EXHIBIT F

GUARANTY OF CONSTRUCTION ALLOWANCE

WHEREAS, ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation, with offices at 212 Church Road, Upper Gwynedd Township, Pennsylvania 19486 (hereinafter referred to as "Tenant") is desirous of entering into the lease hereinafter mentioned; and

WHEREAS, ICON PLC, an Ireland corporation, with offices at South County Business Park, Leopardstown, Dublin 18, Ireland (hereinafter referred to as "Guarantor") has requested 212 CHURCH ASSOCIATES, L.P., a Delaware limited partnership, with offices at c/o First Evergreen, 101 Eisenhower Parkway, Roseland, New Jersey 07068 (hereinafter referred to as "Landlord") to enter into an amended and restated lease with the Tenant in the building located at 212 Church Road, Upper Gwynedd Township, Pennsylvania (hereinafter referred to as "Lease") and provide a Construction Allowance to Tenant; and

WHEREAS, the Landlord has refused to enter into the said Lease and provide a Construction Allowance to Tenant unless the Guarantor guarantees said Construction Allowance in the manner hereinafter set forth.

NOW, THEREFORE, to induce the Landlord to enter into said Lease and provide a Construction Allowance to Tenant, which Lease is dated this day and is being executed simultaneously herewith, the Guarantor hereby agrees as follows:

1. (a) The Guarantor unconditionally guarantees to the Landlord and the successors and assigns of the Landlord, the full and punctual performance and observance by the Tenant of all of the terms, covenants and conditions in said Lease contained on Tenant's part to be kept, performed or, observed.

(b) If, at any time, default shall be made by the Tenant in the performance or observance of any of the terms, covenants or conditions in said Lease contained on the Tenant's part to be kept, performed or observed, the Guarantor will repay to Landlord an amount equal to the then outstanding and unamortized Construction Allowance.

(c) The liability of the Guarantor hereunder shall be enforceable against the Guarantor without the necessity for any suit or proceedings on the Landlord's part of any kind or nature whatsoever against the Tenant.

2. Any act of the Landlord, or the successors or assigns of the Landlord, consisting of a waiver of any of the terms or conditions of said Lease, or the giving of any consent to any manner or thing relating to said Lease, or the granting of any indulgences or extensions of time, to the Tenant, may be done without notice to the Guarantor and without releasing the obligations of the Guarantor hereunder.

3. The obligations of the Guarantor hereunder shall not be released by Landlord's receipt, application or release of security given for the performance and observance of covenants and conditions in said Lease contained on the Tenant's part to be performed or observed; nor by any modification of such Lease, but in the case of any such modification, the liability of the Guarantor shall be deemed modified in accordance with the terms of any such modification of the Lease.

4. The liability of the Guarantor hereunder shall in no way be affected by (a) the release or discharge of the Tenant in any creditors' receivership, bankruptcy or other proceedings; (b) the impairment, limitation or modification of the liability of the Tenant or the estate of the Tenant in bankruptcy, or of any remedy for the enforcement of the Tenant's said liability under the Lease, resulting from the operation of any present or future provision of the Bankruptcy Code or other statute or from the decision in any court; (c) the rejection or disaffirmance of the Lease in any such proceedings; (d) the assignment or transfer of the Lease by the Tenant; (e) any disability or other defense of the Tenant; or (f) the cessation from any cause whatsoever of the liability of the Tenant.

5. Until all the covenants and conditions in said Lease on the Tenant's part to be performed and observed are fully performed and observed, the Guarantor: (a) shall have no right of subrogation against the Tenant by reasons of any payments or acts of performance by the Guarantor hereunder; (b) waives any right to enforce any remedy which the Guarantor now or hereafter shall have against the Tenant by reason of any one or more payment or acts of performance in compliance with the obligations of the Guarantor hereunder; and (c) subordinates any liability or indebtedness of the Tenant now or hereafter held by the Guarantor to the obligations of the Tenant to the Landlord under said Lease.

6. Notwithstanding any payments of Basic Rent or Additional Rent made by the undersigned pursuant to the provisions of this Guaranty, the undersigned shall not seek to enforce or collect upon any rights which the undersigned now has or may acquire against the Tenant either by way of subrogation, indemnity, reimbursement or contribution for any amount paid under this Guaranty. In the event either a petition is filed under the Bankruptcy Code or under any other applicable Federal or state insolvency law in regard to the Tenant, or an action or proceeding is commenced for the benefit of the creditors of the Tenant, and the Landlord is ordered to repay all or any portion of any payments made to Landlord which were received from or on behalf of the Tenant and which are held voidable on the grounds of preference, fraudulent conveyance or otherwise, the undersigned shall pay to the Landlord an amount equal to such payments held to be voidable, provided, however, that the aggregate of all payments made by the undersigned under this Guaranty shall not exceed the amount of the Basic Rent and Additional Rent arrears then due and payable.

If at any time payment, or portion thereof, made by or for the account of the undersigned on account of the obligations under this Guaranty, is set aside by any court or trustee having jurisdiction as a voidable preference, fraudulent conveyance or otherwise as being subject to avoidance or recovery under the provisions of the Bankruptcy Code or under any other applicable Federal or state insolvency law or similar law, the undersigned hereby agrees that this Guaranty (a) shall continue and remain in full force and effect, and (b) if previously terminated as a result of the undersigned having fulfilled the undersigned's obligations hereunder in full or as a result of the Landlord having released the undersigned from its obligations and liabilities hereunder, shall without further act or instrument be reinstated and shall thereafter remain in full force and effect, in either case with the same force and effect as though such payment or portion thereof had not been made, and, if applicable, as if such previous termination had not occurred.

7. The undersigned Guarantor hereby (a) irrevocably consents and submits to the jurisdiction of any federal, state, county or municipal court sitting in the Commonwealth of Pennsylvania in respect to any action or proceeding brought by Landlord against Guarantor arising out of or in any way related to the Guaranty; (b) expressly waives any rights of Guarantor pursuant to the laws of Ireland or any other jurisdiction by virtue of which exclusive jurisdiction of the courts of Ireland or any other jurisdiction might be claimed; (c) irrevocably waives personal service of any summons and complaint and consents to the service upon it of process in any such action or proceeding by the mailing of such process to: the law firm of McCausland, Keen & Buckman, Radnor Court, Suite 160, 259 North Radnor, Chester Road, Radnor, Pennsylvania 19087-5240, and hereby agrees that such service shall be deemed sufficient; (d) irrevocably waives all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceeding; (e) agrees that the laws of the Commonwealth of Pennsylvania shall govern in any such action or proceeding and waives any defense to any action or proceeding granted by the laws of any other country or jurisdiction unless such defense is also allowed by the laws of the Commonwealth of Pennsylvania; and (f) agrees that any final judgment rendered against it in any such action or proceeding shall be conclusive and may be enforced in Ireland or any other jurisdictions by suit on the judgment or in any other manner provided by law and expressly consents to the affirmation of the validity of any such judgment by the courts of Ireland or any other jurisdiction so as to permit execution thereon.

8. Notwithstanding anything contained herein to the contrary, the obligations of the Guarantor shall be limited to an amount equal to the then outstanding and unamortized Construction Allowance, upon the occurrence of a default by Tenant (beyond any applicable cure period) of its rental obligation for the payment of Basic Rent and/or Additional Rent.

9. This Guaranty shall apply to the said Lease.

10. This instrument may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by the Guarantor and the Landlord.

IN WITNESS WHEREOF, the Guarantor has hereunto set his hands and seals as of the 1st day of January, 2001.

ICON PLC, an Ireland corporation

By:

Name:

Title:

[ACKNOWLEDGEMENT]

EXHIBIT G

GENERAL WAIVER OF LIENS

THIS WAIVER OF LIEN (the "Waiver") is executed as of the ____ day of _____, 2001, by _____, a corporation ("Contractor") having offices at _____.

The background of this Waiver is as follows:

1. _____ ("Owner") is the owner of the property located at _____, _____ County, Pennsylvania, as more specifically described on Attachment 1 attached hereto and made part hereof (the "Property").
 2. Owner intends to erect, construct, improve, equip and complete the construction of certain improvements (the "Improvements") on the Property. Owner has contracted with the Contractor for the construction of the Improvements pursuant to a contract (the "Contract").
 3. Contractor agrees that no mechanic's, materialman's or any other liens or claims will be filed or maintained against the Improvements or the estate or title of Owner in the Property or any part thereof, or the curtilages appurtenant thereto, either by itself or anyone else for or on account of any work, labor, materials or services supplied by Contractor in the erection, construction or completion of the Improvements on the Property or any of the curtilages appurtenant thereto.
-

NOW THIS WAIVER WITNESSETH:

1. Contractor, for itself and anyone else acting or claiming through or under it, for and in consideration of the fee to be paid for Contractor's services, and intending to be legally bound hereby, does hereby waive and relinquish all right to file a mechanic's, materialman's or any other lien or claim, or notice of intention to file any lien or claim and does hereby covenant, promise and agree that no mechanic's or materialman's lien or claim to other lien or claim of any kind whatsoever shall be filed or maintained against the Improvements or the estate or title of Owner in the Property or the curtilages appurtenant thereto, by or in the name of Contractor or anyone furnishing labor and/or materials for the Project for work done or materials furnished by Contractor or by any other party acting under or through it, them, or any of them, for and about the Improvements or the Property or any part thereof, or on credit thereof, and that all subcontractors, suppliers, materialmen, and laborers shall look to and hold Contractor personally liable for all subcontracts, work done, and materials, labor and services furnished, so that there shall not be any legal or lawful claim of any kind whatever against Owner for any work done or labor, materials or services furnished under the Contract for and about the erection, construction, improvement, equipping and completion of the Improvements, or under any contract for extra work, or for work supplemental thereto, or otherwise.
2. This Agreement waiving the right of lien shall be an independent covenant and shall operate and be effective as well with respect to work done and labor, materials and services furnished under any supplemental contract for extra work in the erection, construction, improvement, equipping and completion of the Improvements as to any work done and materials, labor and services furnished under the Contract.

3. In order to give Owner full power and authority to protect itself, the improvements, the Property, the estate or title of Owner therein, and the curtilages appurtenant thereto, against any and all liens or claims filed by Contractor or anyone acting under or through it in violation of this Waiver, Contractor hereby authorizes and employs the Prothonotary of any Court of the Commonwealth of Pennsylvania to appear as Attorney for it, them, or any of them, in any such Court, and in its or their name or names, (a) to the extent permitted by law, mark satisfied or record at the cost and expense of Contractor or of any subcontractors, materialmen or laborers, any and all claims of liens filed in violation of this Waiver, or (b) cause to be filed and served in connection with such claims or liens (in the name of Contractor or any subcontractors or anyone else acting under or through it, them, or any of them) any pleading or instrument, or any amendment to any pleading or instrument, previously filed by it or them, to incorporate therein as part of the record the waiver contained in this instrument, and for such act or acts this instrument shall be good and sufficient warrant and authority, and a reference to the Court, term and number in which and where this Waiver shall have been filed shall be a sufficient exhibit of the authority herein contained to warrant such action, and Contractor, for itself and for them, does warrant such action, and Contractor, for itself and for them, does hereby remise, release and quit-claim all rights and all manner of errors, defects and imperfections whatsoever in entering such satisfaction or in filing such pleading, instrument or amendment, or in any way concerning them. The authority herein is coupled with an interest and shall be irrevocable.
4. In the event Contractor consists of more than one person, firm or corporation, the undertakings hereunder of each of such persons, firms or corporations shall be joint and several, and the word "Contractor" shall mean all or some or any of them. For purposes of this Waiver, the singular shall be deemed to include the plural, and the neuter shall be deemed to include the masculine and feminine, as the context may require. This waiver shall be governed by Pennsylvania law.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Contractor has caused this Waiver to be duly executed and delivered on the date first above written.

By:

Name:

Title:

ATTEST:
By:

Name:

Title:

AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT

THIS AMENDMENT TO AMENDED AND RESTATED LEASE AGREEMENT (the "Amendment") is made this 17th day of May, 2002, by and between 212 C Associates, a Pennsylvania limited partnership (the "Landlord") and ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation (the "Tenant").

WITNESSETH

A. O'NEILL LANSDALE PROPERTIES, L.P. (the "Original Landlord") and Tenant entered into an Office Space Lease dated the 25th day of September, 1998, as amended July 22 and November 2, 1999 and February 24, 2000, and further amended November 17, 2000 (the "Original Lease") whereby Tenant is presently in possession of the premises containing approximately 93,795 gross rentable square feet of space in the building located at 212 Church Road in Upper Gwynedd Township, Pennsylvania (the "Demised Premises").

B. 212 CHURCH ASSOCIATES, L.P. (the "Subsequent Landlord"), the assignee of Original Landlord's interest in the Lease, and Tenant subsequently entered into that certain Amended and Restated Lease Agreement dated the 1st day of January, 2001 (the "Lease") pursuant to which Subsequent Landlord and Tenant amended and restated the Original Lease as provided therein.

C. On the 20th day of May, 2002, Subsequent Landlord assigned all of its right, title and interest in and to the Lease to Landlord.

D. Landlord and Tenant now desire to amend the Lease upon the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties hereto, intending to be legally bound, hereby agree that the Lease is hereby amended and supplemented as follows:

1. **Recitals/Definitions.** The above recitals are true and correct and are hereby incorporated into this Amendment as if set forth herein at length. Any and all capitalized terms not defined herein shall have the definitions set forth in the Lease.

2. **Renewal Option.** The fourth (4th) paragraph of Rider A attached to the Lease beginning with "The annual Fixed Basic Rent . . ." is hereby deleted in its entirety and replaced with the following:

"The Fixed Basic Rent to be paid during each renewal term shall be as follows:

Dates	Rentable Sq. Ft.	Rate Per Rentable Sq. Ft.	Yearly Installment	Monthly Installment
<u>First Renewal Option</u> 5/01/11 to 4/30/16	93,795	\$ 23.00	\$ 2,157,285.00	\$ 179,773.75
<u>Second Renewal Option</u> 5/01/16 to 4/30/21	93 795	\$ 25.50	\$ 2,391,772.50	\$ 199,314.38

3. **Broker.** Tenant and Landlord warrant that they have had no dealings with any broker or agent in connection with the negotiations or execution of this Amendment, and Landlord and Tenant agree to indemnify the other against all costs, expenses, attorney's fees, or other liability for commissions or other compensation or charges resulting from a breach of such representations.

4. **Miscellaneous.** Except as expressly set forth herein, the Lease is unmodified and in full force and effect. This Amendment shall be binding upon and shall inure to the benefit of the parties and their successors and assigns.

5. **Contingency.** Landlord and Tenant acknowledges that Landlord (or Landlord's affiliate) is the equitable owner of the Demised Premises pursuant to a certain Agreement of Sale dated the 1st day of May, 2002, as same may be amended from time to time. Landlord and Tenant expressly acknowledge that this Amendment, and the rights, liabilities and obligations of the Landlord and Tenant hereunder are expressly contingent upon Landlord acquiring title to the Demised Premises. If, for any reason, Landlord fails to acquire title to the Demised Premises, this Amendment shall be null and void and neither party shall have any further rights, liabilities or obligations hereunder.



**SECOND AMENDMENT TO AMENDED
AND RESTATED OFFICE LEASE**

THIS SECOND AMENDMENT (“**Second Amendment**”) is entered into this day of January 11, 2005, by and between **212 C ASSOCIATES, L.P.** (“**Landlord**”) and **ICON CLINICAL RESEARCH, INC.** (“**Tenant**”).

RECITALS

A. Landlord and Tenant entered into an Amended and Restated Office Lease, dated January 1, 2001, as amended by Amendment to Amended and Restated Lease Agreement, dated May 17, 2002 (the “**Lease**”), pursuant to which Landlord leased to Tenant approximately ninety-three thousand seven hundred and ninety-five (93,795) rentable square feet of space (the “**Premises**”) within the office building known as 212 Church Road, North Wales, Pennsylvania (the “**Building**”).

B. Landlord and Tenant now desire to amend the Lease to (i) extend the term of the Lease, and (ii) provide for the rental amount for such extended term, all upon the terms and conditions as hereinafter set forth. Unless otherwise specifically defined herein, capitalized terms used in this Second Amendment shall have the meanings ascribed to them in the Lease.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Landlord and Tenant, intending to be legally bound, agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are hereby incorporated into this Second Amendment as if fully set forth herein.

2. **Options to Extend Lease Term.** Each of Landlord and Tenant is hereby granted an option (in the case of Landlord, the “**Landlord Option**”; and in the case of Tenant, the “**Tenant Option**”) to extend the Term of the Lease, to be exercised as hereinafter provided. Landlord may exercise the Landlord Option upon notice to Tenant given as provided in the Lease, on a date that is not later than seven (7) months after the date of this Second Amendment (the “**Landlord Option Exercise Period**”), and the simultaneous payment to Tenant of the payment required pursuant to Landlord’s letter to Tenant of even date herewith. If Landlord does not timely exercise the Landlord Option as aforesaid, Tenant shall have a sixty (60) day period after the Landlord Option Exercise Period to exercise the Tenant Option, which shall be exercisable by notice to Landlord given in accordance with the Lease. The date upon which either Landlord exercises the Landlord Option or Tenant exercises the Tenant Option is called the “**Exercise Date.**” Upon the proper exercise of either the Landlord Option or the Tenant Option, the following terms and conditions shall be applicable:

(a) **Lease Term.** The Term of the Lease shall be extended so that the Term will end on the date (the “**Expiration Date**”) which is (i) the day immediately preceding the tenth (10th) anniversary of the Exercise Date, if the Exercise Date is the first day of a calendar month, or (ii) the last day of the calendar month in which the tenth (10th) anniversary of the Exercise Date occurs, if the Exercise Date is any day other than the first day of a calendar month.

(b) **Fixed Basic Rent.** The Fixed Basic Rent payable by the Tenant for the Term, as so extended, shall be, during the periods indicated, the amounts specified in the following schedule (with monthly installments being payable on the first day of each month, without notice, in accordance with the terms of the Lease):

Lease Year	Fixed Basic Rent	Monthly Installment	Fixed Rent/R.S.F.
Exercise Date - January 31, 2005*	\$1,946,246.25	\$162,187.19	\$20.75
February 1, 2005- January 31, 2006	\$1,993,144.00	\$166,095.31	\$21.25
February 1, 2006- January 31, 2007	\$2,040,041.00	\$170,003.44	\$21.75
February 1, 2007- January 31, 2008	\$2,063,490.00	\$171,957.50	\$22.00
February 1, 2008- January 31, 2009	\$2,086,938.75	\$173,911.56	\$22.25
February 1, 2009- January 31, 2010	\$2,133,836.25	\$177,819.69	\$22.75
February 1, 2010- January 31, 2011	\$2,180,733.75	\$181,727.81	\$23.25
February 1, 2011- April 30, 2011**	\$2,227,631.25	\$185,635.94	\$23.75
May 1, 2011- Expiration Date	\$2,157,285.00	\$179,773.75	\$23.00
Renewal Term (if applicable)	\$2,344,875.00	\$195,406.25	\$25.00

* **In the event that the Exercise Date occurs after January 31, 2005, this period will be inapplicable.**

** **Partial Year**

(c) **Release of Security Deposit.** Promptly after the Exercise Date, Landlord shall release to Tenant Tenant’s entire Security Deposit (i.e., approximately \$178,000.00).

(d) **Early Termination.** Provided that Tenant is not at the time or as of the Early Termination Date in default, beyond any applicable period of grace specified in the Lease, in the performance of any of its obligations under the Lease, Tenant shall have the option, by notice to Landlord (the “**Early Termination Notice**”) to terminate the Term of the Lease (“**Termination Option**”) effective as of a date (the “**Early Termination Date**”) occurring at any time after the seventh (7th) anniversary of the Exercise Date, subject to and upon the following terms and conditions:

(i) The Early Termination Date shall be twelve (12) months after the Early Termination Notice, and Tenant shall continue to pay Fixed Basic Rent and Additional Rent through and including the Early Termination Date.

(ii) Tenant shall pay to Landlord a termination fee of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000.00) (the “**Early Termination Fee**”) as separate and independent consideration for its exercise of the Termination Option. The Early Termination Fee shall be paid by Tenant to Landlord via certified check or by wire transfer of immediately available funds to an account designated by Landlord as follows: (A) Three Hundred and Twelve Thousand Five Hundred Dollars (\$312,500.00) shall be paid simultaneously with Tenant’s delivery of the Early Termination Notice; and (B) the remainder of the Early Termination Fee (i.e., \$937,500.00) shall be payable with Tenant’s payments of Fixed Basic Rent in eleven (11) equal monthly installments of Eighty-Five Thousand Two Hundred and Twenty-Seven Dollars and 27/100 (\$85,227.27), commencing with the first month after delivery of the Early Termination Notice. In the event that Tenant delivers the Early Termination Notice but Tenant fails to pay any portion of the Early Termination Fee by the dates prescribed hereby, then, at Landlord’s option, if Tenant does not correct such failure within five (5) days after notice from Landlord, given in accordance with the Lease, Landlord may declare the Early Termination Notice to be null and void and this Lease shall continue in full force and effect as if Tenant had not delivered the Early Termination Notice.

(iii) Tenant acknowledges that the Early Termination Fee is separate and independent consideration for Tenant’s exercise of the Termination Option and, therefore, shall not be credited against the Fixed Basic Rent and additional rent due through the Early Termination Date. The Fixed Basic Rent and all additional rent shall be apportioned as of the Early Termination Date.

(iv) Tenant shall surrender vacant possession of the Premises on or prior to the Early Termination Date. In the event Tenant exercises the Termination Option, this Lease shall terminate as of the Early Termination Date as if the Early Termination Date were the date originally stipulated for the expiration of the Term; provided, however, that nothing herein shall relieve Tenant of any obligations which accrue hereunder prior to the Early Termination Date.

(e) **Renewal Option.** In lieu of any renewal options set forth in the Lease, Tenant shall have the option to extend the Term for one (1) additional period of five (5) years (the “**Renewal Option**”), under and subject to the following terms and conditions:

(i) The renewal term (the “**Renewal Term**”) shall be for a five (5) year period commencing on the day immediately following the Expiration Date and expiring at midnight on the day immediately preceding the fifth (5th) anniversary of the Expiration Date.

(ii) Tenant must exercise the Renewal Option, if at all, by written notice to Landlord delivered at least three hundred sixty five (365) days prior to the Expiration Date.

(iii) As a condition to Tenant's exercise of the Renewal Option, at the time Tenant delivers its notice of election to exercise the Renewal Option to Landlord, Tenant shall not be in default in the performance of any of its obligations hereunder beyond any applicable period of grace specified in the Lease.

(iv) The Renewal Term shall be on the same terms and conditions contained in the Lease, except that (A) the Fixed Basic Rent shall be as specified in Section 2(b) with respect to the Renewal Term, and (B) Tenant shall be entitled to an allowance of Five Hundred Thousand Dollars (\$500,000.00) (the "**Renewal Allowance**") which shall be applied solely against Tenant's Costs (as hereinafter defined) for improvements to the Premises (the "**Tenant Improvements**") and for no other purpose. "**Tenant's Costs**" shall mean Tenant's out-of-pocket contract or purchase price(s) for materials, components, labor and services for the Tenant Improvements. The Renewal Allowance shall be payable as the Tenant Improvements progress upon submission to Landlord of invoices from the contractors performing the work, together with copies of all invoices and other backup documentation reasonably requested by Landlord relative thereto. In the event that Tenant fails to utilize the entire Renewal Allowance, Tenant shall not be entitled to any refund or credit against the rent payable hereunder. In the event that Tenant's Costs exceed the amount of the Renewal Allowance, Tenant shall be solely responsible for such excess costs. All requests for the Renewal Allowance shall be made within twelve (12) months after commencement of the Renewal Term. If Landlord shall fail to pay Tenant all or any portion of the Renewal Allowance as and when such amount shall be due, Landlord shall be responsible for paying Tenant interest on all amounts so unpaid at the rate of ten percent (10%) per annum until paid in full. Such unpaid amounts, with interest, may be offset by Tenant against its rental obligations under the Lease, as amended hereby, until the unpaid amount is so offset or paid by Landlord in full; provided, that in no event shall such offset reduce any monthly installment of the Fixed Basic Rent payable by Tenant by more than twenty percent (20%); provided further, that if there shall be insufficient months remaining in the Renewal Term for Tenant to be fully reimbursed by offset as aforesaid, then the twenty percent (20%) limitation hereinabove provided shall be increased to such percentage which is the minimum percentage which would enable Tenant to be fully reimbursed by offset against the remaining installments of Fixed Basic Rent payable by Tenant.

(v) Except for the specific Renewal Term set forth above, there shall be no further privilege of renewal.

3. **Time of the Essence**. All times specified in this Second Amendment are of the essence of the parties' agreements herein contained.

4. **Brokers.** Each of Landlord and Tenant represents to the other that it has engaged no broker or finder in connection with this Second Amendment, and each shall indemnify, defend and hold the other harmless in the event its foregoing representation proves untrue.

5. **Consents.** Landlord represents and warrants to Tenant that Landlord has obtained all consents and approvals necessary for Landlord to enter into this Second Amendment, including (without limitation) any consent or approval required by the holder of any lien or security interest encumbering all or any part of the Building.

6. **Affirmation of Guaranty.** Icon plc (“**Guarantor**”) executed that certain Guaranty Agreement on May 17, 2002 (the “**Guaranty**”). The Guaranty provides that Guarantor guarantees and acts as surety for Tenant’s obligations under the Lease. In order to induce Landlord to execute this Second Amendment, Guarantor, by its execution hereof, hereby reaffirms its obligations under the Guaranty with respect to the Lease, as amended by this Second Amendment (including, without limitation, an extension of the Term as herein provided).

7. **Entire Agreement/Ratification.** This Second Amendment represents the entire understanding of the parties with respect to the subject matter hereof, and the Lease as hereby amended remains in full force and effect and may not be modified further except in a writing executed by the parties to be bound thereby. Unless expressly modified herein, the terms and conditions of the Lease shall continue in full force and effect, and the parties hereby confirm and ratify the same.

Dated 13 August 2001

CAPITAL BUSINESS PARKS GLOBESIDE LIMITED

and

ICON CLINICAL RESEARCH (UK) LIMITED

and

ICON PLC

LEASE

of

Building Two

at

**Globeside Business Park
Marlow, Buckinghamshire**

LEASE PARTICULARS

1	Date	:	13 August 2001
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2	Parties		
2.1	Landlord	:	Capital Business Parks Globeside Limited (Company number 3808246) whose registered office is at Portland House, Stag Place, London SW1E 5DS

2.2	Tenant	:	Icon Clinical Research (UK) Limited (Company number 02541764) whose registered office is at Kings Court, The Broadway, Winchester, Hampshire, SO23 9BE
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2.3	Guarantor	:	ICON Plc (Company number 145835) whose registered office is at South County Business Park, Leopardstown, Dublin 18, Ireland
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3	Premises	:	the land and building known as Building Two, Globeside Business Park and shown for the purposes of identification edged red on the plan annexed
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4	Contractual Term	:	16 years from and including the date hereof
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5	Principal Rent	:	£988,350 per annum subject to increase in accordance with the Second Schedule
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6	Rent Commencement Date	:	The date 9 calendar months after the earlier of the: (i) date hereof; and (ii) date the Tenant occupies the Premises
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7	Review Dates	:	• of • 2006 and every fifth anniversary of it
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8	Permitted Use	:	offices within Class B1(a) or (b) of the 1987 Order
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This Lease made on the date and between the parties specified In the Particulars Witnesses as follows:

1 Definitions

In this Lease unless the context otherwise requires:

Access Road means the roads from Fieldhouse Lane leading to and from the Estate (to the extent they are not adopted);

Adjoining Property means any adjoining or neighbouring premises in which the Landlord and/or Management Company holds or shall at any time during the Term hold a freehold or leasehold interest;

Arbitration means arbitration in accordance with Clause 8.4;

Base Rate means the base rate from time to time of Barclays Bank PLC or (if not available) such comparable rate of interest as the Landlord shall reasonably require;

Carparking Area means either or both of the areas over which the Tenant has been granted rights to park private motor vehicles under Clause 6, Part I of the First Schedule;

Conduit means any existing or future media for the passage of subs lances or energy and any ancillary apparatus attached to them and any enclosures for them;

Contractual Term means the term specified In the Particulars;

Encumbrances means the obligations and encumbrances contained or referred to in the documents specified in Part III of the First Schedule to the extent that they affect the Premises;

Estate means the freehold land known or to be known as Globeside Business Park and the buildings from time to time standing on it shown edged blue on the plan annexed together with any other adjoining land which is incorporated into Globeside Business Park;

Estate Common Areas means the following parts of the Estate which are or are intended to be for the benefit or amenity of all the owners and occupiers of the Estate:

- (i) the main roads, footpaths, pedestrian areas and cycle ways, road lighting, road signs and signals;
 - (ii) any water features irrigation systems, landscaped areas and other amenities;
 - (iii) any part of the Estate reserved for the housing of machinery or equipment in connection with or required for the provision of any of the Estate Services;
 - (iv) any estate management office, landscape compound or ancillary buildings;
 - (v) all Conduits, balancing ponds and other things related to services in upon over or under or serving the Estate;
 - (vi) all party structures, boundary walls, railings and fences of (or used In common with the owners of any premises adjoining or neighbouring) the Estate;
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(vii) all signage; and

(viii) all other areas or amenities on the Estate or outside the Estate but serving or otherwise being for the benefit of the Estate as a whole which are from time to time provided or designated for the common amenity or benefit of the owners or occupiers of the Estate;

Estate Services means the services provided or procured by the Landlord in relation to the Estate (excluding the Phase) as set out In Part II of the Fourth Schedule;

Estate Signage Policy means the estate signage policy in Annexure t as varied from time to time by the Landlord and/or the Management Company;

Financial Criteria means the unqualified audited accounts for three consecutive years (none of which shall be for a year earlier than the date of this Deed) of the Tenant or proposed assignee (as the case may be) showing

(i) net profile before tax of at least three times the Principal Rent; and

(ii) net assets of at least ten times the Principal Rent

Future D means the land known as Future D and shown for the purposes of identification only, shaded brown on the plan annexed;

Group Company means a company which is a member of the same group of companies within the meaning of Section 42 of the Landlord and Tenant Act 1954;

Guarantor means the person so named in the Particulars and in the case of an individual includes his personal representatives;

Insured Risks means fire, lightning, earthquake, explosion, terrorism, aircraft (other than hostile aircraft) and other aerial devices or articles dropped therefrom, riot, civil commotion, malicious damage, storm or tempest, bursting or overflowing of water tanks apparatus or pipes, flood and impact by road vehicles (to the extent that insurance against such risks may ordinarily be arranged with an insurer of good repute) and such other risks or insurance as may from time to time be required by the Landlord (subject in all cases to such exclusions and limitations as may be imposed by the insurers), and **Insured Risk** means any one of them;

Landlord means the person so named in the Particulars and includes any other person entitled to the immediate reversion to this Lease;

Landlord's Surveyor means the Landlord's Surveyor or managing agent (who may be an employee of the Landlord);

Lease means this lease and any document supplemental to it or entered into pursuant to it;

Management Company means **Globeside Business Park Management Limited (Company No 3940945)** the company formed to provide the Services and whose shares are or will be owned by the freehold and/or long leasehold owners for the time being of the whole or parts of the Estate;

Method Statement means the method statement in Annexure 2;

Particulars means the descriptions and terms on the page headed **Lease Particulars** which form part of this Lease;

Planning Acts means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990;

Premises means the premises described in the Particulars and includes any part of them any alteration or addition to them and any fixtures and fittings, plant and machinery in or on them;

Premises Specification means the specification in Annexure 3;

Principal Rent means the rent stated in the Particulars;

Quarter Days means 25 March, 24 June, 29 September and 25 December in every year and **Quarter Day** means any of them;

Service Charge means the service charge as specified in the Fourth Schedule;

Services means the Estate Services;

Subletting Unit means part of the Premises consisting of a whole floor or part of a floor PROVIDED that no floor shall consist of more than two subletting units and there shall not be more than four occupations of the Premises at any one time;

Superior Landlord means the person entitled to the immediate reversion to the Superior Lease;

Superior Lease means the lease specified in Part IV of the First Schedule under which the Landlord holds the Premises;

Supplemental Lease means the Supplemental Lease in Annexure 4;

Tenant means the person so named in the Particulars and includes its successors in title;

Term means the Contractual Term together with any continuation of the term or the tenancy (whether by statute, common law holding over or otherwise);

VAT means Value Added Tax and any similar tax substituted for it or levied in addition to it;

1987 Order means the Town and Country Planning (Use Classes) Order 1987 (as originally made);

1995 Act means the Landlord and Tenant (Covenants) Act 1995.

2 Interpretation

In this Lease unless the context otherwise requires:

- 2.1 If the Tenant or the Guarantor is more than one person then their covenants are joint and several;

- 2.2 Any reference to a statute includes any modification extension or re-enactment of it and any orders, regulations, directions, schemes and rules made under it;
- 2.3 Any covenant by the Tenant not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done;
- 2.4 If the Landlord reserves rights of access or other rights over or in relation to the Premises then those rights extend to the Management Company and persons authorised by it and to the Superior Landlord and persons authorised by the Superior Landlord;
- 2.5 Where any provision in this Lease requires the consent or approval of the Landlord such provision shall be construed as also requiring the consent or approval of the Superior Landlord where such consent or approval is required by the terms of the Superior Lease but nothing in this Lease shall be construed as implying that the Superior Landlord may not unreasonably refuse any such consent or approval;
- 2.6 References to the **act or default of the Tenant** include acts or default or negligence of any undertenant or of anyone at the Premises with the Tenant's or any undertenant's permission or sufferance;
- 2.7 The Index and Clause headings in this Lease are for ease of reference only;
- 2.8 References to the **last year of the Term** shall mean the twelve months ending on the expiration or earlier termination of the Term;
- 2.9 The perpetuity period applicable to this Lease shall be the Term or 80 years from the commencement of the Term (whichever is the shorter);
- 2.10 References to **Costs** include all liabilities, claims, demands, proceedings, damages, losses and proper costs and expenses.

3 Demise and Rents

The Landlord DEMISES the Premises to the Tenant for the Contractual Term TOGETHER WITH the rights set out in Part I of the First Schedule, EXCEPT AND RESERVING as mentioned In Part II of the First Schedule subject to all rights enjoyed by the owners or occupiers of any neighbouring property over the Premises and subject to and with the benefit of the Encumbrances, the Tenant paying by way of rent during the Term without any deduction counterclaim or set off the:

- 3.1 Principal Rent and any VAT by equal quarterly payments in advance on the Quarter Days to be paid by Banker's Standing Order if the Landlord so requires, the first payment for the period from and including the Rent Commencement Date to (but excluding) the next Quarter Day to be made on the Rent Commencement Date;
- 3.2 Service Charge and any VAT at the times and in the manner set out in the Fourth Schedule;
- 3.3 following amounts and any VAT:
- 3.3.1 the sums specified in Clauses 4,2 and 4.5;

3.3.2 the sums specified In Clause 6.2.1;

3.3.3 all Costs incurred by the Landlord as a result of any breach of the Tenant's covenants in this Lease;

3.3.4 the sums specified in Clause 7.2.

4 Tenant's covenants

The Tenant covenants with the Landlord throughout the Term, or until released pursuant to the 1995 Act, as follows:

4.1 Rents

To pay the rents reserved by this Lease on the due dates;

4.2 Interest

If the Landlord does not receive any sum due to it by the due date to pay within 7 days of written demand interest on such sum at 4 per cent above Base Rate (compounded on the Quarter Days) from the due date until payment (both before and after any judgment), provided this Clause shall not prejudice any other right or remedy for the recovery of such sum;

4.3 Outgoings

To pay all existing and future rates, taxes, charges, assessments and outgoings in respect of the Premises (whether assessed or imposed on the owner or the occupier), except any tax (other than VAT) arising as a result of the receipt by the Landlord of the rents reserved by this Lease and any tax arising on any dealing by the Landlord with its reversion to this Lease;

4.4 VAT

4.4.1 Any payment or other consideration to be provided to the Landlord is exclusive of VAT, and the Tenant shall in addition pay any VAT chargeable on the date the payment or other consideration is due;

4.4.2 Any obligation to reimburse or pay the Landlord's expenditure extends to irrecoverable VAT on that expenditure, and the Tenant shall also reimburse or pay such VAT;

4.4.3 The Landlord shall provide to the Tenant within five days of receipt by the Landlord of any VAT payable under this Lease a valid VAT invoice addressed to the Tenant.

4.5 Utilities and Common Facilities

To pay for all gas, electricity, water, telephone and other utilities used on the Premises, and all charges for meters and all standing charges, and a fair proportion of any joint charges as determined by the Landlord's Surveyor;

4.6 Repair

- 4.6.1** Subject to Clause 7.1, to keep and maintain the Premises in good and substantial repair and condition (damage by the Insured Risks excepted save to the extent that Insurance moneys are irrecoverable as a result of the act or default of the Tenant);
- 4.6.2** To make good any disrepair for which the Tenant is liable within 2 months after the date of written notice from the Landlord (or sooner if the Landlord reasonably requires);
- 4.6.3** If the Tenant falls to comply with any such notice the Landlord may enter and carry out the work and the cost shall be reimbursed by the Tenant on demand as a debt;
- 4.6.4** To enter into maintenance contracts with reputable contractors for the regular servicing of all plant and equipment serving only the Premises;

4.7 Decoration

- 4.7.1** To clean, prepare and paint or treat and generally redecorate all:
- (i) external parts of the Premises in every third year and in the last year of the Term;
 - (ii) internal parts of the Premises in every fifth year and in the last year of the Term;
- 4.7.2** All the work described in Clause 4.7.1 is to be carried out in:
- (i) a good and workmanlike manner to the Landlord's reasonable satisfaction; and
 - (ii) colours which (if different from the existing colour) are first approved in writing by the Landlord (approval not to be unreasonably withheld or delayed);

4.8 Cleaning

- 4.8.1** To keep the Premises clean, tidy and free from rubbish;
- 4.8.2** To clean the inside and outside of windows and any washable surfaces at the Premises as often as reasonably necessary;

4.9 Overloading

Not to overload the floors, ceilings or structure of the Premises or any plant machinery or electrical installation serving the Premises;

4.10 Conduits

To keep the Conduits in or serving the Premises clear and free from any noxious, harmful or deleterious substance, and to remove any obstruction and repair any damage to the Conduits as soon as reasonably practicable to the Landlord's reasonable satisfaction;

4.11 Prohibited Uses

Not to use the Premises for:

- 4.11.1** any purpose which is noisy, offensive, dangerous, illegal, immoral or a nuisance or causes damage or disturbance to the Landlord, or to owners or occupiers of any neighbouring property, or which involves any substance which may be harmful, polluting or contaminating;

4.11.2 residential purposes;

4.11.3 any auction, public or political meeting, public exhibition or show, or as a betting office or for gaming or playing amusement machines, or as a sex shop (as defined In the Local Government (Miscellaneous Provisions) Act 1982), or for the business of an undertaker, or for the business of a staff agency, employment agency or Government Department at which the general public call without appointment;

4.12 Permitted Use

Not to use the Premises otherwise than for the Permitted Use specified in the Particulars;

4.13 Signs

Not to erect any sign, notice or advertisement which is visible outside the Premises without the Landlord's prior written consent which shall not be unreasonably withheld or delayed provided that such sign, notice or advertisement is in accordance with the Estate Signage Policy;

4.14 Alterations

4.14.1 Not to make any alterations or additions which:

- (i) affect the structure of the Premises (including without limitation the roofs and foundations and the principal or load-bearing walls, floors, beams and columns);
- (ii) divide the Premises or merge the Premises with any adjoining premises other than to create a Subletting Unit when Clause 4.14.2 shall apply;
- (iii) affect the external appearance of the Premises;

4.14.2 Subject to Clause 4.14.3, not to make any other alterations or additions to the Premises without the Landlord's written consent (not to be unreasonably withheld or delayed) PROVIDED THAT in case of any alterations which adversely affect the structure of the Premises the Landlord shall be entitled to withhold consent if such alterations would adversely affect the investment value of the Premises;

4.14.3 The Tenant may erect or remove internal non-structural demountable partitioning without the Landlord's written consent PROVIDED THAT it notifies the Landlord of any such alterations within seven days of such alterations being carried out.

4.15 Preservation of Easements

4.15.1 Not to prejudice the acquisition of any right of light for the benefit of the Premises by obstructing any window or opening, at giving any acknowledgement that the right is enjoyed by consent or any other act or default of the Tenant;

4.15.2 To preserve all rights of light and other easements enjoyed by the Premises, and not to permit or suffer anyone to acquire any right of light or other easement or right over the Premises;

4.15.3 To give the Landlord immediate notice if any easement enjoyed by the Premises is obstructed, or any new easement affecting the Premises is made or attempted;

4.16 Alienation

4.16.1 Not to:

- (i) assign, charge, underlet or part with the possession of the whole or part only of the Premises except by an assignment or underletting of the whole or an underletting of a Subletting Unit permitted by this Clause 4.16;
- (ii) share the possession or occupation of the whole or any part of the Premises;

4.16.2 Not to assign or agree to assign the whole of the Premises without the Landlord's written consent (not to be unreasonably withheld or delayed), provided that:

- (i) the Landlord may withhold consent in circumstances where:
 - (a) the proposed assignee is a Group Company of the Tenant;
 - (b) In the reasonable opinion of the Landlord the proposed assignee is not of sufficient financial standing to enable it to comply with the Tenant's covenants in this Lease;
- (ii) the Landlord's consent shall in every case be subject to conditions (unless expressly excluded) requiring that:
 - (a) the assignee covenants with the Landlord to pay the rents and observe and perform the Tenant's covenants in this Lease during the residue of the Term, or until released pursuant to the 1995 Act;
 - (b) the Tenant enters into an authorised guarantee agreement guaranteeing the performance of the Tenant's covenants in this Lease by the assignee including the provisions set out in the Third Schedule (but omitting paragraph 1.2);
 - (c) not more than two persons as the Landlord reasonably requires act as guarantors for the assignee and enter into direct covenants with the Landlord including the provisions set out in the Third Schedule (but referring in paragraph 1.2 to the assignee) PROVIDED THAT this condition shall not apply to an assignee which satisfies the Financial Criteria;
 - (d) all rent and other payments due under this Lease are paid before completion of the assignment;

4.16.3 The provisos to Clause 4.16.2 shall not prejudice the Landlord's right to withhold consent in other circumstances, or to impose other conditions, where it would be reasonable to do so;

4.16.4 Not to underlet or agree to underlet the whole of the Premises or a Subletting Unit unless:

- (i) the rent payable under the underlease is:
 - (a) not less than the rent reasonably obtainable in the open market for the Premises (or the Subletting Unit) without fine or premium;
 - (b) payable no more than one quarter in advance;
 - (c) to be subject to upward only reviews to coincide with the rent reviews under this Lease;
- (ii) the undertenant covenants with the Landlord and in the underlease:
 - (a) to observe and perform the Tenant's covenants in this Lease (except for payment of the rents) during the term of the underlease or until released pursuant to the 1995 Act so far as they apply to the underlet premises;
 - (b) not to underlet, share or part with possession or occupation of the whole or any part of the underlet premises, nor to assign or charge part only of the underlet premises;
 - (c) not to assign the whole of the underlet premises without the Landlord's prior written consent (which shall not be unreasonably withheld or delayed);
- (iii) all rents and other payments due under this Lease are paid before completion of the underletting;
- (iv) Sections 24 to 28 of the Landlord and Tenant Act 1954 are excluded and a certified copy of the court order (Including the form of underlease it refers to) supplied to the Landlord;
- (v) (In relation to any Subletting Unit) the underlease grants such rights as are appropriate for the separate occupation and use of the Premises, reserves such rights as are appropriate for the separate occupation and use of the remainder of the Premises to enable the Tenant to comply with its obligations under this Lease, and reserves as rent:
 - (a) a fair proportion of the cost of insuring the Premises and the whole cost of insuring the loss of the principal rent and service charge payable under the underlease; and
 - (b) a service charge which provides for the undertenant to pay a fair and reasonable proportion of expenditure incurred by the Tenant in relation to the maintenance, repair, renewal, decoration and cleaning of the Premises (including without limitation the Conduits, plant and equipment therein) and the provision of services to the Premises;
- (vi) there shall be no more than four units of occupation at any time (and for this purpose a unit of occupation shall comprise (a) each Subletting Unit which is separately underlet and (b) the residue of the net lettable area of the Premises (if any) retained by the Tenant);

4.16.5 Without prejudice to Clause 4.16.4 not to underlet the whole of the Premises or a Subletting Unit nor vary the terms of any underlease without the Landlord's written consent (not to be unreasonably withheld or delayed);

4.16.6 To take all necessary steps and proceedings to remedy any breach of the covenants of the undertenant under the underlease and not to permit any reduction of the rent payable by any undertenant;

4.16.7 Notwithstanding Clause 4.16.1 the Tenant may share occupation of the whole or any part of the Premises with a Group Company PROVIDED THAT;

(i) the relationship of landlord and tenant is not created;

(ii) there are no more than four occupiers of the Premises (including the Tenant at any one time);

(iii) occupation by any Group Company shall cease upon it ceasing to be a Group Company; and

(iv) the Tenant informs the Landlord in writing before each of the parties commences occupation and after it ceases occupation.

4.17 Registration

Within 21 days to give to the Landlord's and the Superior Landlord's solicitors (or as the Landlord and the Superior Landlord may direct) written notice of any assignment, underlease or other devolution of the Premises or a Subletting Unit together with a certified copy of the relevant document and a reasonable registration fee of not less than £30;

4.18 Statutory Requirements

To comply promptly with all notices served by any public, local or statutory authority, and with the requirements of any present or future statute or European Union law, regulation or directive (whether imposed on the owner or occupier), which affects the Premises or their use;

4.19 Planning

4.19.1 To comply with the Planning Acts;

4.19.2 Not to apply for or implement any planning permission affecting the Premises without first obtaining the Landlord's written consent which shall not be unreasonably withheld or delayed;

4.19.3 If a planning permission is implemented the Tenant shall complete all the works permitted and comply with all the conditions imposed by the permission before the determination of the Term (including any works stipulated to be carried out by a date after the determination of the Term unless the Landlord requires otherwise);

4.19.4 If the Landlord reasonably so requires to produce evidence to the Landlord that the provisions of this Clause 4.19 have been complied with;

4.20 Notices

- 4.20.1 To supply the Landlord with a copy of any notice, order or certificate or proposal for any notice order or certificate affecting or capable of affecting the Premises as soon as it is received by or comes to the notice of the Tenant;
- 4.20.2 At the request of the Landlord, but at the joint cost of the Landlord and the Tenant, to make or join the Landlord in making such objections or representations against or in respect of any such notice, order or certificate as the Landlord may reasonably require;

4.21 Contaminants and Defects

- 4.21.1 To give the Landlord Immediate written notice of the existence of any contaminant, pollutant or harmful substance on or any defect in the Premises;
- 4.21.2 If so requested by the Landlord, to remove from the Premises or remedy to the Landlord's reasonable satisfaction any such contaminant, pollutant or harmful substance;

4.22 Entry by Landlord

To permit the Landlord at all reasonable times and on reasonable written notice (except in emergency) to enter the Premises in order to:

- 4.22.1 inspect and record the condition of the Premises or the Adjoining Property;
- 4.22.2 remedy any breach of the Tenant's obligations under this Lease;
- 4.22.3 repair, maintain, clean, alter, replace, install, add to or connect up to any Conduits which serve the Premises, the Estate and/or the Adjoining Property;
- 4.22.4 repair, maintain, alter or rebuild the Adjoining Property;
- 4.22.5 comply with any of its obligations under this Lease or the Superior Lease;
- 4.22.6 maintain, retain, renew and replace the landscaped areas of the Premises shown hatched black on the Plan annexed hereto until such time as notice is served pursuant to Clause 7.1;

Provided that the Landlord shall cause as little inconvenience and interference to the business of the Tenant as reasonably practicable in the exercise of such rights and shall make good all damage to the Premises caused by such entry to the reasonable satisfaction of the Tenant;

4.23 Landlord's Costs

To pay to the Landlord on demand amounts equal to such Costs as it may properly Incur.

- 4.23.1 in connection with any application for consent made necessary by this Lease (including where consent is lawfully refused or the application is withdrawn);
- 4.23.2 incidental to or in reasonable contemplation of the preparation and service of a schedule of dilapidation (whether before or after expiry of the Term) or a notice or proceedings under Section 146 or Section 147 of the Law of Property Act 1925 (even if forfeiture is avoided other than by relief granted by the Court);

4.23.3 in connection with the enforcement or remedying of any breach of the covenants in this Lease on the part of the Tenant and any Guarantor;

4.23.4 Incidental to or in reasonable contemplation of the preparation and service of any notice under Section 17 of the 1995 Act;

4.24 Indemnity

To indemnify the Landlord against all Costs arising directly or indirectly from the use or occupation of the Premises or condition of the Premises for which the Tenant may be liable under the provisions of this Lease, or any breach of the Tenant's obligations under this Lease or any act or default of the Tenant in relation to the Premises, or the exercise of the rights set out in Part I of the First Schedule;

4.25 Reletting Notices

In the last six months of the Term to allow a letting or sale board to be displayed on the Premises (but not so that it restricts or interferes unreasonably with the light enjoyed by the Premises or the Tenant's use thereof), and to allow prospective tenants or purchasers to view the Premises at reasonable times on reasonable notice;

4.26 Yielding up

4.26.1 Immediately before the end of the Term:

- (i) to give up the Premises repaired and decorated and otherwise in accordance with the Tenant's covenants in this Lease;
- (ii) if the Landlord so requires, to remove all alterations made during the Term or any preceding period of occupation by the Tenant and reinstate the Premises as the Landlord shall reasonably direct and to its reasonable satisfaction;
- (iii) to remove all signs, tenant's fixtures and fittings and other goods from the Premises, and make good any damage caused thereby to the Landlord's reasonable satisfaction;
- (iv) to replace any damaged or missing Landlord's fixtures with ones of no less quality and value;
- (v) to replace any carpet in the Premises with carpet of standard and quality of carpet that cost £26.64 per square metre as at the date of the Lease and as shall be reasonably approved by the Landlord,

4.26.2 If the Tenant fails to comply with Clause 4.26.1 to pay to the Landlord on demand as liquidated damages any costs properly incurred by the Landlord in remedying the breach;

4.27 Encumbrances

To perform and observe the Encumbrances so far as they relate to the Premises;

4.28 Regulations

4.28.1 To observe all rules and regulations relating to the Premises or the Estate from time to time made by the Landlord and/or the Management Company pursuant to paragraph 3 of Part II of the First Schedule and notified to the Tenant;

4.28.2 Not to cause an obstruction to the Estate Common Areas or any part of the Estate.

4.29 Superior Lease

4.29.1 To perform and observe the lessee's covenants contained in the Superior Lease other than payment of rents or other sums payable thereunder so far as they relate to the Premises;

4.29.2 Not to do anything which might cause the Superior Lease to be forfeited.

4.30 Carparking

The Tenant covenants to pay to the Landlord subject to determination pursuant to Clause 6.5 of Part I of the First Schedule within 7 days of demand all sums equal to the:

4.30.1 reasonable amount which the Landlord or the Management Company properly spends on maintaining and repairing the Car Parking Area;

4.30.2 proportion of the Service Cost, properly attributable to the Car Parking Area.

5 Landlord's Covenant

The Landlord covenants with the Tenant.

5.1 Quiet Enjoyment

That, subject to the Tenant paying the rents reserved by and complying with the terms of this Lease, the Tenant may peaceably enjoy the Premises during the Term without any interruption by the Landlord or any person lawfully claiming under or in trust for it;

5.2 Superior Lease

5.2.1 To pay the rents reserved by the Superior Lease;

5.2.2 To perform and observe the lessee's covenants in the Superior Lease, except in so far as they relate to the Premises;

5.2.3 At the written request and cost of the Tenant to take reasonable steps to enforce the covenants of the Superior Landlord in the Superior Lease;

5.2.4 At the written request and cost of the Tenant to take reasonable steps to obtain the consent of the Superior Landlord if required by the terms of the Superior Lease.

5.3 Provision of Services

That, the Landlord will use all reasonable endeavours to provide or procure the provision of the Services, Provided that the Landlord will not be in breach of this Clause as a result of any failure or interruption of any of the Services:

- (i) resulting from circumstances beyond the Landlord's reasonable control, so long as the Landlord uses its reasonable endeavours to remedy the same as soon as reasonably practicable after becoming aware of such circumstances; or
- (ii) to the extent that the Services (or any of them) cannot reasonably be provided as a result of works of inspection, maintenance and repair or other works being carried out at the Estate or the Premises.

6 Insurance

6.1 Landlord's insurance covenants

The Landlord covenants with the Tenant,

6.1.1 To Insure the Premises (other than tenant's and trade fixtures and fittings) unless the insurance is invalidated in whole or in part by any act or default of the Tenant:

- (i) with an insurance office or underwriters of repute;
- (ii) against loss or damage by the Insured Risks;
- (iii) subject to such excesses as may be imposed by the insurers;
- (iv) in the full cost of reinstatement of the Premises (in modern form if appropriate) including shoring up, demolition and site clearance, professional fees, VAT and allowance for building cost increases;

6.1.2 To Insure against loss of the Principal Rent, Service Charge and VAT thereon payable or reasonably estimated by the Landlord to be payable under this Lease arising from damage to the Premises by the Insured Risks for three years;

6.1.3 At the request and cost of the Tenant to produce evidence of the terms of the insurance under this Clause 6.1 and of payment of the current premium;

6.1.4 If the Premises are destroyed or damaged by an Insured Risk, then, unless payment of the insurance moneys is refused in whole or part because of the act or default of the Tenant, and subject to obtaining all necessary planning and other consents to use the insurance proceeds (except those relating to loss of rent and fees) and any uninsured excess paid by the Tenant under Clause 6.2.4(ii) in reinstating the same (other than tenant's and trade fixtures and fittings) as quickly as reasonably practicable substantially as they were before the destruction or damage in modern form if appropriate but not necessarily identical in layout making up any shortfall from its own resources;

6.2 Tenant's insurance covenants

The Tenant covenants with the Landlord throughout the Term or until released pursuant to the 1995 Act as follows:

6.2.1 To pay to the Landlord within seven days of demand sums equal to:

- (i) the amount which the Landlord reasonably spends on insurance pursuant to Clause 6.1;

- (ii) the reasonable cost of property owners' liability and third party liability Insurance in connection with the Premises;
- (iii) the reasonable cost of any professional valuation of the Premises property required by the Landlord (but not more than once in any two year period);

6.2.2 To give the Landlord immediate written notice on becoming aware of any event or circumstance which might affect or lead to an insurance claim;

6.2.3 Not knowingly to do anything at the Premises which would or might prejudice or invalidate the insurance of the Premises or the Adjoining Property or cause any premium for their insurance to be increased;

6.2.4 To pay to the Landlord within seven days of demand:

- (i) any increased premium and any Costs incurred by the Landlord as a result of a breach of Clause 6.2.3;
- (ii) any uninsured excess to which the insurance policy may be subject;
- (iii) the whole of the irrecoverable proportion of the insurance moneys if the Premises or any part are destroyed or damaged by an Insured Risk but the insurance moneys are irrecoverable in whole or part due to the act or default of the Tenant;

6.2.5 To comply with the requirements of the insurers;

6.2.6 To notify the Landlord of the full reinstatement cost of any fixtures and fittings installed at the Premises at the cost of the Tenant which become Landlord's fixtures and fittings;

6.3 Suspension of Rent

6.3.1 If the Premises are unfit for occupation and use because of damage by an Insured Risk then (save to the extent that payment of the loss of rent Insurance moneys is refused due to the act or default of the Tenant) the Principal Rent and the Service Charge (or a fair proportion according to the nature and extent of the damage) shall be suspended until the earlier of the:

- (i) date on which the Premises are again fit for occupation and use; and
- (ii) expiry of the loss of rent insurance period;

6.3.2 Any dispute relating to this Clause 6.3 shall be referred to Arbitration.

6.4 Determination of the Lease

If The Premises are damaged or destroyed by any of the Insured Risks and have not been re-installed so as to make them fit for occupation and use within a period of three years from the date of such damage or destruction than either the Tenant or Landlord shall be entitled to determine this Lease at any time (but not once the Premises have been re-instated) by serving written notice on the other party to that effect where upon this Lease shall determine but without prejudice to the rights of either party against the other In respect of any antecedent breach.

7 Landscaped Areas

- 7.1** The Landlord covenants with the Tenant to maintain, retain, and replace the landscaped areas shown hatched black on the plan annexed hereto until such time as the Landlord serves written notice on the Tenant terminating such obligation whereupon such obligation shall revert to the Tenant.
- 7.2** The Tenant covenants with the Landlord throughout the Term or until released pursuant to the 1995 Act to pay to the Landlord within seven days of demand sums equal to the amount which the Landlord spends on carrying out its obligations pursuant to Clause 7.1.

8 Provisos

8.1 Forfeiture

If any of the following events occurs:

- 8.1.1** the Tenant fails to pay any of the rents payable under this Lease within 21 days of the due date (whether or not formally demanded); or
- 8.1.2** the Tenant or Guarantor breaches to a material extent any of its obligations in this Lease; or
- 8.1.3** execution or distress is levied on the Tenant's goods in the Premises; or
- 8.1.4** the Tenant or Guarantor being a company incorporated within the United Kingdom
- (i) has an Administration Order made in respect of it; or
 - (ii) passes a resolution, or the Court makes an Order, for the winding up of the Tenant or the Guarantor, otherwise than a member's voluntary winding up of a solvent company for the purpose of amalgamation or reconstruction; or
 - (iii) has a receiver or administrative receiver or receiver and manager appointed over the whole or any material part of its assets or undertaking; or
 - (iv) is struck off the Register of Companies; or
 - (v) is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
- 8.1.5** proceedings or events analogous to those described in Clause 8.1.4 shall be instituted or shall occur where the Tenant or Guarantor is a company incorporated outside the United Kingdom; or
- 8.1.6** the Tenant or Guarantor being an individual:
- (i) has a bankruptcy order made against him; or
 - (ii) appears to be unable to pay his debts within the meaning of Section 268 of the Insolvency Act 1986;

then the Landlord may re-enter the Premises or any part of the Premises in the name of the whole and forfeit this Lease and the Term created by this Lease shall immediately end, but without prejudice to the rights of the Landlord in respect of any breach of the obligations contained in this Lease;

8.2 No Compensation

Any right for the Tenant to claim compensation from the Landlord on vacating the Premises or otherwise is excluded to the extent permitted by law;

8.3 Notices

Section 196 of the Law of Property Act 1925 shall apply to any notice which may be served under this Lease and as if the final words of Section 196(4) "and that service... be delivered" were deleted and replaced by "and that service shall be deemed to be made on the third working day after posting;

8.4 Arbitration

8.4.1 Where this Lease provides for reference to Arbitration then reference shall be made in accordance with the Arbitration Act 1996 to a single arbitrator agreed between the Landlord and the Tenant, or in the absence of agreement nominated on the application of either party by the President for the time being of the Royal Institution of Chartered Surveyors;

8.4.2 In the absence of a determination by the arbitrator as to his fees they shall be borne equally by the Landlord and the Tenant;

8.4.3 If the arbitrator is ready to make his award, but is unwilling to do so due to either party's failure to pay its share of the costs in connection with the award, the party who has paid its share may serve on the other a notice requiring the other to pay such costs within 14 days, and if the other fails to comply with such notice the party serving the notice may pay to the arbitrator the others costs and any amount so paid shall be a debt due forthwith from the defaulting party to the other;

8.5 No Implied Easements

The grant of this Lease does not confer any rights over the Adjoining Property or any other property except those mentioned in Part I of the First Schedule, and Section 62 of the Law of Property Act 1925 is excluded from this Lease;

8.6 Planning Acts

The Landlord does not warrant that the Permitted Use complies with the Planning Acts.

9 Contracts (Rights of Third Parties) Act 1999

A person who is not a party to this Lease has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

10 Guarantee

The Guarantor covenants with the Landlord in the terms set out in the Third Schedule.

11 Limits on the Landlord's Liability

If the Landlord makes a request under Section 6 or 7 of the 1995 Act (release from covenants on assignment of the reversion) the Tenant agrees not to be unreasonably withhold or delay its consent to the release required.

12 Jurisdiction

12.1 The Guarantor

- (i) irrevocably submits to the non-exclusive jurisdiction of the Courts of England and Wales to settle any disputes arising out of this Lease; and
- (ii) waives any objection to any legal action or proceedings in such court on the grounds of venue or that it is an inconvenient or inappropriate forum.

12.2 The bringing of any legal action or proceedings in any jurisdiction shall not preclude the Landlord from bringing any such legal action or proceedings in any other jurisdiction.

12.3 Service

The Guarantor appoints Parker Bullen of 45 Castle Street, Salisbury, Wiltshire SP1 3SS or such other firm of solicitors in England as may be notified in writing to the Landlord as agents to accept service of all proceedings on its behalf.

Executed by the parties as a Deed the day and year first before written.

The First Schedule
Part I - Easements and Other Rights granted

Insofar as the Landlord is able to grant such rights, there are granted to the Tenant (In common with others authorised by the Landlord) and subject to the Tenant complying with the rules and regulations referred to in Clause 4.28:

- 1 The right to use the Access Road to gain access to and from the Estate (until such time (if at all) as it shall become adopted and maintainable at public expense);
- 2 The right to use the relevant Estate Common Areas for access to and from the Premises;
- 3 Free and uninterrupted use of all existing and future Conduits which serve the Premises, subject to the Landlord's and/or the Management Company's rights to re-route the same subject to there being no unreasonable interruption of services;
- 4 Subject to the Landlord's and the Managing Company's rights to re-route the same, the right to lay new conducting media under or over the roads and footpaths serving the Estate to serve the Premises subject to the following conditions:
 - 4.1 The Tenant obtaining the Landlord's prior written consent to the positioning, type and nature of such new conducting media (such consent not to be unreasonably delayed);
 - 4.2 Such new conducting media not adversely interfering with the existing conducting media and/or the supply of the existing services to the other premises on the Estate;
 - 4.3 The Tenant using best endeavours to cause as little inconvenience as possible when carrying out any works to lay such new conducting media and making good (without delay) any damage caused in carrying out such works to the Landlord's reasonable satisfaction; and
 - 4.4 The Tenant indemnifying and keeping the Landlord indemnified against all claims demands actions proceedings made or brought and all losses damages costs expenses and liabilities incurred suffered or arising directly or indirectly in respect of or otherwise connected with the laying of the new conducting media.
- 5 The right to enter Estate Common Areas, excluding any buildings which are occupied, as necessary to carry out repairs and maintenance to the Premises pursuant to Clause 4.6 of this Lease subject to the Tenant:
 - 5.1 Using best endeavours to cause as little inconvenience as possible when carrying out at such repairs and maintenance and making good without delay any damage caused to the /landlord's reasonable satisfaction.
 - 5.2 Indemnifying and keeping the Landlord indemnified against all claims demands actions proceedings made or brought and all losses damages costs expenses and liabilities suffered or arising directly or indirectly in respect of or otherwise connected with the carrying out of such repairs and maintenance.

6 Car Parking Rights

6.1 Subject to Clauses 6.2 and 6.3 below the exclusive right, at all times to park:

6.1.1 14 private motor vehicles in the area shown coloured brown on the plan annexed hereto;

6.1.2 7 private motor vehicles in the area shown hatched black on the said plan;

6.2 The Landlord may relocate the Carparking Area in clause 6.1.2 to an alternative area within the Estate provided that it shall be in reasonable proximity to the Premises.

6.3 The Landlord may determine the right in Clause 6.1.2 at any time after completion of the Landlord's works to Future D and the grant of the Supplemental Lease and the termination of the right shall be without prejudice to the rights of any party in respect of any breach of obligations in this Lease.

Part II - Exceptions and Reservations

There are excepted and reserved to the Landlord and the Management Company (and all others having like rights or authorised by them):

- 1 The right to carry out any building, rebuilding, alteration or other works to the Estate and the Adjoining Property (including the erection of scaffolding) notwithstanding interference with light and air enjoyed by the Premises;
- 2 Free and uninterrupted use of all existing and future Conduits which are in the Premises and serve the Estate or the Adjoining Property together with the right on reasonable prior written notice at all reasonable times (except in cases of emergency where no notice is required and works may be carried out any time) to lay install maintain reroute and connect into any additional or replacement Conduits in under or over the Premises in such positions as the Tenant shall from time to time approve (such approval not to be unreasonably withheld or delayed) to serve the Premises the Estate or Adjoining Property;
- 3 The right to regulate and control in a reasonable manner the use of the Estate Common Areas;
- 4 Rights to enter on the Premises for the purposes referred to in Clause 4.22;
- 5 The right to erect maintain replace (and where necessary to renew) signs in the position on the attached plan identifying the Estate and any other related information which the Landlord reasonably considers necessary;
- 6 The right to install and maintain security cameras for a closed circuit television security system in such positions as the Tenant shall from time to time approve (such approval not to be unreasonably withheld or delayed);
- 7 The right over the Premises of access to and egress from the electricity substation shown for the purposes of identification only shaded green on the plan annexed for all purposes.

PROVIDED THAT in the exercise of the rights hereby excepted and reserved the Landlord shall use reasonable endeavours to cause as little inconvenience and interference with the Tenant's business as possible and shall make good as soon as reasonably practicable to the Tenant's reasonable satisfaction any damage caused.

Part III - Encumbrances

The entries contained or referred to in the Property, Proprietorship and Charges Registers of Title Numbers BM244464 and the following documents:

Date	Document	Parties
31 January 2001	Agreement to install telecommunications apparatus on private land	(1) The Equitable Life Assurance Society (2) Capital Business Parks Globeside Limited (3) British Telecommunications Plc
14 February 2001	Deed of Grant	(1) The Equitable Life Assurance Society (2) Capital Business Parks Globeside Limited (3) Southern Electric Plc

Part IV - Superior Lease

Date	Parties	Premises	Term
19 January 2001	(1) The Equitable Life Assurance Society (2) The Landlord (3) Development Securities Plc (4) Globeside Business Park Management Limited	The Premises	999 years from 19 January 2001

The Second Schedule Rent Review

1 In this Schedule:

1.1 Review Date means each of the Review Dates mentioned in the Particulars and Relevant Review Date shall be interpreted accordingly;

1.2 Rack Rental Value means the annual rent (exclusive of VAT) at which the Premises might reasonably be expected to be let in the open market at the Relevant Review Date

ASSUMING

1.2.1 the letting is on the same terms as those contained in this Lease but subject to the following qualifications:

- (i) the term shall commence on the Relevant Review Date and be the residue of the Contractual Term remaining at the Relevant Review Date;
- (ii) the amount of the Principal Rent shall be disregarded, but it shall be assumed that the Principal Rent is subject to review on the terms of and at the same intervals as the Principal Rent under this Lease;

- 1.2.2 the Premises are available to let as a whole, with vacant possession, by a willing landlord to a willing tenant, without premium;
- 1.2.3 the Premises have been finished by the Landlord at its cost in accordance with the Premises Specification and that the Premises are ready, fit and available for immediate occupation and use for the Permitted Use;
- 1.2.4 all the obligations on the part of the Tenant contained in this Lease have been fully performed and observed;
- 1.2.5 no work has been carried out to the Premises by the Tenant or anyone with the Tenant's authority which has reduced the rental value of the Premises;
- 1.2.6 if the whole or any part of the Premises has been destroyed or damaged by an Insured Risk it has been fully reinstated;
- 1.2.7 the net internal floor area of the Premises is 33,565 square feet;
- 1.2.8 the Premises have the benefit of carpeting and floor boxes/grommets for which the Landlord contributed to the Tenant a capital sum for carpet for each square metre of the net internal office area and a further capital sum for each floor box/grommet based on one floor box/grommet for each 10 square metres of the net internal office area (excluding the entrance hall area)

BUT DISREGARDING

- 1.2.9 any goodwill attached to the Premises by reason of any business carried on there;
- 1.2.10 any effect on rent of the fact that any Tenant and any undertenant is or has been in occupation of the Premises;
- 1.2.11 any effect on rent of any improvements at the Premises made with the Landlord's written consent by the Tenant or any undertenant where required except improvements carried out pursuant to an obligation to the Landlord or at the expense of the Landlord;

PROVIDED THAT the Rack Rental Value shall be that which would be payable after the expiry of any rent free period or concessionary rent period for fitting out (or the receipt of any contribution to fitting out works or other inducement in lieu thereof) which might be given on a letting of the Premises, so that no discount reduction or allowance is made to reflect (or compensate the tenant for the absence of) any such rent free or concessionary rent period or contribution or other inducement.

- 1.3 Revised Rent means the new Principal Rent following each Rent Review Date pursuant to paragraph 2 of the Second Schedule.
- 2 The Principal Rent shall be reviewed on each Review Date to the higher of:
- 2.1 the Principal Rent payable immediately before the Relevant Review Date (disregarding any suspension or abatement of the Principal Rent); and

- 2.2 the Rack Rental Value on the Relevant Review Date agreed or determined in accordance with this Lease.
- 3 The Rack Rental Value at any Review Date shall be:
- 3.1 agreed in writing between the Landlord and the Tenant; or
- 3.2 determined by Arbitration on the application of either Landlord or Tenant at any time after the Relevant Review Date.
- 4 If a Revised Rent is not agreed or determined by the Relevant Review Date:
- 4.1 the Principal Rent payable immediately before the Relevant Review Date shall continue to be payable until the Revised Rent is ascertained;
- 4.2 when the Revised Rent is ascertained:
- 4.2.1 the Tenant shall pay within 14 days of ascertainment
- (i) any difference between the Principal Rent payable immediately before the Relevant Review Date and the Principal Rent which would have been payable had the Revised Rent been ascertained on the Relevant Review Date (the “**Balancing Payment**”); and
 - (ii) interest on the Balancing Payment at Base Rate from the date or dates when the Balancing Payment or the relevant part or parts would have been payable had the Revised Rent been ascertained on the Relevant Review Date;
- 4.2.2 the Landlord and Tenant shall sign and exchange a memorandum recording the agreed amount of the Revised Rent.
- 5 If at any Relevant Review Date the operation of the rent review provisions in this Lease, or the normal collection and retention by the Landlord of any increase in the rent is prohibited or modified, the Landlord may elect at any time that the day after the date on which any such prohibition or modification is relaxed shall be substituted for the Relevant Review Date.
- 6 Time shall not be of the essence for the purposes of this Schedule.

**The Third Schedule
Guarantee**

- 1** The Guarantor covenants with the Landlord as principal debtor:
 - 1.1** that throughout the Term or until the Tenant is released from its covenants pursuant to the 1995 Act:
 - 1.1.1** The Tenant will pay the rents reserved by and perform its obligations contained in this Lease;
 - 1.1.2** The Guarantor will indemnify the Landlord on demand against all Costs arising from any default of the Tenant in paying the rents and performing its obligations under this Lease;
 - 1.2** the Tenant will perform its obligations under any authorised guarantee agreement that it gives with respect to the performance of any of the covenants and conditions in this Lease.
- 2** The liability of the Guarantor shall not be affected by:
 - 2.1** Any time given to the Tenant or any failure by the Landlord to enforce compliance with the Tenant's covenants and obligations;
 - 2.2** The Landlord's refusal to accept rent at a time when it would or might have been entitled to reenter the Premises;
 - 2.3** Any variation of the terms of this Lease;
 - 2.4** My change in the constitution, structure or powers of the Guarantor the Tenant or the Landlord or the administration, liquidation or bankruptcy of the Tenant or Guarantor;
 - 2.5** Any act which is beyond the powers of the Tenant;
 - 2.6** The surrender of part of the Premises (save so far as relates to the part of the Premises surrendered);
 - 2.7** The transfer of the reversion expectant on the Term;
 - 2.8** Any other act or thing by which (but for this provision) the Guarantor would have been released.
- 3** Where two or more persons have guaranteed obligations of the Tenant the release of one or more of them shall not release the others.
- 4** The Guarantor shall not be entitled to participate in any security held by the Landlord in respect of the Tenant's obligations or stand in the Landlord's place in respect of such security.
- 5** If this Lease is disclaimed, and if the Landlord within 3 months of the disclaimer requires in writing the Guarantor will enter into a new lease of the Premises at the cost of the Guarantor on the terms of this Lease (but as if this Lease had continued and so that any outstanding matters relating to rent review or otherwise shall be determined as between the Landlord and the Guarantor) for the residue of the Contractual Term from and with effect from the date of the disclaimer.
- 6** Release of the Guarantor

- 6.1** The Guarantor may apply to the Landlord for a release from all obligations and liabilities under this Lease if the:
- 6.2** Tenant has satisfied the Financial Criteria; and
- 6.3** Guarantor has discharged all outstanding claims arising under this Lease pending against the Guarantor in full
- 6.4** On receipt of the Guarantor's request for release under Clause 6.1 in this Schedule, if the Landlord, acting properly and reasonably, is satisfied that clauses 6.1.1 and 6.1.2 above have been satisfied in full, the Landlord shall notify the Guarantor in writing and the Guarantor shall be thereby automatically released from all future obligations and liabilities under this Lease.

The Fourth Schedule
Service Charge
Part I - Calculation and payment of the Service Charge

- 1 In this Schedule unless the context otherwise requires:
 - 1.1 **Accounting Date** means 31 December in each year or such other date as the Landlord notifies in writing to the Tenant from time to time;
 - 1.2 **Accounting Year** means the period from but excluding one Accounting Date to and including the next Accounting Date;
 - 1.3 **Estimated Service Charge** means the Landlord's Surveyor's reasonable and proper estimate of the Service Charge for the Accounting Year notified in writing to the Tenant from time to time (and where all or any part of the Services are provided by the Management Company, the Estimated Service Charge shall include the advance or estimated payments payable by the Landlord to the Management Company in respect of any of the Services provided by it);
 - 1.4 **Service Cost** means all the reasonable costs and expenses paid or incurred by the Landlord in relation to (the provision of the Estate Services (including irrecoverable VAT) or the sums payable by the Landlord to the Management Company in respect of the provision of those services;
 - 1.5 **Tenant's Share** means a fair and reasonable proportion of the Service Cost.
- 2 The Service Charge shall be the Tenant's Share of the Service Cost in respect of each Accounting Year, and if only part of an Accounting Year falls within the Term the Service Charge shall be the Tenant's Share of the Service Cost in respect of the relevant Accounting Period divided by 365 and multiplied by the number of days of the Accounting Year within the Term.
- 3 The Landlord shall have the right to adjust the Tenant's Share from time to time to make reasonable allowances for differences in the services provided to or enjoyable by the other occupiers of the Estate.
- 4 The Tenant shall pay the Estimated Service Charge for each Accounting Year to the Landlord in advance by equal installments on the Quarter Days (the first payment for the period from and including the date of this Lease to (but excluding) the next Quarter Day to be made on the date of this Lease); and
 - 4.1 If the Landlord's Surveyor does not notify an estimate of the Service Charge for any Accounting Year the Estimated Service Charge for the preceding Accounting Year shall apply; and
 - 4.2 Any adjustment to the Estimated Service Charge after the start of an Accounting Year shall adjust the payments on the following Quarter Days equally.
- 5 As soon as practicable after the end of each Accounting Year the Landlord shall either:
 - 5.1 (in relation to the Services provided by the Landlord) serve on the Tenant a summary of the Service Cost and a statement of the Service Charge certified by the Landlord's Surveyor which shall be conclusive (save in the case of manifest error); or

- 5.2 (where any of the Services are provided by the Management Company) provide the Tenant with a copy of the statement and other information prepared by the Management Company in relation to the Service Cost.
- 6 The difference between the Service Charge and the Estimated Service Charge for any Accounting Year (or part) shall be paid by the Tenant to the Landlord within fourteen days of the date of the statement for the Accounting Year, or allowed against the next Estimated Service Charge payment, or after the expiry of the Term refunded to the Tenant.
- 7 The Tenant shall be entitled by appointment to inspect the accounts maintained by the Landlord and the Landlord's Surveyor relating to the Service Cost and supporting vouchers and receipts or, where any Services are provided by the Management Company, the accounts provided by the Management Company to the Landlord in relation to the Services, at such location as the Landlord reasonably directs.
- 8 Any disagreement between the parties relating to the Service Charge shall be referred to Arbitration.
- 9 The Landlord shall be responsible for payment of the proportion of the Service Costs attributable to all other lettable parts of the Estate which are unlet or in respect of which the tenant thereof is not liable to pay any Service Charge.

Part II - Estate Services

In relation to the Estate, the provision of the following services or the Costs incurred in relation to:

1 The Common Areas

Repairing, maintaining and (where appropriate) cleaning, lighting and (as necessary) altering, renewing, rebuilding and reinstating the Estate Common Areas.

2 Conduits

The repair, maintenance and cleaning and (as necessary) replacement and renewal of all Conduits within the Estate Common Area.

3 Plant and machinery

Hiring, operating, inspecting, servicing, overhauling, repairing, maintaining, cleaning, lighting and (as necessary) renewing or replacing any plant, machinery, apparatus and equipment from time to time within the Estate Common Areas or used for the provision of services to the Estate and the supply of all fuel and electricity for the same and any necessary maintenance contracts and insurance in respect thereof.

4 Signs

Maintaining and (where appropriate) cleaning and lighting and (as necessary) renewing and replacing the signboards, all directional signs, fire regulation notices, advertisements, bollards, roundabouts and similar apparatus or works.

5 Landscaping

Maintaining, tending and cultivating and (as necessary) re-stocking any garden or grassed areas including replacing plants, shrubs and trees as necessary.

6 Common facilities

Repairing, maintaining and (as necessary) rebuilding as the case may be any party walls or fences, party structures, Conduits or other amenities and easements which may belong to or be capable of being used or enjoyed by the Estate in common with any land or buildings adjoining or neighbouring the Estate.

7 Outgoings

Any existing and future rates, taxes, charges, assessments and outgoings in respect of the Estate Common Areas or any part of them except tax (other than VAT) payable in respect of any dealing with or any receipt of income in respect of the Estate Common Areas.

8 Statutory requirements

The cost of carrying out any further works (after the initial construction in accordance with statutory requirements) to the Estate Common Areas required to comply with any statute.

9 Management

9.1 The proper and reasonable fees, costs, charges, expenses and disbursements (including irrecoverable VAT) of any properly qualified person properly employed or retained by the Landlord and/or the Management Company for or in connection with surveying or accounting functions or the performance of the Services and any other duties in and about the Estate relating to the general management, administration, security, maintenance, protection and cleanliness of the Estate.

9.2 The proper and reasonable fees and expenses of the Landlord and/or the Management Company in connection with the management of the Estate.

10 Enforcement of Regulations

The reasonable and proper costs and expenses incurred by the Landlord and/or the Management Company in enforcing the rules and regulations from time to time made pursuant to paragraph 3 of Part II of the First Schedule provided that the Landlord and/or Management Company shall use all reasonable endeavours to recover such costs and expenses from the defaulting party and provided further that there shall be credited against the Service Cost any such costs recovered.

11 Insurances

Effecting such insurances (if any) as the Landlord and/or the Management Company may properly think fit in respect of the Estate Common Areas the plant, machinery, apparatus and equipment as referred to in paragraph 3 above and any other liability of the Landlord and/or the Management Company to any person in respect of those items or in respect of the provision of the Services.

12 Generally

Any reasonable and proper costs (not referred to above) which the Landlord and/or the Management Company may incur in providing such other services and in carrying out such other works (other than the initial construction of the Estate) as the Landlord and/or the Management Company may reasonably consider to be reasonably desirable or necessary for the benefit of occupiers of the Estate and in accordance with the principles of good estate management.

13 VAT

Irrecoverable VAT on any of the foregoing.

**Annexure 1
Estate Signage Policy**

(see over)

Estate Signage Policy

The Tenant will not erect or display or permit to be erected or displayed any advertisement, signs, hoardings or notices which are visible from the outside the Premises except as follows:

- one low level, free standing sign constructed in durable materials compatible with the main business park signage whose position on the Premises is to have the prior written approval of the Landlord (but is anticipated to be in the location Indicated by a black dot on the plan annexed to this Lease);
 - not more than one estate agent's sign on the curtilage of the building forming part of the Premises as and when the same may be required;
 - any signs which may from time to time be required by law;
 - such discreet and suitable directional signs within the Premises as may be required by the Tenant, subject to the prior written approval of the Landlord; and
 - external security cameras may be located on the Premises, subject to the prior written approval of the Landlord.
-

**Annexure 2
Method Statement**

(see over)

CAPITAL BUSINESS PARKS

Globeside, Marlow

Method statement for contractors' access to Phase 2 construction.

Construction access for Phase 2 will be via the Access Road as defined in the Lease between Capital Business Parks Globeside Limited and Icon Clinical Research (UK) Limited for Unit 2 Globeside Business Park.

For the construction period, the Access Road will be clearly marked with appropriate signage. Access to the site will be limited to this defined route.

No parking for contractors or other construction vehicles will be allowed on the Phase 1 demise at any time and such vehicles shall not remain stationary and or queue on the road immediately in front of Unit 2 Globeside Business Park.

Throughout the contract period, the Access Road will be kept clean on a daily basis and should any area of the access road or any other part of the estate be damaged or soiled, this will be repaired and cleaned by the contractor as soon as practically possible.

Construction traffic shall not exceed 10 mph and shall particularly relate to heavy construction vehicles.

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APPENDICES

APPENDIX I - SITE LAYOUT & LANDSCAPING PROPOSALS

APPENDIX II - two globeside BUILDING PLANS

DEVELOPMENT SUMMARY

The Globeside project at Marlow is a phased development comprising five office buildings organised around a public space or 'boulevard' and a semi-industrial unit on the periphery of the site.

The central area is focused on the pedestrian; a collection of soft and hard landscape materials define a series of spaces or routes in which occupiers can gather. A selection of hard landscaping details starting at the entry to the boulevard will be designed to slow vehicles, giving priority to pedestrians.

A similar architectural language is used on all of the buildings so that the development appears structured and unified. However, to avoid monotony the different plan forms allows a variety of treatments where the elevations and roof forms respond to the functions within. All front facades are articulated with a recess marking the glazed entrances. Standing above, supported on two slender columns are extended canopies, which also shelter the plant room. The impressive reception areas are three levels high and animated by walkways at higher levels.

The facades comprise predominantly of clay terracotta tiles to reflect the warmth and depth of appearance of Marlow with windows punctuated with recessed vertical joints to distinguish them as modern offices. The roof design is simple in form, comprising a raised seam metal sheet finished in a dark grey rising from the recessed eaves to the ridge with a low pitch. The escape stairs are external and partially enclosed in metal louvres to mask the staircase and to provide the necessary weather protection.

The buildings are facing the boulevard while the main car park areas extend behind where significant areas of soft landscaping reduce the visual impact of the parked vehicles and associated hard standing.

13 STRUCTURAL

13.1 General

The structures consist of 3 no. reinforced concrete framed office buildings.

13.2 Substructure

The foundations for the office buildings consist of mass concrete pad footings and the office building ground floor slabs are on a compacted sub-base.

13.3 Superstructure

The superstructure for the office buildings are of reinforced concrete frame construction with either 300mm or 350mm thick flat slabs. The RC columns are circular with the perimeter columns set back 750mm from the face of the building. The false mansard roof and roof plant rooms are framed in structural steel.

The internal and external staircases, atrium walkways and canopies are framed in steel.

Loading

The imposed loads are generally in accordance with BS6399: Part1: 1996 as noted below:

Imposed Loads

General offices areas	4.0 kN/m ²
Lightweight partitions	<u>1.0 kN/m²</u> 5.0 kN/m ²
Plant spaces	7.5 kN/m ² (specific plant loads used if greater)
Roofs	0.6 kN/m ²
Staircases/Corridors	4.0 kN/m ²

14 ARCHITECTURAL

14.1 Building Envelope

External Envelope

The external envelope consists of a rain screen construction comprising an outer skin of terracotta tiles covering structural insulated panels. The building is organised on a 1500mm planning grid which is expressed on the facade at three meter intervals in a primary grid of aluminium extruded channels and window mullions midway. Extruded channels run horizontally dividing the facade at each storey.

The windows are aluminium framed, thermally broken double glazed units. They are protected from the solar gain on the South and West facades by brise soleil.

Curtain Walling, Windows and Doors

The front facade of the triple height reception is a glazed curtain wall. It comprises fully drained aluminium frames with high performance sealed double glazing units. The curtain walling spans three storeys with additional support from narrow vertical steel fins finished in matching grey.

The top sections of the glazing running full width of the entrance of globeside two are etched with stripes in diminishing pattern to control the solar glare but maintain excellent views.

The reception is entered through revolving doors. They are entirely glazed with brushed stainless steel fittings. The side doors are fully glazed aluminium framed units.

Window Cleaning System

All glazed areas are to be cleaned by means of a mobile "cherry picker".

Roof

The main roof is a pitched 'warm roof' construction comprising composite cladding panels.

The plant room is set between the pitched roofs with the open side hidden behind propriety polyester powder coated louvre screens. The plant room floor has a cold deck mastic asphalt finish with paving slabs and walkways.

External Staircases

Propriety louvre blades panels and flat pressed metal panels screen the emergency staircases. They are both finished in polyester powder coated aluminium, coloured to match the metal work.

14.2 Interior Materials and Finishes

Ground Floor Reception Area

The building is accessed by an all glass revolving door or a wide glass door leaf for people with impaired mobility. The floor area comprises a high quality black ceramic tile with mat wells at each entrance. High grade Modulus Granite carpet tiles are fitted to the seating area and reception.

Side walls comprise cherry wood panels framed as the external facade with colour matched steel framed windows.

The main internal facade is finished simply in white emulsion to provide a back drop for the rich adjoining facades and allows luminaires to wash the wall with light.

Suspended steel bridges with metal balustrading finished in white provide access through the space from the metal stair to the offices at either side of the full height atria and are carpeted with high grade Modulus Granite tiles.

A cherry wood baluster runs continuously up the metal stair and along the bridge balustrading.

The ceiling is lit from below and therefore free of fittings and finished in white emulsion.

Lift Lobby Areas

The lift lobby is plastered and finished with a white emulsion paint plaster. The floor is tiled to match the reception area at ground floor with high grade Modulus Granite carpet tiles at upper levels. The ceiling is suspended plaster board with recessed spot lighting.

The lift doors are stainless steel with matching reveals and architrave. The lift cars have a capacity of 13 persons and have a grey facing on steel with full height mirror. The floor matches the lobby tiles and the ceiling is curved with indirect lighting.

Staircases

The steel staircase leading to all floors is finished in white with cherry wood handrails and carpeted with high grade Modulus Granite tiles.

The treads and landings are tiled to match the reception floor up to the first floor and Modulus Granite carpeted with high grade tiles above.

Typical Office Areas

The walls are finished in white emulsion, with concrete columns painted white with high build light textured finish. Skirtings are white matt oil painted softwood.

The flooring throughout the office area is a fully accessible medium grade raised floor with minimum 150mm clearance, supplied by Hewetsons.

The suspended ceiling comprises a propriety, smooth finished GRG tile 500x500mm to co-ordinate with the 1500mm planning grid, lay-in recessed modular suspension grid. A plasterboard trim runs all along the perimeter and around columns to avoid any cut tiles.

The doors to escape stairs are external grade hardwood painted in white to match the walls.

Toilets and Shower Rooms

The floors are finished in black ceramic tiling with coved skirtings to match. The ceilings are white plasterboard with GRG tiles for partial access. The luminaires are recessed spotlights in the ceiling and wall mounted uplights recessed in the back wall of the toilets cubicles.

All doors are finished in cherry with the brushed stainless steel ironmongery.

The walls to the toilets and lobbies have white vinyl silk emulsion paint finish.

The toilet cubicle partitions comprise full height polar white division panels and hard wood cherry veneer facing doors with stainless steel footplates and end caps.

Two showers are provided at ground floor level in both buildings A & D and have walls fully tiled in glazed vitrified tiles matt white. The trays are in Resin Stone with glazed shower screens framed in anodised silver.

The vanity units comprise a 'floating' Rosso Multitaar granite slab with undersung basins. A full height mirror is fixed behind.

Soap dispensers, toilet paper holders and handrails are finished in stainless steel to match the ironmongery.

Floor Heights

Finished floor to ceiling heights are 10.5m to the main reception area, 2.75m to the office areas with 2.5m to the toilets.

15.1 Air Conditioning Services

Design ParametersInternal Dry Resultant Temperature

Offices	23 A 1.5°C
<u>Atrium/reception (ground floor)</u>	- 24 A 2 °C
Toilets	- 18°C min
Staircase, Circulation, etc. (apart from escape stairs)	- 18°C min

Humidity

Internal Relative Humidity	- No control
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External Conditions

External: Summer	- 28°C dry bulb
	- 21°C wet bulb
Winter	- -2°C saturated (fabric)
	- -5°C saturated (ventilation)

Sound Levels

Internal Offices	- NR35 to 38
Internal Toilet/Staircases	- NR40
External	- Accord with Local Statutory Requirements

Ventilation Rates

<u>Offices</u>	- 16 litres per second per person of outside air based on 1 person per 10 m ²
Toilet Extract	- 10 air changes per hour

Internal Heat Gains (excluding solar)

Lighting Gains	- 12W/m ²
Equipment/Machine Gains	- 25W/m ²
Occupants	- 1 person/10 m ² a 90w/person (sensible) 50w/person (latest)

Glass Solar Performance

Lighting Transmittance	-	73%
Shading Co-efficient	-	0.60
Glazing 'U' Value	-	1.4W/m ² K
Windows 'U' Value	-	1.7 W/m ² K

Occupancy

Offices	-	1 person per 10m ² of nett lettable area
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Design Constraints

Plant is located in roof the Plant Room.

An allowance has been provided for the installation of future tenant's plant as follows:

two globeside 20m² internally; 15m³ externally

Square diffusers, blanked to suit directional air distribution with a white finish are installed within the internal office ceiling grid generally located to suit the anticipated module arrangement.

The perimeter offices are served by adjustable linear slot diffusers.

15.2 Heating

The atrium is provided with trench floor heaters beneath the full height glazing to offset down draughts. All other space heating requirements are met by the air conditioning system.

The building heating requirement is provided by 2no conventional gas fired boilers. Each boiler is capable of coping with the continuous running load of the building.

The installation is complete with flues, run and stand-by circulating pumps, pressurisation unit and all necessary safety devices.

15.3 Ventilation

An air handling unit complete with louvres, insect screen, panel & bag filters, coils, fan sections and attenuators is located within the roof plant room/area.

Outside air is filtered and cooled or tempered and then supplied via a system of ductwork to the offices and atrium spaces.

Duty/Standby toilet extract fans are located in the roof plant room/area.

Extract air is exhausted via a system of low velocity ductwork, connected to ceiling mounted extract valves positioned over each cubicle/urinal.

The mechanical ventilation system is complete with volume control dampers to facilitate balancing and fire dampers where ducts pass through fire compartment structures.

15.4 Air Conditioning System

A 4-pipe fan coil system is provided to serve the offices. The reception ground floor is comfort cooled/heated by compact air handling units.

Office fan coils are located in the ceiling void. FCU controls are suitable for amendment by the tenant as required for operation with room mounted temperature sensors.

A dual refrigerant circuit air-cooled liquid chiller is located in the root plant area. The installation is complete with run and stand-by chilled water circulating pumps, pressurisation unit and all necessary safety devices.

All chilled water pipework is insulated & vapour sealed relevant to the temperature of the contained medium and the surrounding ambient. Insulation is mineral wool with aluminium foil finish.

15.5 Controls

All of the main heating, cooling and ventilation equipment and controls are placed under the dictates of the automatic control system.

All of the heating and ventilation equipment is under the dictate of the control system, to provide programmable year round automatic operation with day omit facility and temperature set back and frost protection.

Plant operation is on a duty sharing basis where duty/standby or dual plant is provided.

Activation of fire alarm system de-energises all mechanical services plant and manual override of the extract fan is facilitated from Reception for use by the Fire Services.

Fan coil units are each controlled by a return air thermostat. In the event of tenant cellularisation the control arrangement will permit the installation of room temperature sensor/set point adjusters.

15.6 Plumbing Installation

The building and all water supply outlets are fed directly from the mains.

Hot Water supply to toilets is provided by local unvented electric water heaters. The supply pipework is trace heated up to the outlet where necessary to comply with the HSE guidelines to maintain the water temperature and as an anti-legionella measure. Lime fighters are fitted prior to the heaters to reduce the build up of scale in the vessel.

Water supply and drainage branch connections from the mains are provided at each floor level to enable the tenant to supply a vending/tea point if required.

All domestic water services have been flushed and chlorinated.

16 ELECTRICAL SERVICES

16.1 Mains and Sub Mains Distribution

Separate supplies are provided from the main low voltage distribution switchboard located in an electrical switchroom at roof plantroom level, to the following:

Office Floor - Power and Lighting
Circulation Areas (Landlords) - including Toilet Cores
Lifts
Mechanical Plant
Fire Alarm
External Lighting

The building power supply allocation is as follows:

two globeside - 481 kVA

Separate supplies are provided from the main low voltage switchboard to two distribution boards serving each floor, providing a total of 50% spare capacity per floor. Space for sub-metering is provided such that each floor can be sublet and metered separately.

16.2 Small Power

Double switched outlet sockets are installed for cleaning and maintenance in the Entrance/Reception area, staircases and plant room, with a fuser spur for hand driers in toilets.

Socket outlets and other power requirements are provided in the lift shafts.

Voice/Data Installations

Voice and data cabling is excluded. Such installation to be undertaken by the occupier, using the floor void. Vertical routes through the building are allocated for this facility.

16.3 Internal Lighting

Office Lighting

Office areas are illuminated with 500 x 500 modular recessed luminaires to provide an average of 400 lux at desk top level.

Each light fitting is installed with 3 metre long flexible cable connections to enable localised repositioning within the ceiling grid without disconnection.

Light Switching

Light switching is generally flush mounted grid switch assemblies. Two way switching is provided on the stairways. Toilet and core areas are each switched separately.

The office lighting is arranged to enable central switching via a multi-gang switch with provision to adapt to individually switched cellular partitioned offices and corridors.

16.4 Emergency Lighting

Emergency lighting is positioned in common areas and stairways to provide illumination for three hours. The system covers all escape routes, notational corridors and other areas.

16.5 Fire Alarm

The installation comprises electronic sounders, automatic smoke/heat detectors, manual call points, relays, wiring, control panel etc all as necessary to provide coverage fire detection. The installation is provided with all necessary interfaces to facilitate address from a building management system (BMS).

The installation is interfaced with mechanical controls for shut down in the event of fire.

16.6 Data and Telecommunications

Data and telecommunication cabling to be by occupier.

The site is provided with three separate incoming telecommunication ducts which enter each building via three 150mm diameter ducts. One of the incoming ducts has been provided by BT, whilst the other two are currently available for alternative suppliers. Two entry points to each building are provided for security of supply.

Underfloor conduits are installed to Reception desk and visitors seating positions terminating in a proprietary floor outlet box. Final wiring to be by occupier.

Wireways for future BMS installations are provided.

Conduit systems are provided linking the main electrical service shaft main rotating door and Reception desk to facilitate the installation of power and any requirements for door access and door monitoring CCTV installation by occupier.

16.7 Lightning Protection

The building is protected by a lightning protection system.

16.8 External Lighting to Building/Car Park

Fully automatic lighting is provided by roof uplighters and controlled by a time switch and solar cell arrangement to illuminate the 'top hat canopy'.

Car parking and pedestrian areas at ground level are provided with painted column mounted anti-corrosive vandal resistant luminaries.

17 PASSENGER LIFTS

Two 13-person traction lifts in compliance with ENB1/BS 5655 are provided to serve each of the buildings. Each travel from ground to second floor.

Each lift has a door clearance of 800mm and a clear door height of 2100mm. Speed: 1.0m/s

Waiting time: <35 seconds

The lifts are as manufactured by Kone Lifts Ltd.

18 EXTERNAL WORKS

Drainage

Foul and surface water drainage are connected to the existing sewers in Chertsey Road.

Refuse Collection

Separate refuse collection points are provided for each building.

19 SERVICE PROVIDERS

Water/Drainage: Authority	Thames Water The Business Centre PO Box 83 Brentford Middlesex TW8 OEE Telephone 0171 713 3884
Gas: Incoming Service and meter	Transco Uxbridge Road Slough Berkshire SL2 5NA
Gas Provider:	To be selected
Telephone:	British Telecom Northern Home County Room 173 West Traction Control Reading trunk ATE Basingstoke road Reading RG2 OBN tel 0585 5836461
Electricity Supply:	Southern Electric PO Box 123 Slough SL1 2PF Tel 0845 7444555

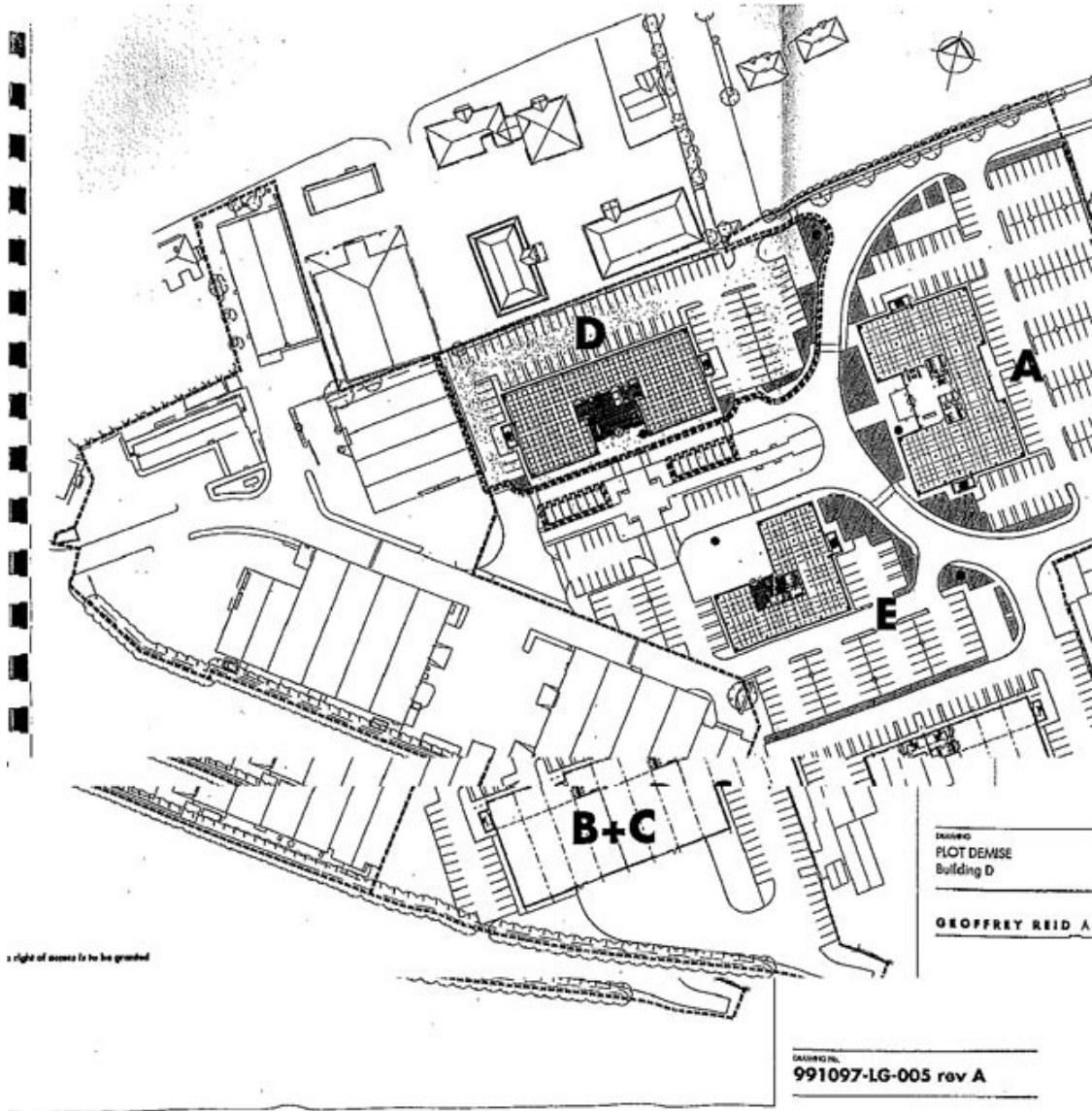
20 DEVELOPMENT TEAM

Architect	Geoffrey Reid Associates 42 Portland Place London W1N 3DG
Structural Engineer	Oscar Faber Consulting Engineers 23 Middle Street London EC1A 7JD
Services Engineer	Oscar Faber Consulting Engineers Bush House Prince Street Bristol BS14QD
Employer's Agent	AYH plc 40 Clifton Street London EC2A 4AY
Quantity Surveyor	AYH plc 40 Clifton Street London EC2A 4AY
Planning Supervisor	AYH plc 40 Clifton Street London EC2A 4AY
Landscape Architect	Randle Siddeley Associates 2 Palmerston Court Palmerston Court Palmerston Way London SW8 4AJ
Main Contractor	Bryant Construction Cranmore House Cranmore Boulevard Solihull West Midlands

APPENDICES

APPENDIX I
SITE LAYOUT & DEMISE

[SURVEY]



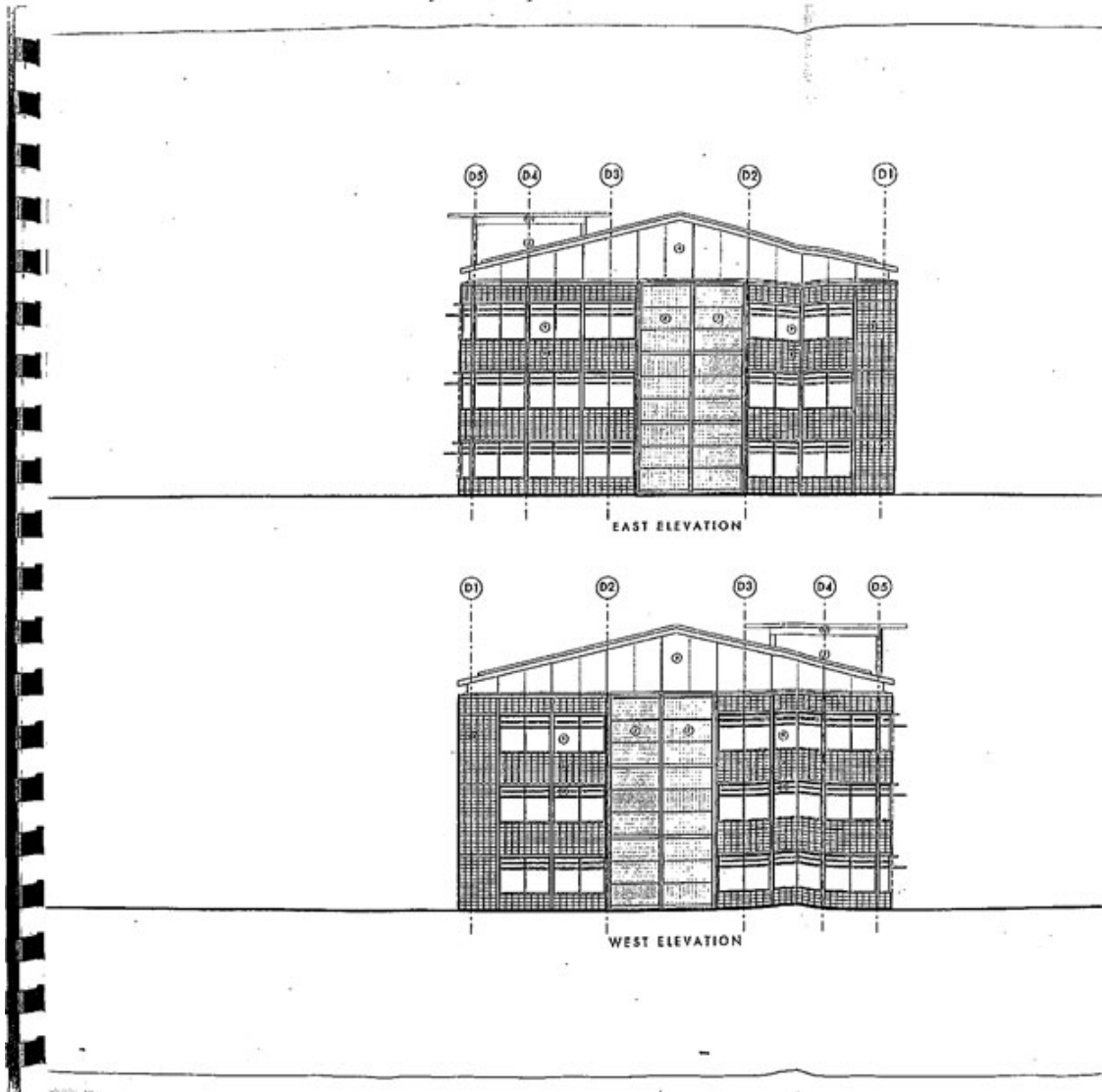
a right of access to be granted

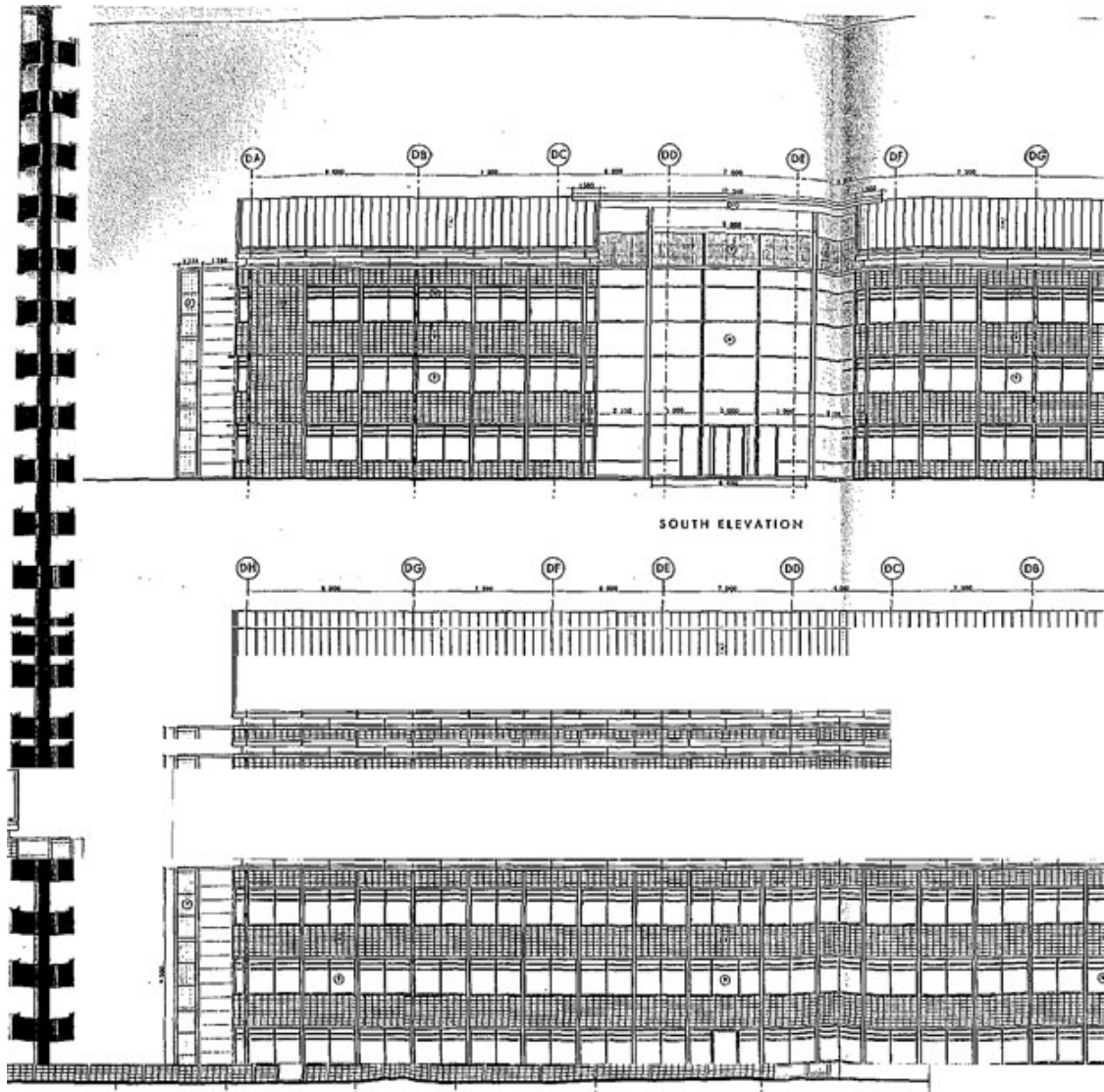
APPENDIX II

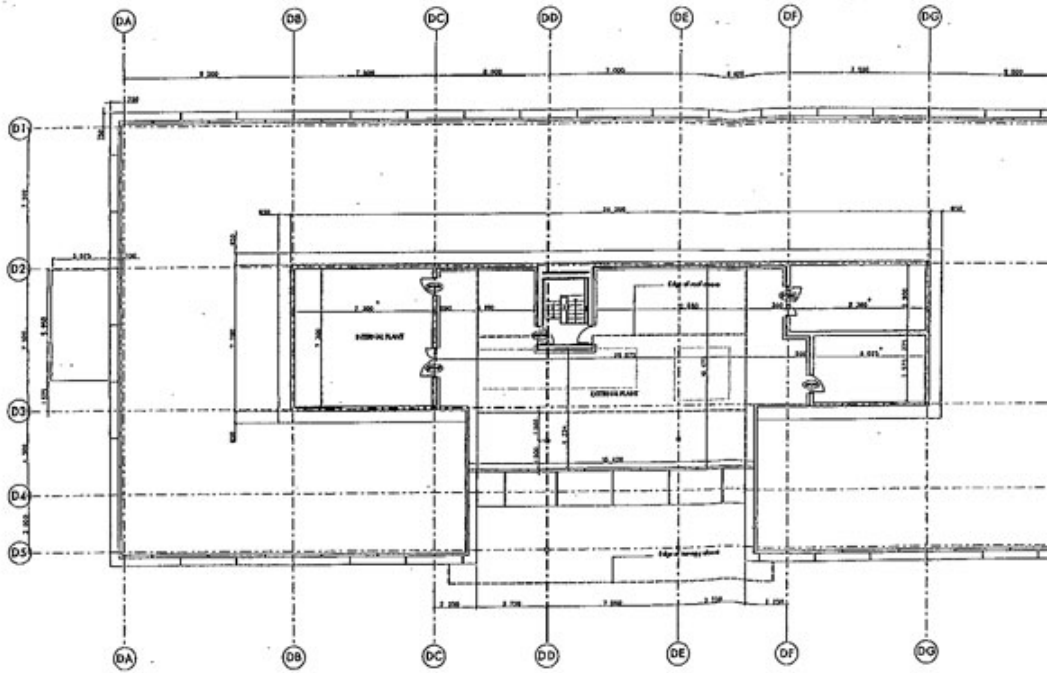
two globeside

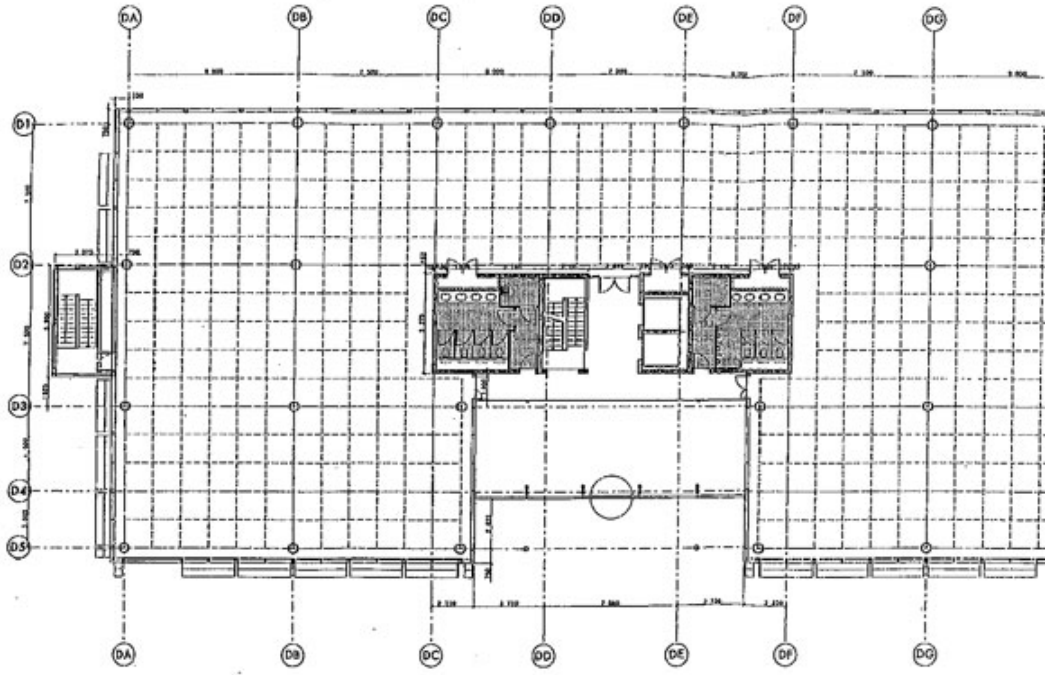
BUILDING PLANS

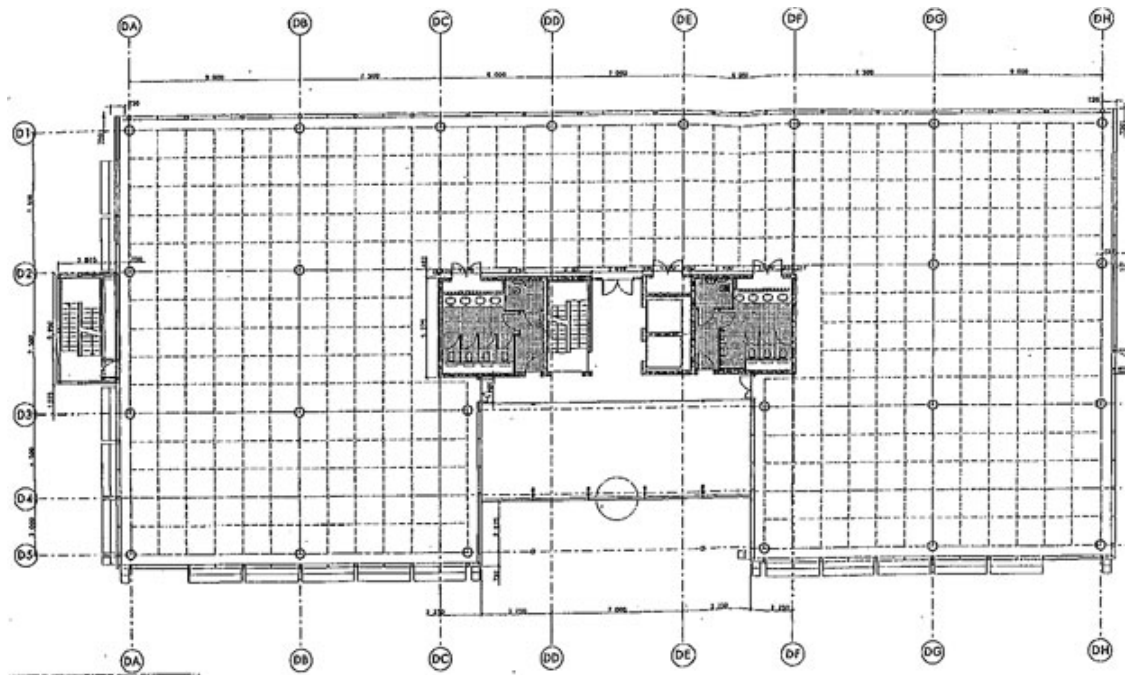
[SURVEY]











DRAWING ATTENDANCES

This drawing has been prepared using information received unless otherwise stated. It is the responsibility of the client to ensure that the information is correct and that the drawing is used for the intended purpose.

NO.	REVISION	BY
01	ISSUED FOR PERMIT	JK
02	ISSUED FOR CONSTRUCTION	JK

1. THIS IS A PRELIMINARY DRAWING AND SHOULD NOT BE USED FOR CONSTRUCTION WITHOUT THE WRITTEN APPROVAL OF THE ARCHITECT.
 2. THIS DRAWING IS THE PROPERTY OF THE ARCHITECT AND SHOULD NOT BE REPRODUCED OR COPIED WITHOUT HIS WRITTEN PERMISSION.
 3. THE ARCHITECT ASSUMES NO LIABILITY FOR ANY DAMAGE OR LOSS OF ANY KIND ARISING FROM THE USE OF THIS DRAWING.

PRELIMINARY REVISIONS:

NO.	DATE	REVISION	BY
1	02.11.99	ISSUED FOR PERMIT	JK

SCALE: 1:100
 DATE: 02.11.99
 DRAWN BY: JK
 CHECKED BY: JK

Annexure 4
Supplemental Lease

Dated

2001

CAPITAL BUSINESS PARKS GLOBESIDE LIMITED (1)

and

ICON CLINICAL RESEARCH (UK) LIMITED (2)

and

ICON PLC (3)

SUPPLEMENTAL LEASE

of land adjoining
Two Globeside Business Park Marlow Bucks

LINKLATERS
One Silk Street
London EC2Y 8HQ
Telephone: (44-20) 7456 2000
Facsimile: (44-20) 7456 2222

Ref: ALES

This Lease is made the day of

between

- (1) **CAPITAL BUSINESS PARKS GLOBESIDE LIMITED** (Company Number 3808246) whose registered office is at Portland House Stag Place London SW1E 5DS (the "**Landlord**");
- (2) **ICON CLINICAL RESEARCH (UK) LIMITED** (Company Number 02541764) whose registered office is at Kings Court, the Broadway, Winchester, Hampshire, SO23 9BE (the "**Tenant**");
- (3) **ICON PLC** (Company Number 145835) whose registered office is at South County Business Park, Leopardstown, Dublin 18, Ireland (the "**Guarantor**").

Whereas

- 1 This Lease Is SUPPLEMENTAL to a lease (the **Principal Lease**) dated 2001 made between the Landlord (1) the Tenant (2) and the Guarantor (3) whereby all those premises more particularly described in the Lease Particulars to the Principal Lease were demised by the Landlord to the Tenant for a term of years commencing day of 2001 and expiring on day of 2017 subject to the covenants restrictions and other matters therein contained;
- 2 The Landlord and the Tenant have agreed that the Landlord will grant to the Tenant a lease of land adjoining the south-western boundary of the premises demised by the Principal Lease (the **Premises**) on the terms contained in the Principal Lease save as expressly varied herein.

Now This Deed Witnesses as follows:- .

- 1 The Landlord HEREBY DEMISES to the Tenant ALL THOSE premises more particularly described in the First Schedule to this Lease (the **Additional Premises**) TOGETHER WITH the rights set out in Part 1 of the First Schedule to the Principal Lease and In Part I of the Second Schedule to this Lease but EXCEPT AND RESERVING unto the Landlord and the Management Company as referred to in the Part II of the First Schedule to the Principal Lease and EXCEPT AND RESERVING as mentioned in Part II of the Second Schedule to this Lease TO HOLD the same SUBJECT to and with the benefit of the matters to which the Premises were expressed to be subject to in the Principal Lease so far as they relate to or apply to the Additional Premises AND SUBJECT to all other rights easements quasi-easements and privileges to which the Additional Premises are or may be subject UNTO the Tenant from the date hereof for the residue of the term of years granted by the Principal Lease YIELDING AND PAYING the rent of a peppercorn it demanded and SUBJECT to the provisions covenants and conditions contained in the Principal Lease (including for the avoidance of doubt the proviso for re-entry) as amended by Clauses 1 and 2 of this Lease as though the same were set out herein mutatis mutandis and so that:
 - 1.1 the rents reserved by the Principal Lease shall henceforth be payable and issue out of the Premises and the Additional Premises together and the covenants conditions and other provisions contained in the Principal Lease shall apply in full force and effect to the Premises and the Additional Premises together as they originally applied to the Premises and
 - 1.2 every reference in the Principal Lease to the Premises shall henceforth be read and construed as a reference to the Premises and the Additional Premises together
-

1.3

1.3.1 The right to re-enter conferred by the proviso for re-entry contained in the Principal Lease shall be exercisable by the Landlord on any failure by the Tenant to observe and perform any of its obligations under this Lease as well as in the circumstances provided for in the Principal Lease.

1.3.2 For the avoidance of doubt if there is any of the events in Clause 8.1 of the Principal Lease occur then the Landlord shall be entitled to enter the Additional Premises and forfeit this Lease in the same way as if there were a breach of any of the Tenant's covenants in relation to the Additional Premises under this Lease.

AND the Principal Lease Is hereby varied to give effect to this Clause 1.3

2 The Tenant HEREBY COVENANTS with the Landlord:

2.1 to pay the rents reserved by the Principal Lease and any Value Added Tax thereon where appropriate on the days and in the manner provided in the Principal Lease;

2.2 without prejudice to the provisions as to alienation contained in the Principal Lease not to assign or underlet the Additional Premises separately from the Premises and only in accordance with the provisions of Clause 4.16 of the Principal Lease; and

2.3 to observe and perform the agreements covenants and stipulations contained or referred to in the documents referred to in Part III of the Principal Lease so far as any of the same are still subsisting and capable of taking effect and relate to the Additional Premises and to keep the Landlord indemnified against all actions proceedings costs and claims and demands in any way relating thereto.

2.4 The Tenant HEREBY COVENANTS with the Landlord to perform the covenants set out in Clause 4 of the Principal Lease insofar as they relate to the Additional Premises.

3 The Landlord and the Tenant HEREBY COVENANT throughout the Term that they will respectively perform and observe the several covenants provisos and stipulations contained in the Principal Lease as amended by Clauses 1 and 2 of this Lease as if the same covenants provisos and stipulations had been herein repeated in full with such amendments only as are necessary to make them applicable to this demise.

4 The Guarantor HEREBY COVENANTS with the Landlord to observe and perform the covenants set out in the Third Schedule to the Principal Lease insofar as they relate to the Additional Premises.

In **Witness whereof** this document has been executed as a Deed the day and year first before written.

**The First Schedule
(Particulars of the Additional Premises)**

All that land at Globeside Business Park Marlow Buckinghamshire being part of the land registered at HM Land Registry under Title Number BM244464 and which is more particularly delineated and shaded yellow on the plan annexed hereto.

[Landlord to confirm extent of demise]

**The Second Schedule
(Exceptions and Reservation out of the demise)**

Part I Easements and Other Rights Granted

There are granted to the Tenant (in common with others authorised by the Landlord):

- 1 The right to use the Access Road and the Estate Common Areas (both as defined in the Principal Lease) for access to and from the Additional Premises;

Part II Exceptions and Reservations

There are excepted and reserved to the Landlord and the Management Company (as defined In the Principal Lease) (and all others having like rights or authorised by them):

- 2 Free and uninterrupted use of all existing and future Conduits which are in the Additional Premises end serve the Estate or the Adjoining Property together with the right on reasonable prior written notice at all reasonable times (except In cases of emergency where no notice is required and works may be carried out any time) to lay install maintain reroute and connect into any additional or replacement Conduits in under or over the Additional Premises to serve the Additional Premises the Estate or adjoining Property;

AGREEMENT OF LEASE

BETWEEN

**MSM REALTY CO., LLC
DAVRICK, LLC and
SHOLOM BLAU CO., LLC (“LANDLORD”)**

AND

ICON LABORATORIES, INC. (“TENANT”)

PREMISES: 123 SMITH STREET, FARMINGDALE, NEW YORK

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EXHIBITS

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Exhibit "B" - Survey
Exhibit "C" - Building Plans
Exhibit "D" - Design and Construction Schedule
Exhibit "E" - Form of Non-Disturbance Agreement
Exhibit "F" - Letter of Credit
Exhibit "G" - Guaranty

AGREEMENT OF LEASE

AGREEMENT OF LEASE (this "Lease") dated as of November 29, 2002 between **MSM REALTY CO., LLC, Tenant-In-Common**, a New York limited liability company, owning a 46.77% interest; **DAVRICK, LLC, Tenant-In-Common**, a New York limited liability company, owning a 34.77% interest; and **SHOLOM BLAU CO., LLC, Tenant-In-Common**, a New York limited liability company, owning an 18.46% interest; all having an address c/o Marcus Property Management Corp., with offices at 350 Motor Parkway, Suite 300, Hauppauge, New York 11788, collectively, as landlord ("Landlord") and **ICON LABORATORIES, INC.**, a Delaware corporation, with offices at 260 Smith Street, Farmingdale, New York 11735, as tenant ("Tenant"). (Landlord and Tenant are sometimes collectively referred to as the "parties" or individually as a "party").

1. Demised Premises: Landlord hereby demises and leases to Tenant, and Tenant leases from Landlord, the land which is described in Exhibit "A", which land is designated as District 0100, Section 002.00, Block 01.00, Lot 011.001 and District 0400, Section 267.00, Block 02.00, Lot 025.000 on the Suffolk County Tax Map (the "Land"), as shown on the survey attached hereto as Exhibit "B", together with the Improvements constructed or to be thereon, including a building which will consist of approximately 115,000 square feet (the "Building"), with all appurtenances thereto (collectively referred to as the "Demised Premises"). The term "Improvements" means any and all structures or improvements now or hereafter created or situated on the Land, including the Building, if applicable, foundations and footings thereof, any and all fixtures, equipment and machinery of every kind and nature whatsoever now or hereafter affixed or attached to the Improvements, but excluding therefrom all of Tenant's trade fixtures, trade equipment and articles of personal property which may be removed without material injury to the Improvements or the Land. The Demised Premises is also known by the street address of 123 Smith Street, Farmingdale, New York.

2. Lease Term: This Lease shall become effective upon execution, which shall be the date of the last signature hereto (the "Effective Date"). However, Tenant shall have and hold the Demised Premises for a term (the "Term") commencing on the Commencement Date (as defined below), and ending on the last day of the month in which the 15th anniversary of the Commencement Date occurs ("Expiration Date"). For purposes hereof, the "Commencement Date" means such date which is fifteen (15) days following the written notice from Landlord to Tenant that the Building Work (as defined in Section "7" below) has been Substantially Completed (as that term is defined in Section "7.D" below). In no event shall possession of the Demised Premises be given to Tenant before the Commencement Date. In no event shall the Commencement Date be deemed to occur prior to the date in Landlord's notice to be sent pursuant to this Section "2", subject to Section "7.F", below. Upon request of either party, the parties shall execute a letter expressing the date of the Commencement Date. The parties agree that unless otherwise provided herein, operative obligations of Tenant with regard to the possession of Demised Premises, such as obligation for repairs and maintenance, shall run from the Commencement Date, unless earlier provided under the terms of this Lease.

3. Contingencies: This Lease is conditioned upon Landlord acquiring fee title to the Land and the Improvements. Landlord represents to Tenant that its affiliate, Schuss Realty Company, has entered into a Purchase and Sale Agreement with QRS 11-17(NY), Inc., current owner of the Land, for the purchase of same and that said agreement is in full force and effect and has not been amended. Tenant acknowledges receipt of a copy of said Purchase and Sale Agreement. If for any reason whatsoever, Landlord has not acquired the Land by March 1, 2003, Tenant, upon ten (10) business days written notice to Landlord, may elect to terminate this Lease in which case such termination will be effective at the expiration of said ten (10) business days if Landlord has not then acquired title to the Land, whereupon any monies paid by Tenant to Landlord pursuant to this Lease shall be returned to Tenant and neither party shall have any other liability to the other. Notwithstanding anything to the contrary contained herein, if the Purchase and Sale Agreement is irrevocably canceled on or before March 1, 2003, then Landlord will have the right, upon ten (10) business days written notice to Tenant to terminate this Lease, in which case any monies paid by Tenant to Landlord pursuant to this Lease shall be returned to Tenant and neither party shall have any other liability to the other.

4. **Rent:** Rent is payable to Landlord at Landlord's address specified in the preamble of this Lease, or at such other address as Landlord may, from time to time designate in writing, in consecutive monthly installments of one-twelfth (1/12) of the rent set forth below ("Fixed Annual Rent"). Each such monthly installment of Fixed Annual Rent shall be due and payable in advance on the first day of each calendar month during the Term commencing on the Rent Commencement Date (as hereinafter defined), except that upon the Effective Date, Tenant shall pay to Landlord the first full month's rent which Landlord shall apply to the first full month of the Term. If the Rent Commencement Date does not fall on the first day of a calendar month, then Tenant shall pay to Landlord upon the Rent Commencement Date the portion of Fixed Annual Rent then due prorated for the balance of the month in which the Rent Commencement Date falls. Fixed Annual Rent shall be payable without any set off or deduction whatsoever. The Fixed Annual Rent is as follows:

<u>Lease Years</u>	<u>Fixed Annual Rent</u>
1st through 5th lease year	\$2,025,750.00
6th lease year	\$2,220,000.00
7th through and including 15th lease years	2.5% annual increases each lease year

Notwithstanding the foregoing, no rent payment shall be due with respect to the period of thirty (30) days from the Commencement Date (the thirty first (31st) day following the Commencement Date being referred to as the "Rent Commencement Date").

5. **Representations and Covenants:**

A. Landlord represents and covenants as follows:

1. **Possession:** On the Commencement Date, the Demised Premises shall be free and clear of all tenancies, whether oral or written, and subject to the terms of this Lease, Tenant shall have sole and actual possession from the Commencement Date through the end of the Term, subject to Landlord performing any obligation required of it under the terms of this Lease. Ownership or lease of the Demised Premises by the IDA (as hereinafter defined) shall not be objected to by Tenant.

2. **Quiet Enjoyment:** Provided that Tenant shall not be in default in any of its obligations beyond any period for the cure thereof, Tenant shall, at all times during the Term, subject to the rights of the holder of any mortgage on the Demised Premises, have peaceable and quiet enjoyment and possession of the Demised Premises without any manner of molestation or hindrance from the Landlord or any other person, firm, corporation, or other entity.

3. This Lease as written contains all of the terms of the agreement entered into between the parties, and the Tenant acknowledges that the Landlord has made no representations, is unwilling to make any representations and has held out no inducements to the Tenant other than those herein expressed.

4. Landlord consists of a group of tenants-in-common owning respective interests in the Demised Premises, each tenant-in-common being a limited liability company duly organized and validly existing under the laws of the State of New York

5. Landlord has full power and authority to execute and deliver this Lease and to perform all of its obligations arising under this Lease and such other documents required hereunder to be executed by Landlord (collectively, "Landlord's Documents").

6. This Lease and Landlord's Documents do not and will not contravene any provision of the organizational documents of Landlord, any judgement, order, decree, writ or injunction, of any provision of any existing law or regulation to which Landlord is a party or bound. The execution and delivery of this Lease and the consummation of the transactions contemplated hereby do not and will not require any consent by and third party.

B. Tenant represents and covenants as follows:

1. Tenant is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware, and is in good standing in the State of New York and is duly authorized to conduct business in the State of New York. Prior to Lease execution, Tenant will submit to Landlord a duly issued certificate of good standing from its state of incorporation and from New York State.

2. Tenant has full power and authority to execute and deliver this Lease and to perform all of its obligations arising under this Lease and such other documents required hereunder to be executed by Tenant (collectively, "Tenant's Documents").

3. This Lease and Tenant's Documents do not and will not contravene any provision of the organizational documents of Tenant, any judgement, order, decree, writ or injunction, of any provision of any existing law or regulation to which Tenant is a party or bound. The execution and delivery of this Lease and the consummation of the transactions contemplated hereby do not and will not require any consent by and third party.

4. If after the date of execution of this Lease, Tenant is required to disclose this Lease in any filing with any governmental agency, it shall notify Landlord of same and diligently request to have the rental information redacted or given confidential treatment.

6. Taxes and Assessments:

A. All real estate taxes, assessments, impositions, PILOT (Payment In Lieu of Taxes) payments and unmetered water and sewer charges, and any other governmental levies, impositions or charges of a similar or dissimilar nature, whether general, special, ordinary, extraordinary, foreseen or unforeseen, which may be levied or imposed upon all or any part of the Land or the Improvements, are hereinafter referred to as "Taxes." To the extent the Taxes are abated due to Industrial Development Agency ("IDA") benefits, such savings shall be passed on to Tenant. Tenant agrees to cooperate as necessary with Landlord in procuring such IDA benefits, including entering into any IDA documents necessary to effect such benefits, such as lease/sublease agreements among the IDA, provided same do not impose any additional material or adverse obligations on Tenant. Tenant shall bear all of its costs associated with such IDA documentation, including, but not limited to, its attorneys fees associated with reviewing such IDA documentation. Landlord shall pay, before interest and penalties accrue, all Taxes assessed against the Demised Premises and all penalties and interest, for the year in which the Commencement Date occurs prorated based on the Commencement Date. Landlord shall also pay before interest and penalties accrue, all special assessments, impositions and all other claims or charges which are a lien on the Demised Premises on the Commencement Date, whether or not such assessments are past due, then due or are thereafter to become due.

B. From and after the Commencement Date, Tenant agrees to pay, before interest and penalties accrue, all Taxes applicable to the Demised Premises. Tenant shall deposit with Landlord, the Mortgagee (as hereinafter defined) or Master Lessor (as hereinafter defined), as the case may be, a tax escrow amount equal to one-twelfth (1/12th) of the then applicable amount as evidenced on the most recent statement of Taxes issued by the local taxing authority, or in any other manner requested by Landlord's Mortgagee, so that Landlord or said Mortgagee, as the case may be, shall have sufficient amounts collected to pay any tax coming due at least thirty (30) days prior to the due date of such Taxes and if said amounts are insufficient to pay the Taxes coming due, Tenant shall be billed by Landlord for the difference (with interest at the Interest Rate, as hereinafter defined, if Landlord incurs interest charges due to Tenant's failure to pay on time). Tenant acknowledges that the Mortgagee or Master Lessor may require additional payments attributable to Taxes in order to establish a tax escrow account, and Tenant agrees to pay such amounts as necessary within ten (10) days of Landlord's notice therefor. Landlord agrees to cap this escrow amount at three (3) months of tax payments. All such payments for the first and last year of the Term shall be prorated between Landlord and Tenant so that Tenant shall only be responsible for that portion of the Taxes which is attributable to the Term. In the event the Taxes includes any special assessment or assessment which may be paid in installments, unless otherwise directed by written notice from Tenant, Landlord shall advise the appropriate governmental agency of its intention to elect payments in installments thereof, and Tenant shall pay only such installments as shall be due and payable during the Term, regardless of when such installment was assessed.

C. In no event shall Tenant be liable for payment of any income, estate, transfer, franchise, excess profit, sales, excise, or inheritance taxes imposed upon Landlord or the estate of Landlord. Tenant shall not pay any income, estate, transfer, franchise, excise, sales, inheritance or excess profits tax levied upon, required to be collected by, or assessed against Landlord, subject to the following sentence. If due to a change in the method of taxation any franchise, income, profit, or other tax, however designated, shall be levied against Landlord's interest in the Demised Premises in whole or in part for or in lieu of any tax which would otherwise constitute Taxes, such change in method of taxation shall be included in the term "Taxes" for purposes hereof.

D. The certificate, advice, bill or receipt of statement issued or given by the appropriate officials authorized or designated by law to issue or give the same or to receive payment of any tax of any payment in lieu thereof shall be prima facie evidence for all purposes of the existence, payment, non-payment or amount of such tax or payment. Landlord's failure to provide such documentation to Tenant shall not eliminate or reduce Tenant's obligation to pay Taxes hereunder.

E. Landlord shall have the right to, and at the request of Tenant shall, contest the amount or legality of any Taxes which it is obligated to pay hereunder and make application for the reduction thereof, or any assessment upon which the same may be based, and Tenant agrees, within ten (10) days of receipt of the request of Landlord, to execute or join in the execution of any instruments or documents necessary in connection with such contest or application. In the event Landlord initiates any tax reduction proceedings (whether at the request of Tenant or not) all monies received by Landlord attributable to Taxes paid by Tenant shall be paid to Tenant after deduction for reasonable third party costs and expenses, including, but not limited to, attorney's fees and disbursements and appraisal fees.

F. The obligation of Tenant in respect of Taxes for the last year of the Term or part thereof and Landlord's obligation to refund any overpayment shall survive the expiration of the Term.

7. Construction of Building:

A. Landlord shall construct the Building substantially in accordance with the plans and specifications for the building (“Building Work”) listed on Exhibit “C” attached hereto and hereby made a part hereof and complete the same within the time frames set forth in Exhibit “D” in a good and workmanlike manner using materials of first quality in accordance with all applicable laws, ordinances, rules and regulations. Landlord shall cause to be created and delivered to Tenant, in accordance with the time frames set forth in Exhibit “D”, (i) Building Schematic Designs, (ii) Building Mechanical, Electrical and Plumbing Drawings and Specifications, (iii) Building Design Development Plans, (iv) Building 75% Construction Documents and (v) Building 100% Construction Documents for the Building which, as completed, are referred to herein collectively as the “Building Plans.” All of the Designs, Drawings, Specifications, Plans and Documents referred to in the preceding sentence other than the Building 100% Construction Documents are collectively referred to herein as the “Preliminary Construction Documents.”

B. The Building Work shall include all work shown on the Building Plans, including (i) construction of approximately 25,000 square feet office space, (ii) modifications to the existing site, (iii) modifications to the exterior facade of the Building, (iv) modifications to the roof membrane, to the extent required in Landlord’s judgement, and (v) construction of (w) a lab area of approximately 32,000 square feet, (x) a kit assembly and receiving area of approximately 21,600 square feet, (y) a warehouse area of approximately 16,000 square feet, and (z) a building support area of approximately 11,000 square feet, all as shown on the Building Plans. Any cost overruns in completing the Building Work shall be Landlord’s responsibility, unless same is caused by the acts or omissions of Tenant or by change orders requested by Tenant.

C. Landlord shall use reasonable speed and diligence to have the Building Work substantially completed in accordance with the time frames set forth in Exhibit “D”. Landlord shall not substantially nor materially deviate from the Building Work shown on Exhibit “C”, without obtaining the prior written consent of Tenant, which consent shall not be unreasonably withheld, conditioned or delayed, provided such changes do not materially adversely affect Tenant’s ability to operate its business in the Demised Premises or materially delay the completion thereof. The failure to have the Building Work substantially completed in accordance with the time frames set forth on Exhibit “D” shall in no way affect the validity of this Lease or the obligations of Tenant hereunder nor shall the same be construed in any way to extend the Term of this Lease. If the Building Work has not been deemed substantially completed within the meaning of Section “7” hereof in accordance with the time frames set forth on Exhibit “D”, Tenant shall not have any claim against Landlord, and Landlord shall have no liability to Tenant, by reason thereof, except as otherwise set forth in this Lease. Tenant expressly waives (a) any right to rescind this Lease under Section 223-a of the Real Property Law of the State of New York (or any other law of like import, now or hereafter in force) and (b) the right to recover any damages resulting from Landlord’s failure to deliver possession of the Demised Premises on any fixed date for any reason whatsoever, except as otherwise set forth in this Lease.

D. The Building Work shall be deemed "Substantially Completed" on the date when (x) Landlord's architect has issued a certificate to the effect that the same has been completed in a good, structurally sound condition, except for minor or insubstantial details which by their nature can be substantially completed within sixty (60) days after the Commencement Date without materially interfering with Tenant's use and occupancy of the Demised Premises or Tenant's ability to conduct its business operations therein; (y) Landlord has obtained a temporary (which cannot be revoked and in such case Landlord will remain obligated to obtain a permanent certificate of occupancy) or permanent certificate of occupancy for the Demised Premises, and any other permits and approvals required from the applicable governmental authorities to enable Tenant to occupy and use the Demised Premises for the conduct of its business in the Demised Premises (exclusive of any business licences which Tenant may be required to obtain in order to operate its specific business), which permits and approvals shall include, limitation, zoning and building code approvals, environmental requirements (other than those specifically required for Tenant's business activities) or on such earlier date on which the Building Work would have been completed, as aforesaid, but for delays (referred to collectively herein as "Tenant Delays") which are: (i) due to special work, changes, alterations or additions required or made by Tenant or made by Landlord on behalf of Tenant even if the same have been approved by Landlord, provided that Landlord delivers notice to Tenant at the time that Tenant requires such special work, changes, alterations or additions that same will result in Tenant Delays, (ii) caused by Tenant through the delay of Tenant (and not caused by or due to Landlord) in submitting any plans and/or specifications, supplying information, or otherwise other than in accordance with the time periods set forth in this Lease or (iii) caused by delay and/or default on the part of Tenant or its agents or contractors including, without limitation, the utility companies and other entities furnishing communications, data processing or other service or equipment; and (z) Landlord shall have delivered to Tenant, a subordination, non-disturbance and attornment agreement in the format set forth in Section "20" below, executed by each Mortgagee, Master Lessor or deed of trust holder, as the case may be, encumbering the Land or any portion thereof. So, for example, if the Tenant Delays result in Landlord's delay of substantially completing the Building Work, then the Commencement Date will be deemed for all purposes of this Lease to be such date that the Commencement Date would have occurred but for such Tenant Delays. In such event, however, even though the Building Work is deemed substantially completed pursuant to the foregoing (and the Term shall have commenced by reason thereof), Tenant shall not (except with Landlord's consent) be entitled to take possession of the Demised Premises until the Building Work has been in fact substantially completed and Landlord shall be obligated to complete the Building Work in accordance with the applicable terms and conditions of this Lease. Landlord's architect's certificate of substantial completion, as hereinabove stated, given in good faith, or of any other facts pertinent to this Section "7" shall be deemed conclusive of the statements therein contained and binding upon Tenant, unless, within ten (10) days of Tenant's receipt of such certificate, Tenant gives Landlord written notice setting forth with specificity Tenant's reasonable objections to such certificate and such objections reflect the facts of the matters about which the objections have been made. In such event, Landlord shall use good faith efforts to address such objections in order to obtain a revised architect's certificate of substantial completion within thirty (30) days of Landlord's receipt of Tenant's notice of objections. Any of the Building Work not fully completed on the Commencement Date shall thereafter be so completed with reasonable diligence by Landlord, but in any event within sixty (60) days after the date of delivery of the Demised Premises to Tenant. If the Building Work is not completed by February 1, 2004, provided such incompleteness is not due to Tenant's wrongful acts or omissions or Tenant delays, Tenant will have the right, upon ten (10) business days written notice to Landlord, to be effective at the end of such notice period, to elect to cancel this Lease ("Tenant's Termination Notice for Non-Completion"), whereupon any monies paid by Tenant to Landlord pursuant to this Lease shall be returned to Tenant and neither party shall have any other liability to the other. If the Building Work is completed in accordance with this Section "7.D" by the expiration of said ten (10) business day period, then Tenant's notice shall be deemed null and void and the Term shall have commenced. If Tenant fails to give a Tenant's Termination Notice for Non-Completion as set forth above by April 1, 2004, then it will be deemed that Tenant has elected to waive such right of cancellation. If the Building Work is not completed by June 1, 2004, Landlord will have the right, upon ten (10) business days written notice to Tenant, to elect to cancel this Lease ("Landlord's Termination Notice for Non-Completion"), whereupon any monies paid by Tenant to Landlord pursuant to this Lease shall be returned to Tenant and neither party shall have any other liability to the other.

E. With Landlord's prior written consent, which shall not be unreasonably withheld Tenant shall have the right to enter the Demised Premises prior to the Commencement Date during normal business hours and without payment of rent for the purposes of inspecting the work, taking measurements, making plans, and performing Tenant's work without being deemed thereby to have taken possession or obligated itself to pay Rent, provided, however, that Tenant shall not, during the course of such work, materially interfere with the performance of the Building's work and shall indemnify and hold Landlord harmless from and against any and all claims or losses arising from Tenant's (or its agents, employees or contractor's) negligence or wrongful acts in connection with Tenant's (or its agents, employees or contractor's) entry upon the Demised Premises, except to the extent caused by Landlord, its agents, employees, or contractors. Such right of entry shall be deemed a license from Landlord to Tenant, and any entry thereunder shall be at the sole risk of Tenant and made only subsequent to Tenant's delivery to Landlord of the duplicate originals of certificates of insurance required by Section "11" hereof.

F. Except as otherwise provided in this Lease, Landlord shall use commercially reasonable speed and effort to complete the milestones set forth on Exhibit "D" on the dates specified therein.

G. Warranty.

1. The Landlord warrants to the Tenant that materials and equipment furnished by the Landlord under this Lease will be of good quality and new, that the Building Work will be performed in a good workmanlike manner and be free from material defects not inherent in the quality required or permitted, and the Building Work will conform to the requirements of this Lease. Work not conforming to these requirements, excluding substitutions not properly approved and authorized by Landlord, or work altered or affected by Tenant's acts or omissions or those of its employees, agents, licensees and contractors, maybe considered defective. The Landlord's warranty excludes remedy for damage or defect caused by abuse or modifications not executed by Landlord, improper or insufficient maintenance, or improper operation not caused by Landlord, Landlord's contractor, or anyone for whom either is responsible, or normal wear and tear under normal usage. Landlord shall furnish, upon request of Tenant, reasonably satisfactory evidence as to the kind and quality of materials and equipment.

2. The Landlord further agrees that each of its contractors shall provide a warranty of the work performed thereunder in the same form as the above stated warranty of Landlord. Included in said warranty shall be the statement that same shall be enforceable directly by Tenant, if Tenant so elects. The warranty of any of Landlord's contractors shall not relieve Landlord of its warranty as set forth above and Tenant shall look to Landlord's contract, directly and in the first instance, to correct any defects in the Building Work. The warranty from the manufacturer for the HVAC system will be one (1) year and for the compressors will be five (5) years from the start-up date of the equipment.

3. The warranties provided in this Section "7.G" shall be in addition to and not in limitation of any other warranties, guarantees, or remedies allowed by this Lease or otherwise prescribed by law.

4. Landlord shall guarantee the Building Work performed for one (1) year from the date of Substantial Completion and shall procure and deliver to Tenant no later than thirty (30) days following the date of Substantial Completion, all special or direct warranties required by this Lease or made available to Landlord by any of its contractors, suppliers or vendors.

8. **Personal Property Taxes:** Tenant shall pay all taxes assessed against its personal property related to its use and occupancy of the Demised Premises.

9. Utilities: Landlord shall not be obligated to furnish to Tenant or the Demised Premises any heat, air conditioning, ventilation, power, gas, electricity, water, telephone, light or any other services or utilities of any kind, but Landlord shall provide the equipment for furnishing such services in accordance with the Building Plans. Tenant shall make arrangements with public utilities or private companies, if appropriate, for the furnishing of electricity, gas, fuel, telephone, water and any other utilities and services which Tenant deems necessary or desirable in connection with its use and occupancy of the Demised Premises. Tenant shall promptly pay to such companies the cost of such utilities and services and any security deposits required. If Tenant shall default in paying for any of the above, Landlord may collect such costs from Tenant as Additional Rent and pay the same on Tenant's behalf, or Landlord may pursue any other remedies it may have hereunder or at law or equity. Initial utility installations are part of the Building Work. After the Commencement Date, Landlord shall not be obliged to ensure that they remain in working order or are serviced by the utility supplier, subject to the provisions of Section "7", above. The Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electric energy, water, gas or other utilities furnished to the Demised Premises by reason of any requirement, act or omission of the public utility supplier serving the Demised Premises or for any other reason.

10. Additional Rent, Late Charges: All costs, charges, expenses, and adjustments of rent, including, but not limited to, payment of Taxes, which Tenant assumes, agrees or is obligated to pay to Landlord pursuant to this Lease or any other agreement between Landlord and Tenant shall be deemed Additional Rent, and in the event of non-payment thereof, Landlord shall have all the rights and remedies with respect thereto as are provided for herein or by applicable law in case of non-payment of rent. Tenant's obligation to pay Fixed Annual Rent and Additional Rent shall survive the expiration or termination of the Term. Installments of Fixed Annual Rent and any Additional Rent payable on a monthly basis shall be equitably adjusted if the Term commences or terminates on a day other than the first day of a calendar month.

If during the Term, Tenant shall fail to pay the Fixed Annual Rent or any Additional Rents at any time due or payable hereunder upon the date provided in this Lease for the payment thereof, beyond any applicable grace period set forth in Section "37", below, if not cured, Tenant shall pay to Landlord a late charge, on demand by Landlord, equal to 5% of Fixed Annual Rent and Additional Rent past due ("Initial Late Charges"). In addition to the payment set forth above if the notice provided for by the preceding sentence has been given any Fixed Annual Rent, Additional Rent or other amounts to be paid by Tenant which are not paid within thirty (30) days after the date such payment is due, shall bear interest ("Interest Rate") from and after the expiration of such thirty (30) day period equal to the lesser of: (a) the Prime Rate as announced from time to time by the Wall Street Journal plus 4% per annum, or (b) the maximum legal rate ("Additional Late Charges"). In addition, if any check tendered by Tenant in payment of any Fixed Annual Rent or Additional Rent is dishonored or otherwise returned by Tenant's or Landlord's Bank for any reason whatsoever, Tenant shall pay to Landlord upon demand, in addition to the aforesaid late charges, the sum of \$100.00 as Additional Rent for the administrative costs involved in handling such dishonored check.

Tenant acknowledges that the timely payment of Rent and Additional Rent is of the utmost importance to Landlord. Accordingly, it is agreed that the late payment of Fixed Annual Rent and/or Additional Rent constitutes a material and substantial breach of this Lease. Furthermore, in the event that Landlord shall bill Tenant for late charges pursuant to this Section "10" on two (2) occasions in any twelve (12) consecutive month period, in the event Tenant shall fail to make a third payment of Fixed Annual Rent or Additional Rent within any applicable grace, notice or cure period in said twelve (12) consecutive month period, Landlord shall have the option, exercisable within thirty (30) days of the date when said payment of Fixed Annual Rent or Additional Rent was due, of canceling this Lease on three (3) days' notice and upon the expiration of said three (3) days this Lease and the Term shall end and expire as fully and completely as if the expiration of such three (3) day period were the day herein definitely fixed for the end and expiration of this Lease and the Term hereof and Tenant shall then quit and surrender the Demised Premises to Landlord. In such event, Landlord shall have the rights and remedies set forth elsewhere in this Lease.

Nothing contained in this Section is intended to grant Tenant any extension of time in respect of the due dates for any payments under this Lease, nor shall the same be construed to be a limitation of or a substitution for any other rights or remedies of Landlord under this Lease or otherwise nor shall same be construed to preclude Landlord from exercising its right of re-entry by summary proceedings or otherwise on the grounds of nonpayment of rent or on the grounds of any other default hereunder.

11. Insurance:

A. Landlord at Tenant's cost and expense, shall keep in full force and effect during the Term, subject to the last paragraph of this Section "11.A":

- Commercial General Liability (CGL) Insurance providing Landlord with public liability and property damage insurance in the limit of \$1,000,000 per occurrence/\$2,000,000 in the aggregate for bodily injury and property damage, to cover the entire Demised Premises and sidewalks in front of and adjacent thereto, and which provides notice to Landlord at least thirty (30) days prior to any effective date of cancellation.
- Insurance against loss or damage by fire and such other risks as may be included in the Special Form or broader if available of extended coverage in an amount equal to 100% of the full replacement cost of the Building and Improvements (excluding foundations, excavations and footings), ordinance or law and demolition costs coverage in an amount that Landlord shall deem reasonably appropriate and agreed value coverage or waiver of co-insurance coverage.
- Rental value insurance, insuring landlord against loss of gross rental (including, without limitation, additional rent) due to the occurrence of any of the hazards described in the preceding subsection of this paragraph, provided however, that Tenant shall not be obligated to pay the cost of any premium therefor insuring such loss of rental for a period greater than twelve (12) months.
- Insurance against the hazards covered by a policy of boiler insurance.
- Insurance for the loss or damage caused from leakage of sprinkler systems now or hereafter installed in the building on the Demises Premises.
- Hired but not owned automobile coverage as maybe required by the umbrella liability carrier.
- Worker's compensation insurance and employer's liability coverage in statutory limits, and New York disability insurance as required by law.

Landlord shall deliver to Tenant proof of the extent of the coverage being provided and the cost thereof. Tenant shall pay to the Landlord as Additional Rent for premiums paid or payable for insurance to be maintained by Landlord and as hereinafter provided.

Nothing herein contained shall be construed to require Landlord to insure the contents or stock in trade belonging to Tenant and located upon the Demised Premises, nor to insure installation made by Tenant which are removable by Tenant upon the termination of this Lease. Tenant shall provide to Landlord proof of its contents coverage, which Tenant agrees to maintain throughout the Term. Such contents coverage shall include coverage of the improvements made to the Demised Premises by Landlord for Tenant's use.

Tenant, at its own cost and expense, shall promptly comply with all rules, orders and regulations of the New York Board of Fire Underwriters or other similar body, and such tests and inspections of the sprinkler system and areas of possible fire hazards in the Demised Premises arising from the conduct of Tenant's business as Landlord's insurance carrier may from time to time require. Tenant shall also conduct at its sole cost and expense quarterly sprinkler tests and annual fire extinguisher inspections and post same on the sprinkler valve and fire extinguishers, respectively, to the extent required by applicable law or requirement of the applicable insurance company or underwriter.

Landlord shall not charge Tenant for its umbrella liability insurance, hired but not owned automobile coverage and worker's compensation insurance coverage. With regard to Landlord's coverages that Tenant is paying for under this Lease, from time to time, within thirty (30) days prior to any insurance policy renewal date, Tenant will have the right to get competitive quotes on such insurance coverages and inform Landlord of same. Provided such quotes are for the identical coverages (including, without limitation, the amounts and quality of coverage) after reasonable verification by Landlord, and to the extent that the prices quoted to Tenant are equal to a cost differential of at least five percent (5%), then Landlord agrees to credit Tenant's insurance invoice in an amount equal to the cost differential, so long as such lower priced quote is valid and readily available. In addition, it is acknowledged by Tenant that Landlord is not obligated to place its insurance coverages with the Tenant's insurer agent providing such quote to Tenant.

B. During the Term, for the mutual benefit of Landlord and Tenant, Tenant shall keep in full force and effect the following:

- a commercial general liability ("CGL") insurance protecting and indemnifying Landlord against any and all claims and liabilities for injury or damage to persons or property or for the loss of life or of property occurring upon, in or about the Demised Premises, and the public portions of the Land, if any, such insurance to afford minimum protection during the Term of not less than \$1,000,000 per occurrence/\$2,000,000 in the aggregate for bodily injury and for property damage and not less than \$14,000,000 in the aggregate, and fire damage legal liability for an amount equal to the full replacement cost of the Demised Premises. This policy shall be an occurrence policy on Insurance Services Office, INC. ("ISO") form CG0001 0196 or an equivalent occurrence basis CGL policy form that is reasonably acceptable to Landlord. The CGL shall have contractual liability coverage. Said insurance policy shall name Landlord and its Mortgagee/Master Lessor as additional insureds.
- worker's compensation insurance and employer's liability coverage in statutory limits, and New York State disability insurance as required by Law, covering all employees; and
- such other coverage as Landlord may reasonably require with respect to the Demised Premises, Tenant's use and occupancy and the conduct or operation of business therein provided same is generally required of tenants of properties similar to the Demised Premises. Landlord may, from time to time, but not more frequently than once every year, adjust the minimum limits set forth above, accounting for inflation or changes in industry standards.

- C. All the Tenant's insurance shall contain endorsements sufficient to effect the following:
- (a) in no event shall the insurance coverage under such policies be brought into contribution with any policies maintained by the Landlord;
 - (b) the interest of Landlord or Landlords' Mortgagees, as additional insureds, shall not be invalidated by any breach or violation by the Tenant, any undertenant, or any other named insured, of any of the warranties, declarations or conditions of the policies;
 - (c) the "save harmless" and indemnification obligations of the Tenant pursuant to this Lease shall be insured as a contractual obligation;
 - (d) the insurer will not cancel or refuse to renew the policy, or change in any material way the nature or extent of the coverage provided by such policy without first giving the Landlord thirty (30) days' prior written notice;
 - (e) that such policy and the coverage evidenced thereby shall be primary with respect to any policies carried by Landlord, and that any coverage carried by Landlord shall be excess insurance;
 - (f) a waiver by the insurer of all rights of subrogation against the Landlord, its members, directors, partners, officers, employees, or representatives, which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, its directors, partners, officers, members, employees, or representatives.

All the insurance carriers shall be licensed in the State of New York and, shall at all times during the Term have a policyholder's rating of not less than "A+/12" in the most current edition of Best's Insurance Reports. Tenant shall deliver to Landlord proof of payment of premiums for all insurance within seven (7) days of receipt of request.

Landlord may require increases in the policy limits from time to time (not more often than once each thirty six (36) months) to reflect the effect of inflation, based upon increases in the United States Consumer Price Index or similarly recognized index.

Each party agrees to use all commercially reasonable efforts to include in each of its insurance policies against loss, damage or destruction by fire or other insured event, a waiver of the insurer's right of subrogation against the other party. If such waiver, agreement or permission shall not be, or shall cease to be, obtainable without additional charge or at all, the insured party shall so notify the other party promptly after learning thereof. In such case, if the other party shall agree in writing to pay the insurer's additional charge therefor, such waiver, agreement or permission shall (if obtainable) be included in the policy. So long as Landlord's and Tenant's policies then in force include such waivers of subrogation, Landlord and Tenant, to the fullest extent permitted by law, each waive all right of recovery against the other and agree to release the other from liability from loss or damage to the extent such loss or damage is covered by valid and collectable insurance in effect at the time of such loss of damage.

None of Tenant insurance policies shall have a deductible in excess of \$25,000.00. Tenant agrees that notwithstanding any such permitted deductible in their insurance policies, it shall be liable for the amount of the deductible. Any insurance required by Tenant under this Lease may be furnished by Tenant under a blanket policy carried by it. Such blanket policy shall: (i) comply with all provisions above, (ii) reference the Demised Premises; and (iii) guarantee minimum limits available for Demised Premises equal to the insurance amounts required by this Lease.

Before Tenant enters the Demised Premises to conduct any activity permitted under this Lease, including any entry permitted under Section "7.E" of this Lease, Tenant shall furnish Landlord with an appropriate certificate evidencing the aforesaid insurance coverage being then in effect, on an ACORD 27 form (or its equivalent). Renewal policies or certificates therefor shall be furnished to Landlord at least thirty (30) days prior to the expiration date of each policy. Landlord may at any time and from time to time, inspect and/or copy any and all insurance policies required to be procured by Tenant by this Lease.

In the event Tenant fails to procure, maintain, and/or pay for and deliver proof thereof to Landlord of the insurance required by this Lease, at the times and for the durations specified in this Lease, Landlord shall have the right, but not the obligation, at any time and from time to time after two business days notice to Tenant and Tenant's failure to comply to procure such insurance and/or pay the premiums for such insurance, in which event Tenant shall repay Landlord, immediately upon demand by Landlord, as Additional Rent, all sums so paid by Landlord together with interest thereon at the Interest Rate and any costs or expenses reasonably incurred by Landlord in connection therewith, without prejudice to any other rights and remedies of the Landlord under this Lease.

12. Condition of Premises: EXCEPT AS OTHERWISE SET FORTH IN THIS LEASE, SUBJECT TO (X) LANDLORD'S COMPLETION OF THE BUILDING WORK AND ANY PUNCH LIST ITEMS, (Y) LANDLORD'S PERFORMANCE OF ANY WORK WHICH IT IS OBLIGATED TO PERFORM PURSUANT TO LANDLORD'S WARRANTY SET FORTH IN SECTION "7.G", ABOVE, AND (Z) LANDLORD'S PERFORMANCE OF ITS MAINTENANCE OBLIGATIONS SET FORTH IN THIS LEASE, BELOW, TENANT REPRESENTS, WARRANTS AND ACKNOWLEDGES TO LANDLORD AND AGREES WITH LANDLORD THAT TENANT IS HEREBY ACQUIRING A LEASEHOLD INTEREST IN AND TO THE DEMISED PREMISES AND SHALL ACCEPT SAME AND THE LAND IN THEIR "AS IS", "WHERE IS" CONDITION "WITH ALL FAULTS" AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, FROM OR ON BEHALF OF LANDLORD, REGARDING THE CONDITION OF THE DEMISED PREMISES OR THE LAND, ITS HABITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, VALUE, PROFITABILITY, MARKETABILITY, MERCHANTABILITY OR COMPLIANCE WITH GOVERNMENTAL LAWS, ORDINANCES OR REGULATIONS, OR ANY OTHER WARRANTY (WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, MATERIAL OR IMMATERIAL). TENANT ACKNOWLEDGES THAT IT HAS NOT RELIED, AND IS NOT RELYING, UPON ANY INFORMATION, DOCUMENT, SALES BROCHURE OR OTHER LITERATURE, MAPS OR SKETCHES, PROJECTION, STATEMENT OR REPRESENTATION THAT MAY HAVE BEEN GIVEN OR MADE BY OR ON BEHALF OF LANDLORD TO TENANT EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN TO THE CONTRARY. TENANT AGREES TO ACQUIRE THE LEASEHOLD INTEREST IN THE DEMISED PREMISES BASED SOLELY ON ITS OWN INDEPENDENT INVESTIGATION AND INSPECTION OF THE DEMISED PREMISES AND TENANT'S INDEPENDENT EVALUATION OF THE DEMISED PREMISES, AND EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE, LANDLORD IS NOT OBLIGATED TO ALTER, MODIFY, REMEDIATE OR IMPROVE THE DEMISED PREMISES IN ANY WAY WHATSOEVER.

13. Disposal of Refuse: Tenant shall, at its sole cost and expense, promptly contain and dispose of all garbage, rubbish, trash, or waste and/or refuse generated at the Demised Premises, in accordance with applicable laws, rules and orders of all governmental authorities who have jurisdiction thereof and in accordance with Landlord's reasonable instructions. Tenant shall not permit the accumulation of any rubbish or garbage in, or about any part of the Demised Premises. Tenant shall indemnify and hold Landlord harmless, from and against any and all liability, including reasonable attorneys' fees, which is related or connected to Tenant's garbage, rubbish, trash, or waste and the disposal thereof. Tenant shall not commit or suffer, and shall use all reasonable precautions to prevent waste, damage or injury to the Demised Premises.

14. Sidewalks: Tenant shall not encumber or obstruct, or permit to be encumbered or obstructed, the street and sidewalk, if any, on, adjacent to or abutting the Demised Premises. Tenant shall, at its sole cost and expense, keep said sidewalks adjacent to the Demised Premises free of dirt, snow, ice, rubbish and debris.

15. Broker: Each party represents and warrants to the other that it dealt with no broker with respect to this Lease or the Demised Premises. Each party shall indemnify, defend with counsel reasonably acceptable to the other and save the other harmless of, from and against any and all claims for commissions or compensation made by any broker or entity, arising out of or relating to the acts of the indemnifying party, its employees or agents and all expenses and fees, including reasonable attorneys' fees, related thereto.

16. Landlord's Liability: Landlord and Landlord's officers, directors, shareholders, members, agents and employees shall not be liable to Tenant, Tenant's agents, employees, shareholders, officers, directors or third parties for any injury to person or damage to property for any reason whatsoever, including, but not limited to, failure to repair, defect in, or failure of, equipment, pipes, wiring, broken glass, backing up of drains, or by gas, water, snow, ice, hail, rain, electricity or oil leaking, escaping or flowing into the Demised Premises, except to the extent due to the negligence or wrongful acts of Landlord, its agents, contractors or employees.

Notwithstanding anything herein or any rule of law or statute to the contrary, it is expressly understood and agreed that to the extent that Landlord shall at any time have any liability to Tenant under, pursuant to or in connection with this Lease, Tenant, and any officer, director, stockholder, partner, associate, principal, or party claiming through or on behalf of Tenant shall look solely to the Demised Premises (and the proceeds therefrom) for the satisfaction of any judgment (or other judicial order) requiring the payment of money by Landlord, and they shall not seek to obtain or enforce any personal or money or other judgment against Landlord, or any officer, member, director, stockholder, partner, associate, employee, agent or principal (disclosed or undisclosed) of Landlord, except against Landlord's interest in the Demised Premises (and the proceeds therefrom), and in no event shall Landlord or such other party have any personal liability or monetary or other obligation of any kind under or pursuant to this Lease beyond such interest in the Demised Premises.

If Tenant shall at any time claim that Landlord unreasonably withheld its consent to any act to which Landlord has agreed hereunder not to unreasonably withhold its consent, Landlord's sole obligation or liability to Tenant therefor shall be to consent thereto if Tenant prevails against Landlord in an action for injunction or declaratory judgment brought in a court of competent jurisdiction, and Tenant hereby waives and relinquishes any and all claims for damages or other money compensation by reason thereof. Notwithstanding the foregoing, any dispute between the parties relating to the withholding or delay of consent by Landlord may be determined, at Tenant's option, under the Expedited Procedures provisions of the Commercial Arbitration Rules of the American Arbitration Association. In any such proceeding, the arbitrator shall have no right to award monetary damages, provided, however, that in the event that the arbitrator determines that Landlord unreasonably withheld its consent, then Landlord shall reimburse Tenant for Tenant's reasonable attorney's fees incurred in connection with such arbitration. If the arbitrator rules in favor of Landlord, then Tenant shall reimburse Landlord for Landlord's reasonable attorney's fees incurred in connection with such arbitration.

17. Estoppel Certificates/Financial Statements: Each party shall, without charge, at any reasonable time and from time to time, within ten (10) business days after request by the other, certify by written instrument, duly executed, acknowledged and delivered, to the other and/or any present or proposed Landlord, purchaser, Mortgagee; Master Lessor, assignee of any Mortgagee or Master Lessee or any permitted assignee or subtenant:

- (i) that this Lease is unmodified and is in full force and effect (or, if there has been modification, attaching same and stating whether or not the Lease is in full force and effect as modified);
- (ii) that there are not then existing any set-offs or defenses against the enforcement of any of the agreements, terms, covenants or conditions hereof upon the part of Tenant to be performed or complied with (or, if so, specifying the same);
- (iii) the dates, if any, to which Fixed Annual Rent and Additional Rent have been paid and the amounts thereof; and
- (iv) to such other matters pertaining to this Lease that are within such party's knowledge as may be requested.

Tenant hereby constitutes and appoints Landlord Tenant's attorney-in-fact to execute and deliver any such estoppel certificate requested by Landlord if, after ten (10) days notice, Tenant fails to execute and return any such document provided to Tenant for execution.

18. Permits and Compliance with Law: Tenant shall not use or suffer or permit any person to use the Demised Premises for any unlawful purpose. Tenant shall apply for and obtain and maintain at Tenant's sole cost and expense all licenses and permits from any and all governmental authorities having jurisdiction of the Demised Premises which may be necessary for the conduct of Tenant's business therein. Tenant shall also pay all fees in connection with any licenses or permits required by the local municipal authority for any equipment or machinery at the Demised Premises whether owned by the Landlord or the Tenant. Tenant further covenants to comply with all present and future applicable laws, resolutions, codes, rules and regulations of any department, bureau, agency or any governmental authority having jurisdiction over the operation, occupancy, maintenance and use of the Demised Premises and all insurance requirements and recommendations. Tenant also covenants to comply with any and all regulations and rules applicable to the Demised Premises issued by the Board of Fire Underwriters or by any other body hereinafter constituted exercising similar functions, and by insurance companies writing policies covering the Demised Premises and the Improvements which now or hereafter may become applicable to the Demises Premises.

Without diminishing the obligation of Tenant, if Tenant shall at any time fail or neglect to comply to the extent reasonably appropriate, and as expeditiously as reasonably feasible, with any of said laws, rules, requirements, orders, directions, ordinances or regulations, concerning or affecting the Demised Premises or the use and occupation thereof, as herein provided, Landlord, in addition to any other remedies, shall, upon ten (10) business days' written notice to Tenant, unless in an emergency then without notice, be at liberty to comply therewith, and all reasonable expenses of Landlord in connection therewith shall be paid by Tenant, and upon Tenant's failure so to pay, Landlord may pay the same and any payments so made by Landlord shall be reimbursed to Landlord by Tenant as Additional Rent with interest to be paid at the Interest Rate together with the installment of Fixed Annual Rent next coming due and shall entitle Landlord to enforce any of the terms, provisions, conditions and covenants herein contained that may be applicable to such rent.

Tenant shall have the right, after prior written notice to Landlord, and after obtaining any required stay, to contest by appropriate legal proceedings, diligently conducted in good faith, in the name of Tenant, without cost or expense to Landlord, the validity or application of any law, ordinance, rule, order, regulation or requirement, including, but not limited to, any law, ordinance, rules, orders, regulations and requirements purporting to require the repairs to the Demised Premises referred to above, provided that no lien, charge or liability of any kind may or shall be created thereby against the Demised Premises or shall subject Tenant or Landlord to any liability, civil or criminal, for failure to comply therewith.

Tenant shall, at all times during the Term, at Tenant's sole cost and expense, promptly comply with all present and future laws, orders and regulations issued or promulgated by any governmental or quasi governmental agency or body, whether federal, state, city, county, town, village or other municipal level, regulating or otherwise asserting jurisdiction over the Demised Premises, or Tenant's use and occupancy thereof, or over air, water or ecological or environmental pollutants and all insurance requirements and recommendations. Tenant shall indemnify and save Landlord, its officers, directors, shareholders, members, partners, employees and Mortgagees ("Landlord Indemnified Parties") harmless from and against any claims, penalties, loss, damage or expense imposed by reason of a violation of any applicable law or the rules and regulations of governmental authorities having jurisdiction thereof relating to the Demised Premises or the failure of Tenant to obtain or maintain any required licenses or permits.

Landlord agrees to be responsible for municipal violations as of the Commencement Date not caused by Tenant, or as may be caused thereafter by Landlord's or its agent's actions.

19. Indemnification of Landlord: Tenant shall indemnify and save harmless the Landlord Indemnified Parties from any and all liabilities, damages, expenses, actions, claims or judgments, including reasonable attorney's fees regardless of whether a lawsuit is actually commenced, arising from injury to any person or persons or property which may occur in or on the Demised Premises, or from any matter or thing which is connected or related to Tenant's acts or occupation of the Demised Premises, unless due to the negligence or wrongful act of a Landlord Indemnified Party, in which case Landlord will indemnify Tenant and its officers, directors, agents and employees. In such event, Tenant upon notice from a Landlord Indemnified Party shall resist or defend such action or proceeding (by counsel appointed by Tenant's insurance carrier or other counsel reasonably satisfactory to the Landlord Indemnified Party), unless Tenant causes the same to be discharged and satisfied.

Tenant shall also indemnify and hold harmless Landlord against and from any costs and expenses paid or incurred by Landlord in obtaining possession of the Demised Premises after default by Tenant as may be provided by the terms of this Lease or upon the expiration or sooner termination of this Lease, or in enforcing any of Tenant's obligations hereunder including Landlord's reasonable attorney's fees, all of which shall be deemed Additional Rent.

20. Attornment, Subordination, Non-Disturbance, Lender Provisions:

(A) Provided Tenant obtains a Non-Disturbance Agreement from the applicable Mortgagee or Master Lessor, as the case may be, this Lease shall be subject and subordinate to all ground or underlying leases ("Master Leases") and to all mortgages ("Mortgages") which may now or hereafter affect such leases or the real property of which Demised Premises are a part and to all renewals, modifications, consolidations, replacements and extensions of any such Master Leases and Mortgages. (Upon acquisition of the Land per the Purchase and Sale Agreement referred to in Section "3", above, Landlord anticipates that the Land will be subject to a mortgage.) This clause shall be self-operative and no further instrument of subordination shall be required by any Master Lessor or by any Mortgagee, affecting any lease of the real property of which the Demised Premises are a part. In confirmation of such subordination, Tenant shall execute promptly any certificate that Landlord may reasonably request.

(B) Provided Tenant shall receive a Non-Disturbance Agreement (as hereinafter defined), Tenant shall and does hereby agree to attorn to the holder of each and every Mortgage ("Mortgagee") and landlord under all Master Leases ("Master Lessor") and to recognize such Mortgagee and/or Master Lessor as its landlord. Tenant hereby constitutes and appoints Landlord Tenant's attorney-in-fact to execute and deliver an agreement of attornment for or on behalf of Tenant substantially in the form of the document attached hereto as Exhibit "E" if, after ten (10) days notice, Tenant fails to execute and return any such document provided to Tenant for execution.

(C) If, in connection with the procurement, continuation or renewal of any financing for which the Demised Premises represents security in whole or in part, a bank or institutional lender shall request reasonable modifications of this Lease as a condition of such financing, Tenant will not withhold consent thereto, provided that such modifications do not materially increase the obligations of Tenant under this Lease or materially and adversely affect any rights of Tenant hereunder. Without limiting the foregoing, any modification which increases the rents or costs payable by Tenant shall be deemed to materially affect Tenant's rights under this Lease. Tenant shall consent or object to such modification within ten (10) business days following Landlord's request. A modification providing that Tenant be required to give notices of any defaults by Landlord to such lender and/or permit the curing of such default by such lender with or without the granting of such additional time for such curing shall not be deemed to materially adversely affect Tenant's rights.

(D) For purposes hereof a "Non-Disturbance Agreement" shall mean an agreement on Mortgagee's or Master Lessor's form which is reasonably acceptable to Tenant. With respect to any Mortgages or Master Leases which subsequently encumber the Demised Premises, Landlord shall provide Tenant with a Non-Disturbance Agreement within four (4) weeks after the execution of the Mortgage or Master Lease, and the subordination of this Lease to such Mortgage or Master Lease is expressly contingent upon the delivery of such Non-Disturbance Agreement.

(E) In the event of notice to such effect from Landlord to Tenant, to the extent requested by the Mortgagee or Master Lessor, Tenant shall agree to the following (and, if requested, this Lease shall be amended to provide):

(i) Mortgagee or Master Lessor shall under no circumstances have any obligation to refund Tenant's security deposit to Tenant except to the extent Landlord has transferred said security deposit to Mortgagee or Master Lessor;

(ii) Mortgagee or Master Lessor shall be added as an additional insured on any insurance policy required to be obtained by Tenant and forward a certificate evidencing same to Mortgagee or Master Lessor;

(iii) The use of any condemnation or casualty insurance proceeds shall be subject to reasonable lender requirements, provided however that the funds shall be made available to Landlord for repair and restoration;

(iv) This Lease may not be amended without the prior written consent of Mortgagee or the Master Lessor;

(v) Tenant shall provide Mortgagee or Master Lessor with copies of all notices of default it sends to Landlord and shall permit Mortgagee or Master Lessor to cure any default by Landlord under this Lease;

(vi) In the event Mortgagee or Master Lessor or its successors or assigns succeeds to the rights of Landlord, Mortgagee or Master Lessor or its successors and assigns shall not be liable for any defaults of Landlord or obligations of Landlord which arose prior to Mortgagee or Master Lessor or its successor or assigns acquiring title to the Demised Premises, except to the extent such default shall be continuing;

(vii) In the event of any act or omission of Landlord that would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right until:

(a) it has given written notice of such act or omission to each Mortgagee and Master Lessor whose name and address shall previously have been furnished to Tenant; and

(b) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such Mortgagee or Master Lessor shall have obtained possession of the Demised Premises and become entitled under such Mortgage or Master Lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy). Nothing contained herein shall obligate such Master Lessor or Mortgagee to remedy such act or omission.

(F) Upon Landlord's written request, in order to aid Landlord in the sale, financing or refinancing the Demised Premises, Tenant shall promptly furnish Landlord with such financial statements reflecting the financial condition of Tenant as Tenant has prepared in the ordinary course of its business within thirty (30) days of request from Landlord. Landlord shall keep such information confidential and shall not release such information as to any prospective purchaser or lender unless it receives an agreement from the recipient agreeing to maintain the confidentiality of such information among itself and its advisors, except that no such confidentiality arrangement shall be required if the information Tenant provides is public information.

21. Security of the Demised Premises: During the Term, Tenant shall be responsible for any and all security at the Demised Premises.

22. Covenant Against Liens: Tenant shall not do any act or make any contract which may create or be the foundation for any lien or other encumbrance upon any interest of Landlord in any portion of the Demised Premises.. If, because of any act or omission (or alleged act or omission) of Tenant, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Landlord or any portion of the Demised Premises (whether or not such lien, charge or order is valid or enforceable as such), Tenant shall, at its own cost and expense, cause same to be discharged of record or bonded within thirty (30) business days after notice to Tenant of the filing thereof; and the Tenant shall indemnify and save harmless the Landlord Indemnified Parties against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable counsel fees resulting therefrom. If Tenant fails to comply with the foregoing provisions, Landlord shall have the option of discharging or bonding any such lien, charge or order and the Tenant agrees to reimburse Landlord (as Additional Rent) with interest at the Interest Rate payable promptly upon demand. All materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracted with by Tenant for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Demised Premises at any time from the date hereof until the end of the demised term are hereby charged with notice that they must look exclusively to Tenant to obtain payment for same.

23. Hazardous Materials: Except as otherwise permitted herein, Tenant and its subtenants, operators, franchisees, licensees, employees, agents or contractors shall not use, store, release, dispose of, suffer, permit, introduce or maintain in, on or about any portion of the Demised Premises any asbestos, polychlorinated biphenyls, petroleum products or any other materials, wastes or substances (collectively "Hazardous Materials") which are defined, determined or identified as hazardous or toxic in any federal, state or local laws, rules or regulations (whether now existing or hereafter enacted or promulgated) or any judicial or administrative interpretation of any thereof, including, but not limited to, any judicial or administrative orders, decrees, letters or judgments (herein collectively called "Environmental Laws").

Notwithstanding the foregoing, Tenant, its agents, employees, contractors, etc., may store and use Hazardous Materials in connection with the normal operation of its business and/or maintenance of the Demised Premises as long as Tenant: (i) provides to Landlord, upon request, a list of all hazardous materials used and stored in quantities that would need to be reported to any governmental agency pursuant to Environmental Laws; (ii) provides a written description of the means of storage and disposal of said Hazardous Materials; (iii) upon Landlord's request, updates the list of chemicals and means of storage and disposal when changes occur; (iv) permits Landlord or its representatives to periodically inspect the storage and disposal facilities; and (v) complies with all applicable Environmental Laws and any other obligations of Tenant under this Lease.

Within two (2) business days of receipt, Tenant shall provide Landlord with (i) copies of all notices received by it, including, without limitation, any notices of violations, notices of responsibility or demand for action from any federal, state or local authority or official in connection with the presence of Hazardous Materials in or on the Demised Premises, and (ii) any information it receives regarding the release, storage, disposal or presence of Hazardous Materials at the Demised Premises in violation of the Environmental Laws. Tenant shall indemnify, defend with counsel reasonably acceptable to Landlord, protect and save the Landlord Indemnified Parties harmless against and from any and all claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or awarded against the Landlord Indemnified Partners arising from or out of (i) the violation or alleged violation of any Environmental Laws by Tenant, its subtenants, operators, franchisees, licensees, employees, agents, assigns or contractors and (ii) any Hazardous Materials introduced, released, disposed of or otherwise on, in, under or affecting all or any portion of the Demised Premises, which were the result, whether in whole or in part, of any act or omission of Tenant, its subtenants, operators, franchisees, licensees, employees, agents, assigns or contractors, including, without limitation, (A) the costs of removal of any and all Hazardous Materials from all or any portion of the Demised Premises, (B) additional costs required to take necessary precautions to protect against the release of Hazardous Materials on, in, under or affecting the Demised Premises, into the air, body of water, any other public domain or any surrounding areas, (C) the costs of monitoring any portion of the Demised Premises or any area lying outside of same in the event of fear of off-site contamination, and (D) any costs incurred to comply, in connection with all or any portion of the Demised Premises, with all applicable laws, orders, judgments and regulations with respect to Hazardous Materials.

Prior to the expiration of the Term and after the Effective Date or earlier occupancy of the Demised Premises, at any time that a release, leak, spill or discharge has occurred, or upon notification from any administrative or enforcement agency that a release, leak, spill or discharge of Hazardous Materials that requires investigation and remediation may have occurred at the Demised Premises, Tenant shall, at Tenant's sole expense, retain an environmental consultant reasonably satisfactory to Landlord, to undertake and complete investigations at the Demised Premises sufficient to ascertain whether Tenant's use of the Demised Premises has resulted in a release, leak, spill or discharge of Hazardous Materials at the Demised Premises. Any investigations performed pursuant to this Section "23" shall include, at a minimum, such tests on any cesspool or sewer drain as are necessary to determine that the cesspool or sewer drain is in operating condition and free of Hazardous Materials, and such soil and groundwater sampling as is necessary to determine the nature and extent of any such release, leak, spill or discharge that has occurred. Should the investigations performed reveal that as a result of Tenant's use of the Demised Premises, Hazardous Materials have been released, spilled, leaked or discharged, Tenant shall, prior to Tenant vacating the Demised Premises, at Tenant's sole expense and to the complete satisfaction of any administrative or enforcement agency with jurisdiction over the Demised Premises, perform such investigatory and remedial activities and at a minimum return the Demised Premises to the environmental condition it was in prior to Tenant's occupancy. If Tenant fails to perform such investigatory and remedial activities, Tenant agrees to reimburse Landlord for the reasonable cost incurred by Landlord or its agents to undertake and complete those activities. Should the investigations performed reveal that the cesspool and sewer drain are not in operating condition and free of Hazardous Materials, Tenant shall repair same to the satisfaction of Landlord.

Tenant shall be responsible for all costs related to the investigation, removal, remediation and Landlord's other responses, as the case may be, to any Hazardous Materials generated, stored or disposed of contrary to the provisions of this Lease which are revealed by the Environmental Update (as defined below) (or any inspection by Landlord prior to Tenant's delivery of the Demised Premises to Landlord).

The provisions of this Section "23" shall survive the expiration or sooner termination of this Lease.

24. Environmental Audits:

A. Landlord Conducts Initial Audit. On or before the Commencement Date, Landlord shall, at its sole cost and expense, provide to Tenant a Phase 1 environmental assessment of the Land, together with such additional reports and testing (including Phase 2 environmental assessment) if necessary in Landlord's sole discretion from an environmental consultant selected by Landlord ("Initial Environmental Audit"). Tenant acknowledges that any environmental information provided to it by or on behalf of Landlord under this Lease is confidential information of Landlord and any and all of the environmental assessments, studies, test results, reports, plans, records and documents regarding the Demised Premises given to or in receipt of Tenant and/or its officers, employees, agents and contractors, shall be held in confidence and shall not be disclosed to any third party unless permitted by Landlord, in writing, which permission shall not be unreasonably withheld. Tenant shall not contact or communicate with any regulatory agency with regard to the Demised Premises without the express written permission of Landlord. However, if Tenant believes it is required to provide environmental information to a governmental agency or in connection with a pending litigation, for example in response to a subpoena or to comply with reporting requirements under Environmental Laws, Tenant shall inform Landlord of its intent to disclose the information and, prior to disclosure, provide Landlord with a reasonable time to try to prevent the disclosure, provided, however, Tenant shall not be required to delay disclosure of such information if such delay would pose any risk of liability to Tenant.

B. Tenant Conducts Update. After Tenant has vacated the Premises in accordance with the terms and conditions of this Lease, no later than thirty (30) days after the expiration or sooner termination of this Lease, Tenant shall at its sole cost and expense, provide Landlord with a Phase 1 environmental assessment of the Demised Premises, together with such additional reports and testing (including a Phase 2 environmental assessment) if recommended by the report using the consultant who initially prepared the Initial Environmental Audit or, if that consultant is unavailable, another licensed environmental consultant reasonably acceptable to Landlord, to determine environmental status of the Premises as of the date of that Environmental Update (“Environmental Update”).

C. Tenant shall permit Landlord and Landlord’s servants, employees and agents, including, but not limited to, legal counsel, environmental consultants and engineers, access to the Demised Premises upon reasonable prior written notice, except in an emergency then without notice, for purposes of performing environmental inspections and sampling, during regular business hours, or other hours either by agreement of the parties or if an emergency, at any time. If the inspections performed pursuant to this Section involve sampling and testing, Landlord shall use reasonable business efforts to avoid interfering with Tenant’s use of the Demised Premises.

D. The provisions of this Section “24” shall survive the expiration or sooner termination of this Lease.

25. Tenant's Alterations:

A. Nonstructural Alterations. From and after the completion of the Building Work, upon prior written notice to Landlord for any nonstructural alteration in excess of \$50,000.00 (per instance or series of instances if a unified plan), and subject to the provisions of this Section "25.A", and provided Tenant is not in default under the terms of this Lease beyond any applicable grace or cure period, Tenant may from time to time make such nonstructural alterations and additions to the Demised Premises as Tenant deems appropriate, in or to the interior of the Demised Premises, using reputable licensed contractors or mechanics. For any nonstructural alteration in excess of \$50,000.00 (per instance or series of instances if a unified plan), Tenant shall submit in writing to Landlord a description of its intended plans for Landlord's review and approval, which shall not be unreasonably withheld or delayed. Tenant shall reimburse Landlord for the reasonable fee charged by its architect, if any, in reviewing Tenant's proposed plans. After Tenant's plans have been approved by Landlord, Tenant shall make no material change in any of Tenant's plans without the prior written consent of Landlord in each instance, which shall not be unreasonably withheld or delayed. Tenant shall, at its expense, before making any such nonstructural alterations and additions to the Demised Premises, obtain all permits, approvals and certificates required by any governmental or quasi-governmental bodies and (upon completion) certificates of final approval thereof, and shall deliver promptly duplicates of all such permits, approvals and certificates to Landlord. At no time shall Tenant make structural installations, alterations, or additions to the Demised Premises, except as provided in Section "25.B", below. For purposes hereof, periodic redecorating, painting or recarpeting, which Tenant may do at its sole cost from time to time during the Term, shall not require notice to or consent of Landlord. Tenant and not Landlord shall be responsible for those nonstructural alterations and additions made by Tenant and any structural repairs the need for which shall result from such installations, alterations or additions. In no event shall Landlord's approval of any proposed installations, alterations or additions to the Demised Premises constitute a representation by Landlord that such work complies with the requirements of any applicable law or regulation, including, without limitation, the requirements of the Americans with Disability Act. Any installations, alterations or additions made by Tenant shall be at Tenant's sole cost and expense, shall be done in a good and workmanlike manner and in compliance with the requirements of Section "18", above, and shall be compatible with the Building. Tenant shall not suffer or permit any mechanics' or similar liens to be placed upon the Demised Premises for labor or materials furnished to Tenant or claimed to have been furnished to Tenant in connection with work of any character performed or claimed to have been performed at the direction of Tenant, and shall cause any such lien to be released of record forthwith without cost to Landlord. Any and all Tenant installations, alterations, and additions, in or to the Demised Premises, that are intended to become or do become part of the real estate or fixtures therein (other than trade fixtures that are readily removable without damage to the Demised Premises) including, but not limited to, equipment, appliances, and machinery, shall, upon the expiration of the Term, be fully paid for and free and clear of any and all chattel mortgages, conditional bills of sale security interests, or any liens or encumbrances of any kind or nature. At all times when any installation, alterations, or addition by Tenant is in progress, there shall be maintained, at Tenant's cost and expense, insurance meeting the requirements of Section "11" below and any other form of insurance coverage reasonably required by Landlord and certificate of insurance evidencing such coverage shall be furnished to Landlord prior to the commencement of any such work. Any installations, alterations or additions made by Tenant to the Demised Premises, including, without limitation, all utility systems, fixtures, machinery, equipment, and appliances installed in connection therewith, other than personal property that can be removed without material damage, shall become the property of Landlord at the termination or expiration of this Lease (without any obligation by Landlord to pay compensation therefor to Tenant), unless Landlord elects, either at the time of Landlord's approval of such work or upon the Expiration Date or earlier date of Lease termination to relinquish Landlord's right thereto and to have them removed by Tenant, at Tenant's expense. Tenant's obligation to remove such nonstructural alterations shall survive the expiration or termination of this Lease if same is not completed by the Expiration Date or earlier date of Lease termination. Upon removal of any and all Tenant installations, alterations, and additions from the Demised Premises, or upon removal of other installations as may be required by Landlord, Tenant shall immediately, and at its expense, repair any damage to the Demised Premises or the Building due to such removal. All property or required to be removed by Tenant at the end of the Term shall removed from the Demised Premises by Tenant, at Tenant's expense.

B. Structural Alterations.

1. Structural Alteration Restrictions. From and after the Commencement Date, and after completion of the Building Work by Landlord, Tenant shall not demolish, deconstruct, replace or materially alter the structural components of the Demised Premises, whether voluntarily or in connection with repairs required by this Lease (each a "Structural Alteration" and collectively, "Structural Alterations"), unless (provided Tenant is not in default under the terms of this Lease beyond any applicable grace or cure period) Tenant shall comply with the following requirements:

a. No Structural Alteration shall be undertaken until Tenant shall have (i) procured from all governmental authorities and paid for all permits, consents, certificates and approvals for the proposed Structural Alteration which are required to be obtained prior to the commencement of the proposed Structural Alteration (collectively, "Improvement Approvals"), and (ii) obtained Landlord's approval to the proposed Structural Alterations, which approval is not to be unreasonably withheld, conditioned or delayed. The application for any such Improvement Approvals shall be made without cost, expense or liability (contingent or otherwise) to Landlord. To the extent necessary, Landlord shall cooperate with Tenant in such applications, so long as Landlord incurs no expense therefor. True copies of all such Improvement Approvals shall be delivered by Tenant to Landlord prior to commencement of the proposed Structural Alteration;

b. All Structural Alterations, when completed, shall be of such a character as not to reduce the value of the Improvements below its value immediately before construction of such Structural Alteration;

c. All Structural Alterations shall be made with reasonable diligence and continuity and in a good and workmanlike manner and in compliance with (i) all Improvement Approvals, (ii) the plans and specifications for such Structural Alteration as approved by Landlord, (iii) the orders, rules, regulations and requirements of any Board of Fire Underwriters or any similar body having jurisdiction, (iv) Section "18", above, and (v) all other legal requirements;

d. The insurance requirements set forth below in Section "25.B.5";

e. If a Structural Alteration materially affects or impacts any item of the Demised Premises which Landlord is to maintain under the terms of this Lease, then Landlord shall no longer be required to maintain such specific area affected by such alteration made by Tenant and the responsibility therefor shall automatically pass to Tenant. For example, if Tenant installs special HVAC equipment on the roof, then that section of the roof which Landlord previously maintained under Section "26" hereof shall be thereafter maintained by Tenant at Tenant's sole cost and expense;

f. Any Structural Alteration made by Tenant to the Demised Premises, other than personal property and business equipment that can be removed without material damage to the Demised Premises, shall become the property of Landlord at the termination or expiration of this Lease (without any obligation by Landlord to pay compensation therefor to Tenant), unless Landlord elects at the time of Landlord's approval of such work to relinquish Landlord's right thereto and to have them removed by Tenant, in which event the same shall be removed from the Demised Premises by Tenant, at Tenant's expense. Tenant's obligation to remove the Structural Alteration herein shall survive the expiration or termination of this Lease if same is not completed by the Expiration Date or earlier date of Lease termination. Upon removal of any and all Tenant installations, alterations, and additions from the Demised Premises, or upon removal of other installations as may be required by Landlord, Tenant shall immediately, and at its expense, repair and restore the Demised Premises to the condition existing prior to any such installations, and repair any damage to the Demised Premises or the Improvements due to such removal. All property permitted or required to be removed by Tenant at the end of the Term remaining in the Demised Premises after Tenant's removal shall be deemed abandoned and may, at the election of Landlord, either be retained as Landlord's property or removed from the Demised Premises by Landlord, at Tenant's expense; and

g. For purposes of this Section "25.B" of the Lease, it shall be reasonable for Landlord to withhold its consent to any Tenant request for consent to Structural Alterations to be made at any time during the last two (2) years of the Term unless such alteration is required by law, in which case such Structural Alteration shall be made in accordance with the provisions of this Section "25.B".

2. Landlord's Approval Requirement. With respect to any Structural Alteration, Tenant shall furnish to Landlord the following: (i) at least ten (10) business days prior to commencement of the proposed Structural Alteration, complete plans and specifications for the Structural Alteration, prepared by a licensed professional engineer or a registered architect reasonably acceptable to Landlord, which approval shall not be unreasonably withheld; (ii) at least ten (10) business days prior to commencement of the proposed Structural Alteration, a contract or construction management agreement reasonably satisfactory to Landlord in form assignable to Landlord (subject to any prior assignment to any Mortgagee or Master Lessor), made with a reputable and responsible contractor or construction manager approved by Landlord, which approval shall not be unreasonably withheld, providing for the completion of the Structural Alteration in accordance with the schedule included in the plans and specifications, free and clear of all liens, encumbrances, security agreements, interests and financing statements; and (iii) at least five (5) business days prior to commencement of the proposed Structural Alteration, an assignment to Landlord (subject to any prior assignment to any Mortgagee or Master Lessor, and subject to Landlord's consent, not to be unreasonably withheld) of the contract so furnished and the bonds or other security provided thereunder, such assignment to be duly executed and acknowledged by Tenant and by its terms to be effective only upon any termination of this Lease or upon Landlord's re-entry upon the Demised Premises or following any Tenant Event of Default (as hereinafter defined) prior to the complete performance of such contract, such assignment also to include the benefit of all payments made on account of such contract, including payments made prior to the effective date of such assignment. Tenant shall pay Landlord's reasonable out-of-pocket expenses in reviewing Tenant's request for permission to make a Structural Alteration, including, without limitation, any fees of Landlord's professionals, such as Landlord's architect.

Landlord shall notify Tenant of Landlord's determination with respect to any request for approval required under this Section "25.B" within ten (10) business days of the complete package from Tenant detailing the proposed Structural Alteration as outlined above. Any disapproval shall specify Landlord's reasons for such disapproval. Landlord's failure to so notify Tenant within said time period shall be deemed to constitute the approval of the proposed Structural Alteration by Landlord. Tenant shall not commence any Structural Alteration until Landlord shall have given, or shall be deemed to have given, the approval required under this Section "25.B".

3. Obligations Upon Completion of Structural Alterations. All Structural Alterations shall be carried out under the supervision of a licensed architect selected by Tenant and reasonably approved by Landlord as aforesaid. Upon completion of any Structural Alteration or planned series of Structural Alterations, Tenant shall furnish to Landlord upon Landlord's request a complete set of "as built" plans for such Structural Alteration, together with a Certificate of Occupancy (which is not temporary but permanent) or Certificate of Completion therefor, as the case may be, issued by the Town of Babylon or Town of Huntington, as the case may be, to the extent a modification thereof was required.

4. Drawings. All of Tenant's right, title and interest in all plans and drawings required to be furnished by Tenant to Landlord under this Lease, including, without limitation, schematics, design development plans and the construction documents, and in any and all other plans, drawings, specifications or models prepared in connection with construction at the Demised Premises or Structural Alteration, shall become the sole and absolute property of Landlord upon the expiration or sooner termination of this Lease, except for those items proprietary to Tenant's business. Tenant shall deliver all such documents in Tenant's possession or reasonably available to Tenant to Landlord promptly upon the Expiration Date or any earlier termination of this Lease. Tenant's obligation under this Section "25.B.4" shall survive the Expiration Date or earlier termination of this Lease.

5. Alterations Insurance Requirements. Prior to the commencement of construction of any Structural Alteration, Tenant shall provide, or cause to be provided, and thereafter shall keep or cause to be kept in full force and effect, or cause to be kept in full force and effect with respect to the Demised Premises, until completion of such Structural Alteration, the following: (i) all policies of insurance required to be maintained by Tenant under Section "11" of this Lease; (ii) general liability insurance, naming contractor or construction manager as named insured and, as additional insureds, Tenant, Landlord and each Mortgagee or Master Lessor under a standard mortgagee clause, such insurance to insure against liability for bodily injury and death and for property damage in such amount as may from time to time be reasonably required by Landlord (which shall be not less than Five Million (\$5,000,000.00) Dollars, such insurance to include operations-premises liability, contractor's protective liability on the operations of all subcontractors, completed operations (to be kept in force for not less than three (3) years after completion of the Structural Alteration), broad form contractual liability (designating the indemnity provisions of this Lease), a broad form comprehensive general liability endorsement providing blanket automatic contractual coverage including bodily injury to employees or others assumed by the insured under contract and, if the contractor is undertaking foundation, excavation or demolition work, an endorsement that such operations are covered and that the "XCU Exclusions" have been deleted; (iii) automobile liability insurance for all owned, non-owned, leased, rented and/or hired vehicles insuring against liability for bodily injury and death and for property damage in an amount not less than Five Million (\$5,000,000.00) Dollars combined single limit, with such coverage to be listed in the underlying schedule of any umbrella or following form excess policy for a total limit of Five Million (\$5,000,000.00) Dollars, such insurance to name Tenant as named insured and, as additional insureds, Landlord, any general contractor or construction manager engaged by Tenant and each Mortgagee or Master Lessor under a standard mortgagee clause workers' compensation insurance providing statutory New York State benefits for all persons employed in connection with the construction at the Demised Premises and employer's liability insurance in an amount not less than that required by New York State law, with coverage to be listed in the underlying schedule of any umbrella or following form excess policy; and all-risk builder's risk insurance written on a one hundred percent (100%) of completed value (non-reporting) basis with limits reasonably acceptable to Landlord, naming, to the extent of their respective insurable interests in the Demised Premises, Tenant as named insured, and, as additional insureds, Landlord, Mortgagee or Master Lessor, as the case may be, any contractor or construction manager engaged by Tenant and each Mortgagee under a standard mortgagee clause. In addition, such insurance (A) shall contain an acknowledgment by the insurance company that its rights of subrogation have been waived with respect to all of the insureds named in the policy and an endorsement stating that "permission is granted to complete and occupy," (B) if any storage location situated off the Demised Premises is used, shall include coverage for the full insurable value, all materials and equipment on or about any such storage location intended for use with respect to the Demised Premises, and (C) if materials, equipment, machinery or supplies to be used in connection with construction are shipped to the job site from places in the contiguous United States, the District of Columbia or Canada, the all-risk builders risk insurance will provide transit coverage. No construction shall be commenced until Tenant shall have delivered to Landlord the original policies of insurance or duplicate originals or certificates thereof together with copies of such insurance policies, as required by this Section "25.B.5"

To the extent that the insurance coverages required pursuant to this Section "25.B.5" duplicate those required by Section "11" hereof, Tenant shall not be required to maintain such coverages in duplicate, but in each instance the more extensive coverage shall be maintained.

26. Repairs/Maintenance: Tenant shall, at its sole cost and expense, and in a manner reasonably satisfactory to the Landlord, repair, put, replace and maintain the Demised Premises, the Improvements, and all its equipment, fixtures, motors, appurtenances, installations and improvements, and every part thereof, in good repair, good working order and good condition and which shall be deemed to include, but not exclusively, any and all maintenance, repairs and replacements of any kind or nature required to be made to the Demised Premises and the Improvements, of every nature and description, inside and outside, ordinary or extraordinary, structural or non-structural, whether or not required by statute or governmental regulations heretofore or hereafter enacted or imposed, and to the heating, electrical, plumbing, sanitary, drains, ventilating and air conditioning systems, fixtures and equipment. The term repairs shall include, but not be limited to, replacements and renewals when necessary to maintain the Improvements in good condition and repair and in compliance with all laws and regulations, and to do so in a diligent manner so as not to deny or neglect repair and maintenance which result in abnormal wear and tear or the need for premature replacement of any component of the Improvements. A copy of any repair, maintenance or replacement quote, estimate or invoice in excess of \$25,000.00, whether constituting a single event or a series of events in the aggregate, shall be promptly provided to Landlord by Tenant within ten (10) days of the issuance of such quote, estimate or invoice. Notwithstanding the foregoing, Landlord shall, throughout the Term, subject to Section "25.B" above, and subject to the other terms of this Lease, maintain at its cost and expense, the roof structure, the roof membrane, and the exterior structure of the Building, it being understood that the liability to Landlord for the repair of said structural repairs is limited to such repair as did not result from the acts, omission or default on the part of Tenant, its agents, or employees or any third-party conducting business with Tenant.

Tenant shall maintain and repair at its sole cost, the Demised Premises and all improvements thereon, including all parking areas, driveways, drainage systems, curbs, paving, sidewalks and landscaping. Tenant shall put, keep and maintain all sidewalks on or abutting the Demised Premises, free of dirt, debris, snow, ice and other materials.

Except as provided in this Lease, Landlord shall not be responsible to keep or maintain any portion of the Demised Premises, it being the intention of the parties that Tenant shall have full and complete responsibility for maintenance and repair of the Demised Premises.

In the event there is any roof leak or structural repair that is the obligation of the Landlord to make, the Landlord's liability is limited to the making of said repair only and in no event shall the Landlord be responsible for the consequential damages, direct or indirect. Landlord agrees to correct these conditions in a timely manner.

Tenant shall not be allowed to pierce the roof or walls by the installation of any equipment without the prior written consent of the Landlord which shall not be unreasonably withheld and the Landlord shall not be responsible for any leak resulting from said piercing of the roof or walls.

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, its employees, agents, invitees, customers or any other person in or about the Demised Premises nor shall Landlord be liable for injury to the person of Tenant, its employees, agents, contractors, or invitees, where such damage or injury is caused by or results from fire, explosion, steam, electricity, gas, water, snow or rain, except due to the negligence or wrongful acts of Landlord or its agents, contractors or employees.

Tenant shall not be obligated to replace or repair any major systems component of the Improvements during the last two (2) years of the Term, unless same is necessitated by Tenant's failure to comply with the terms of this Lease, in particular, this Section "26". If Tenant has so failed to comply, then Tenant, at its sole cost and expense, shall effectuate such replacement or repair, regardless of when in the Term such requirement develops.

During the last five (5) years of the Term, if an HVAC compressor or condenser which covers the office area of the Improvements requires replacement, assuming Tenant has conducted periodic maintenance as required from time to time under the terms of this Lease, Landlord and Tenant shall equally share the cost of replacement. The foregoing cost sharing commitment by Landlord shall not apply to any system used in other areas, such as the lab or kit assembly areas.

27. Security Deposit:

A. Upon execution of this Lease, Tenant has deposited with a third party mutually acceptable to the parties the sum of One Million Twelve Thousand Eight Hundred Seventy Five and 00/100 (\$1,012,875.00) Dollars ("Security Deposit") as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. Such third party will temporarily hold the Security Deposit until the Commencement Date, at which time it is agreed by the parties that the Security Deposit will be released, without further notice to the parties, by such third party to Landlord, and thereupon, Landlord will hold same in accordance with this Section "27." The initial deposit of the security equals an aggregate of six (6) months Fixed Annual Rent. Tenant agrees that on the fifth, tenth and fifteenth anniversary of the Commencement Date, the amount of security shall increase so that the amount of the Security Deposit is the equivalent of the aggregate of six (6) months of the then applicable Fixed Annual Rent. The Security Deposit shall be held in an interest-bearing account with interest accruing in favor of Tenant, and in accordance with the applicable provisions of the New York General Obligations Law. Landlord shall direct the institution holding the Security Deposit to pay Tenant annually the interest accrued thereon. It is acknowledged and agreed to by the parties that the act of the third party holding the Security Deposit as set forth above does not in any way diminish or limit Landlord's rights under this Lease to all or any portion of the Security Deposit in the event of the occurrence of any circumstance giving rise to Landlord's right to apply the Security Deposit in accordance with this Lease.

It is agreed that in the event Tenant defaults in respect of any of the terms and conditions of this Lease, and Tenant fails to cure such default within the applicable grace period after notice, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any rent or any other sum as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease. If Landlord applies or retains any portion or all of the Security Deposit, Tenant shall, within ten (10) business days after demand from Landlord, restore the amount so applied so that at all times the Security Deposit shall remain the same.

Upon the expiration of this Lease and surrender of the Demised Premises to Landlord in accordance with the terms of this Lease, the Security Deposit shall be returned to Tenant after the date fixed as the end of the Lease and after delivery of entire possession of the Demised Premises to Landlord, and after completion and satisfactory review by Landlord of the Environmental Update (less any amounts needed to cure any then existing Tenant defaults). In the event of a sale of the Land or leasing of the Land of which the Demised Premises form a part, Landlord will transfer the Security Deposit to the vendee or ground lessee and Landlord shall thereupon be released by Tenant from all liability for the return of such security and Tenant agrees to look to the new Landlord or ground lessee solely for the return of the Security Deposit. The foregoing provisions shall apply to every transfer or assignment made of the Security Deposit to a new Landlord or ground lessee.

Tenant covenants that it will not assign or encumber or attempt to assign or encumber the Security Deposit and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

B. Tenant's Option to Post a Letter of Credit:

(a) In lieu of cash, at Tenant's option, upon thirty (30) days written notice to Landlord, Tenant may deliver to Landlord, an Irrevocable Standby Letter of Credit ("Letter of Credit") which shall be (1) in the form attached hereto as Exhibit "F", (2) issued by a bank reasonably acceptable to Landlord upon which presentment may be made in New York City or Suffolk County, New York, (3) in an amount equal to the Security Deposit, and (4) for a term of one (1) year, subject to extension in accordance with the terms of the Letter of Credit. Tenant shall, on or before the date thirty (30) days prior to the expiration of the term of such Letter of Credit, deliver to Landlord a new Letter of Credit satisfying the foregoing conditions ("Substitute Letter of Credit") in lieu of the Letter of Credit then being held by Landlord, or an amendment to the Letter of Credit extending the term thereof. If the issuer of such Letter of Credit gives notice of its election not to renew such Letter of Credit for any additional period pursuant to the last grammatical paragraph thereof or otherwise, Tenant shall be required to deliver a Substitute Letter of Credit satisfying the conditions hereof, on or before the date thirty (30) days prior to the expiration of the term of such Letter of Credit. Tenant agrees to maintain such Letter of Credit or Substitute Letter of Credit in accordance with the requirements of this Section "27" throughout the Term. Upon delivery of the Letter of Credit pursuant to this Section "27", Landlord shall contemporaneously return to Tenant the cash security previously held.

(b) In the event that a Tenant Event of Default shall have occurred and is continuing beyond any applicable grace, notice or cure period, then Landlord shall have the right, without giving any further notice to Tenant, (a) to draw down upon said Letter(s) of Credit (Substitute Letter of Credit or Additional Letter(s) of Credit, as defined below, as the case may be) in the amount necessary to cure such Tenant Event of Default, or (b) if such Tenant Event of Default cannot reasonably be cured by the expenditure of money, to exercise all rights and remedies Landlord may have on account of such default and to reimburse itself out of the Letter of Credit (Substitute Letter of Credit or Additional Letter(s) of Credit, as the case may be), for all reasonable amounts expended by Landlord in the exercise of such rights and remedies and any other amounts or sums payable by Tenant to Landlord on account thereof. In the event of any such draw by Landlord, Tenant shall, within fifteen (15) business days of written demand therefor, deliver to Landlord an additional Letter of Credit in the form required by Section "27.B(a)" hereof ("Additional Letter of Credit"), except that the amount of such Additional Letter of Credit shall be the amount of such draw. In addition, in the event of a termination of this Lease by Landlord as a result of Tenant Event of Default or a rejection of this Lease pursuant to the provisions of the Federal Bankruptcy Code, Landlord shall have the right to draw upon the Letter of Credit and/or any Substitute Letter of Credit or Additional Letter(s) of Credit (from time to time, if necessary) to cover the full amount of damages and other amounts due from Tenant to Landlord under this Lease without reference, if the same is applicable, to any limitation on such damages and amounts that might otherwise be imposed by the Bankruptcy Code.

(c) In the event that Tenant fails timely to deliver to Landlord a Substitute Letter of Credit or Additional Letter of Credit as required in this Section "27.B", then Landlord shall have the right, at any time after five (5) days written notice from Landlord to Tenant, which Landlord may give to Tenant at least fifteen (15) days before the scheduled date of expiration of the Substitute Letter of Credit or Additional Letter of Credit, without giving any further notice to Tenant, to draw upon the Letter of Credit (or Substitute Letter of Credit and/or Additional Letter(s) of Credit) and to hold the proceeds thereof ("Security Proceeds") in a segregated bank account in the name of the Landlord as security for Tenant's obligations under the Lease in accordance with the provisions of this Section "27". Notwithstanding anything to the contrary contained herein, Landlord's failure to provide Tenant with notice in accordance with this Section "27.B(c)" shall not obviate Tenant from its responsibilities to maintain the Security Deposit at all times during the Term, nor shall it prevent Landlord from drawing on the Letter of Credit (or Substitute Letter of Credit and/or Additional Letter(s) of Credit), it being understood that it is Tenant's sole and absolute responsibility to maintain the Security Deposit at all times during the Term.

(d) To the extent that Landlord has not previously drawn upon any Letter of Credit, Substitute Letter of Credit, Additional Letter of Credit or Security Proceeds (collectively "Collateral") held by Landlord, and to the extent that no Tenant Event of Default has occurred and is continuing as of the termination of the Term, Landlord shall return such Collateral to Tenant.

28. Use: Tenant shall have the right to use and occupy the Demised Premises for medical laboratories, including medical testing, and ancillary office, warehouse and distribution use and related activities and for any other lawful purpose, at all times being in compliance with applicable laws, including, without limitation, applicable zoning and land use laws, codes, regulations, directives and orders. Tenant shall not at any time use or occupy, or suffer or permit any person to use or occupy the Demised Premises, or do or permit anything to be done in the Demised Premises, in violation of the Certificate of Occupancy for Tenant's permitted use. Landlord shall have no liability or obligation whatsoever if the use set forth in this Lease is not complied with and Tenant assumes all risks in such eventuality. Tenant agrees to indemnify and hold Landlord harmless, to the fullest extent permitted by law, from and against all suits, actions, legal or administrative proceedings, claims, liabilities, fines, penalties, losses, injuries, damages, expenses or costs, including reasonable attorneys' fees, arising from any violation of Tenant's obligations set forth in the preceding sentence. Tenant shall not knowingly suffer or permit the Demised Premises or any portion thereof to be used by the public in such manner as might reasonably tend to impair title to the Demised Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Demised Premises or any portion thereof.

29. Signs: Tenant shall have the right to install and maintain at its own expense, signs provided the Tenant shall (i) comply with all of the laws, orders, rules and regulations of the governmental authorities having jurisdiction over the Demised Premises, including, but not limited to, zoning laws, building codes and as required by insurance underwriters and (ii) obtain Landlord's prior written consent which shall not be unreasonably withheld or delayed. The criteria for Landlord's consent shall be limited to the potential impact on the Building due to the attachment or installation of a sign. Tenant shall obtain and pay for all permits required therefor. Tenant expressly agrees that no sign shall be installed until all approvals and permits are first obtained and copies thereof delivered to the Landlord with evidence of payment of any fees pertaining thereto. Tenant agrees to pay all annual renewal fees, if any, pertaining to Tenant's signs.

30. Force Majeure: Neither Landlord nor Tenant shall have any liability whatsoever to the other on account of the inability to timely fulfill any of its obligations under this Lease by reason of any strike, lockout or other labor trouble; inability to obtain labor, materials, coal, oil, or other suitable fuel or reasonable substitutes therefor or the failure of the supply of any thereof; acts of God, fire or other casualty; governmental preemption of priorities or other controls in connection with a public emergency; governmental restrictions or requirements of laws; enemy, terrorist or hostile governmental action; civil commotion; or any other cause, whether similar or dissimilar to the above, beyond the non-performing party's reasonable control (the foregoing events are collectively referred to as "Force Majeure"). If this Lease specifies a time period for performance of an obligation of either party, that time period shall be extended by the period of any delay in such party's performance caused by any of the events of Force Majeure. Notwithstanding anything to the contrary contained herein, under no circumstances shall Tenant be entitled to claim or benefit from this Force Majeure provision in relation to fulfillment of any monetary obligation under this Lease, including, without limitation, payment of rent, additional rent or other charges coming due under this Lease.

31. Casualty Loss:

(a) If during the Term fifty percent (50%) or more of the Improvements is destroyed or rendered untenantable by fire or other casualties exclusive of Tenant's improvements not insured under Landlord's insurance policy, Tenant shall promptly notify Landlord of same within twenty-four (24) hours of such event. Landlord shall assess the condition of the Demised Premises and the availability of insurance proceeds necessary to rebuild the Demised Premises (exclusive of Tenant's improvements not insured under Landlord's insurance policies). As promptly as possible given delays beyond Landlord's control, such as delays caused by the insurers, Landlord shall notify Tenant in writing of the anticipated time necessary to rebuild the Demised Premises, together with its plans of construction. Tenant shall have thirty (30) days from Landlord's notice to determine whether to (i) remain under lease for the Demised Premises, in which case Landlord shall rebuild the Demised Premises in accordance with its plans, as soon as reasonably practicable, taking into account delay in receiving insurance proceeds, or (ii) terminate this Lease thereupon the Term shall terminate on such date which is thirty (30) days after the date of such notice, and all rent and other payments, including, but not limited to, insurance premiums, Taxes and assessments shall be apportioned to the date of such termination. If Tenant elects to terminate this Lease as aforesaid, then all insurance proceeds available on account of such damage to the Building shall be the sole property of Landlord and Tenant shall have no claim whatsoever with regard thereto. Tenant shall retain proceeds, if any, relating to damage of Tenant's personal property. If Tenant fails to make such election, it shall be deemed that Tenant has elected "(i)" hereof. If Tenant has elected "(i)" hereof, then, during the time of re-construction of the Demised Premises, the rent herein reserved and other charges including, but not limited to, Taxes and insurance premiums, if any, payable hereunder, or a just and proportionate part thereof, according to the nature and extent that the Demised Premises shall have been rendered unfit for use and occupation, shall be suspended or abated until the Demised Premises shall have been put in substantially the same condition in which they were immediately prior to such destruction or damage.

(b) Notwithstanding the foregoing, if an event of casualty occurs within the last two (2) lease years of the Term which would otherwise be covered by subsection "(a)" above, then either Landlord or Tenant, upon sixty (60) days written notice to the other from the date Tenant notifies Landlord in writing of the event of casualty, may elect to terminate this Lease, and all rent and other payments, including, but not limited to, insurance premiums, Taxes and assessments shall be apportioned to the date of such termination. In the case of an event of casualty falling under this Section "31(b)", Landlord will have no obligation to restore any part of the Demised Premises so damaged.

(c) If less than fifty percent (50%) of the Improvements is destroyed or rendered untenantable by fire or other casualties exclusive of Tenant's improvements not insured under Landlord's insurance policies, then this Lease will continue in full force and effect, and Landlord shall proceed with reasonable diligence, as soon as reasonably practicable, taking into account delay in receiving insurance proceeds, to repair and restore the Improvements, excluding Tenant's improvements not covered by Landlord's insurance, to substantially the same condition in which they were immediately prior to such damage or destruction, and the rent herein reserved and other charges including, but not limited to, Taxes and insurance premiums, if any, payable hereunder, or a just and proportionate part thereof, according to the nature and extent that the Demised Premises shall have been rendered unfit for use and occupation, shall be suspended or abated until the Demised Premises shall have been put in substantially the same condition in which they were immediately prior to such destruction or damage. Notwithstanding the foregoing, Landlord shall have no obligation to restore the Demised Premises in the event of casualty under this Section "31(c)" during the last two (2) years of the Term.

(d) In determining what constitutes reasonable diligence within the meaning of this Section "31", consideration shall be given to delays caused by strike, adjustment of insurance and other causes beyond the Landlord's control.

(e) If any dispute arises between the parties as to the extent of the damage referred to in subsection “(a)” or (c)” hereof, or if there is a dispute as to what constitutes a just and proportionate part of the rent as referred to in subsection “(c)” hereof, and the parties are unable to agree thereon, a determination shall be made by the disinterested appraiser agreed upon by the parties. Such appraiser shall be one regularly engaged in the business of making such appraisals of fire damage to industrial and commercial buildings. If the parties are unable to agree upon the selection of one such appraiser, each party shall appoint its own appraiser, who in turn shall appoint determination of the majority shall be accepted by the parties as binding. Such appraisers shall be appointed within twenty (20) days of the occurrence of the fire or other casualty.

(f) This Section “31” constitutes an express agreement governing damage or destruction of the Demised Premises or the Improvements by fire or other casualty, and neither Section 227 of the Real Property Law of the State of New York which provides for such contingency in the absence of an express agreement, nor any other laws of similar import now or hereafter in effect, shall have any application in any such case.

32. Condemnation:

(a) If all of the Demised Premises are taken by condemnation, sale in lieu of condemnation, or in any other manner for any public or quasi-public use or purpose (“Eminent Domain”) such that Tenant is materially prohibited from conducting its business operations in the Demised Premises, this Lease and the Term and estate hereby granted shall terminate as of the date of vesting of title on such taking or the date that the condemning or purchasing authority takes possession, whichever is earlier, and the rents shall be prorated and adjusted as of such date.

(b) If part of the Demised Premises is taken by Eminent Domain, this Lease shall be unaffected by such taking, except that (a) the rent shall be reduced by an amount equal to the rent attributable to the portion of the Demised Premises taken, and (b) Landlord shall repair or restore the remaining portions of the Demised Premises, with reasonable dispatch after collection of the award attributable to the taking by Eminent Domain; provided, however, that Landlord shall not be required to (i) make such repair or restoration if the event of Eminent Domain occurs within the last eighteen (18) months of the Term, or (ii) expend on such repair or restoration amounts in excess of the total awards (net of the costs of collection) collected by it on account of the taking. Notwithstanding the foregoing, if the portion of the Demised Premises taken by Eminent Domain materially and adversely affects Tenant’s ability to conduct its business in the Premises in Landlord’s reasonable judgement, then Tenant shall have the right to terminate this Lease by giving Landlord notice thereof within thirty (30) days after the date of vesting of title on such taking.

(c) Landlord shall be entitled to receive the entire award or payment in connection with any taking of the Demised Premises or any part thereof without deduction for any estate vested in Tenant by this Lease, except that Tenant shall be entitled to share in any award made to Landlord to the extent of the value of the trade fixtures, machinery and equipment installed by and at the expense of Tenant, or by any moving expenses therefor, but only if Tenant’s claim does not adversely affect or result in any reduction of Landlord’s award or interfere with the prosecution of a claim for the taking by Landlord.

(d) In determining what constitutes reasonable dispatch within the meaning of this Section “32”, consideration shall be given to delays caused by strike, adjustment of insurance and other causes beyond the Landlord’s control.

33. Recording of Lease: Expressly to enable Tenant to procure leasehold title insurance, Tenant may, at its sole cost and expense, record a Memorandum of this Lease, provided it simultaneously execute a Termination of Memorandum of Lease in recordable form together with any ancillary documents as may be requested by the recording officer which will be held by Landlord to be recorded upon the expiration or earlier termination of the Term in accordance with the terms of this Lease. Landlord shall give Tenant seven (7) days written notice prior to the recording of the Termination of Memorandum of Lease, except in the case of a recording in connection with any court ordered termination of this Lease or upon the Expiration Date, in which case Landlord may record the Termination of Memorandum of Lease without any notice whatsoever to Tenant. For purposes hereof, in the event of any permitted assignment of this Lease, it shall be a condition to the effectiveness of such assignment that the assignee submit to Landlord a written Termination of Memorandum of Lease in recordable form in the same form as that originally executed by Tenant, together with any ancillary documents as may be requested by the recording officer. Failure to submit such Termination of Memorandum of Lease together with any ancillary documents as may be requested by the recording officer by such permitted assignee shall constitute a material breach of this Lease and an illegal and improper assignment thereof. The parties agree that the Memorandum of Lease shall specifically not identify the rental amounts to be paid by Tenant under this Lease.

34. Assignment/Subletting:

(a) Notwithstanding any other provision of this Lease, except as set forth in this Section "34", Tenant shall not assign, mortgage, pledge or otherwise assign this Lease, in whole or in part, or sublet all or any part of the Demised Premises or suffer or permit the Demised Premises or any part thereof to be used or occupied by others, whether voluntarily or not, without the prior written consent of Landlord in each instance. Nothing in this Lease shall be deemed to permit Tenant to collaterally assign, collaterally sublet or hypothecate its interest in this Lease. Tenant may, from time to time, perfect fixture financing of its personal property contained in the Lease provided under no circumstances shall any filing be indexed or recorded against the Land, Improvements or the Demised Premises. If such indexing or recording occurs, Tenant shall forthwith with all diligence act to have same removed from the real property index or record, and Tenant shall indemnify, defend and hold Landlord Indemnified Parties harmless on account thereof, including, but not limited to, reasonable counsel fees and disbursements.

(b) From time to time, at the request of Landlord, any permitted assignee or subtenant will furnish information reasonably requested by Landlord with regard to the beneficial and record owners of the capital stock (or equity interest, as the case may be) of such permitted assignee or subtenant. The foregoing sentence does not apply to Tenant.

(c) Any request submitted to Landlord for consent to an assignment or subletting shall be accompanied by Tenant's agreement to pay Landlord's reasonable attorney's fees for reviewing the proposed assignment or sublease and the cost of the credit check which sums shall constitute Additional Rent and by a check for \$500 which constitutes a nonrefundable deposit toward such costs. Landlord shall have no obligation to consider any request to sublet or assign if Tenant shall be in default beyond any applicable notice or cure period under the terms and conditions of this Lease.

(d) Landlord shall not unreasonably withhold, condition or delay its consent to a proposed assignment or subletting, however, Landlord shall consider the following and any further or any other factors which Landlord deems relevant in determining whether or not to consent to any assignment or subletting:

- (i) The financial ability of the proposed assignee or subtenant as may be reflected, in part, by financial statements submitted to Landlord and by a credit check which shall be conducted by Landlord against the proposed assignee or subtenant and the individual principals thereof,
- (ii) The past experience of the proposed assignee or subtenant and/or the principals thereof in the operation of a business similar to the business which they wish to conduct at the Demised Premises; and

(iii) Whether any such assignment or sublet imposes any additional material obligations on Landlord.

(e) Provided Landlord consents to a subletting or assignment an original draft of the fully executed sublease or assignment shall be sent to Landlord at least ten (10) business days prior to the effective date thereof, which sublease or assignment shall contain an acknowledgment by the subtenant or assignee to the effect that it has received a copy of this Lease and agrees to comply with and perform all of the obligations of the Tenant thereunder to the extent applicable.

(f) Following a permitted assignment of this Lease, the assignee shall be deemed to be the Tenant hereunder. However, it is understood that no assignment or sublease, whether consented to by Landlord or not shall operate to relieve Tenant of "tenant" obligations under this Lease.

(g) If this Lease be assigned, or if the Demised Premises or any part thereof be sublet or occupied by anybody other than Tenant without Landlord's consent, Landlord may, regardless of the occurrence of a default by Tenant, collect rent from the assignee, subtenant or occupant, and apply the net amount collected to the rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this Section, or the acceptance of the assignee, subtenant or occupant as Tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. Such occurrence shall also be deemed a Tenant Event of Default if Tenant has not cured such breach after seven (7) days notice from Landlord.

(h) The consent by Landlord to an assignment or underletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlord to any further assignment or subletting requiring such consent, or relieve Tenant from its primary liability to Landlord on account of this Lease.

(i) The provisions of this Section "34" concerning assignment and subletting shall apply to any assignee, subtenant or anyone holding the Demised Premises through the Tenant and must be complied with for each and every assignment and/or subletting of all or any portion of the Demised Premises.

(j) The prohibitions against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law, merger, consolidation, reorganization, acquisition, transfer or other change of Tenant's (or any permitted assignee's or sublessee's) corporate or proprietary structure, including a change in the partners of any partnership, and the sale, pledge, or other transfer of any of the issued or outstanding capital stock of any corporate tenant or permitted assignee or sublessee (unless such stock is publicly traded on a recognized security exchange or over the counter market), other than the following scenarios, in which case, assignment of this Lease or a sublet of all or any portion of the Demised Premises will be permitted, to wit: (i) an assignment of Tenant's interest in this Lease and/or to a sublet of all or any portion of the Demised Premises to an Affiliate of Tenant; (ii) a sale of the entire or substantially the entire business of Tenant or its Affiliate conducted at the Demised Premises or a sale of all or substantially all of Tenant's or its Affiliate's assets; or (iii) in conjunction with any merger, acquisition or consolidation involving Tenant or its Affiliate (so long as Tenant's or its Affiliate's stock is publicly traded on a recognized security exchange or over the counter market); provided, however, in subsections "(i)-(iii)", above, (x) Tenant is not in default under the terms of this Lease beyond any applicable grace or cure period, (y) promptly after the effective date of any such assignment or sublet, a fully executed and acknowledged assignment or sublet agreement, in proper form, is delivered to Landlord, which assignment shall contain an assumption agreement by assignee in favor of Landlord for the terms and provisions of this Lease, and (z) Tenant shall remain liable for all "Tenant" obligations under this Lease. For purposes hereof, "Affiliate" shall mean a corporation which is controlling, controlled by, or under common control with Tenant. As used herein, "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities or rights, by contract or otherwise.

(k) Each sublease shall provide that it is subject and subordinate to this Lease and to the matters to which this Lease is or shall be subordinate, and that, in the event of termination, reentry or dispossession by Landlord under this Lease, Landlord may, at its option, take over all the rights, title and interest of Tenant, as sublessor under such sublease, and such subtenant shall, at Landlord's option, attorn to Landlord pursuant to the then executory provisions of such sublease, and such subtenant shall promptly execute and deliver any instrument Landlord may reasonably request to evidence such attornment except that Landlord shall not (a) be liable for any previous act or omission of Tenant under such sublease, (b) be subject to any offset, not expressly provided in such sublease, which theretofore accrued, to such subtenant against Tenant, or (c) be bound by any previous modification of such sublease or by any previous prepayment of more than one month's rent.

(l) Every subletting hereunder is subject to the express condition, and by accepting a sublease hereunder each subtenant shall be conclusively deemed to have agreed, that if this Lease should be terminated prior to the Expiration Date or if Landlord should succeed to any portion of Tenant's estate in the Demised Premises, then at Landlord's election, such subtenant shall surrender that portion of the Demised Premises which it is subletting to Landlord within sixty (60) days of Landlord's request therefor.

35. Bankruptcy:

(a) Anything elsewhere in this Lease to the contrary notwithstanding, this Lease may be canceled by Landlord by sending a written notice to Tenant within a reasonable time after the happening of any one or more of the following events: (1) the commencement of a case in bankruptcy or under the laws of any state naming Tenant as the debtor; or (2) the making by Tenant of an assignment or any other arrangement for the benefit of creditors under any state statute. In the case of an involuntary bankruptcy, Tenant shall have a period of ninety (90) days from Landlord's notice to cure such involuntary bankruptcy, provided Tenant is otherwise not in default of this Lease beyond any applicable grace period, including, without limitation, current on payments of rent and additional rent. Neither Tenant nor any person claiming through or under Tenant, or by reason of any statute or order of court, shall thereafter be entitled to possession of the Demised Premises but shall forthwith quit and surrender the Demised Premises. If this Lease shall be assigned in accordance with its terms, the provisions of this Section shall be applicable only to the party then owning Tenant's interest in this Lease, it being understood, however, that Tenant shall remain liable under this lease as per Section "34(t)", above.

(b) It is stipulated and agreed that in the event of the termination of this Lease pursuant to this Section "35", Landlord shall forthwith, notwithstanding any other provisions of this Lease to the contrary, be entitled to recover from Tenant as and for liquidated damages an amount equal to the difference between the rental reserved hereunder for the unexpired portion of the Term and the fair and reasonable rental value of the Demised Premises for the same period. In the computation of such damages the difference between any installment of rent becoming due hereunder after the date of termination and the fair and reasonable rental value of the Demised Premises for the period for which such installment was payable shall be discounted to the date of termination at the Prime Rate in effect on the date of termination. If such premises or any part thereof be relet by the Landlord for the unexpired term of said Lease, or any part thereof, before presentation of proof of such liquidated damages to any court, commission or tribunal, the amount of rent reserved upon such reletting shall be deemed to be the fair and reasonable rental value for the part or the whole of the premises so re-let during the term of the re-letting. Nothing herein contained shall limit or prejudice the right of the Landlord to prove for and obtain as liquidated damages by reason of such termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, such damages are to be proved, whether or not such amount be greater, equal to, or less than the amount of the difference referred to above.

(c) If pursuant to the Bankruptcy Code of 1978, as the same may be amended, Tenant is permitted to assign this Lease in disregard of the restrictions contained in the provisions hereof, Tenant agrees that adequate assurance of future performance by the assignee permitted under such Code shall mean the deposit of cash security with Landlord in an amount equal to the sum of the Annual Fixed Rent then reserved hereunder plus an amount equal to all Additional Rent payable under this Lease for the calendar year preceding the year in which such assignment is intended to become effective, which deposit shall be held by Landlord, without interest, for the balance of the Term as security for the full and faithful performance of all of the obligations under this Lease on the part of Tenant yet to be performed. If Tenant receives or is to receive any valuable consideration for such an assignment of this Lease, such consideration, after deducting therefrom (a) the brokerage commissions, if any, and other expenses reasonably incurred by Tenant for such assignment and (b) any portion of such consideration reasonably designated by the assignee as paid for the purchase of Tenant's property in the Demised Premises, shall be and become the sole and exclusive property of Landlord and shall be paid over to Landlord directly by such assignee. In addition, adequate assurance shall mean that any such assignee of this Lease shall have a net worth, exclusive of goodwill, equal to at least ten (10) times the aggregate of the Fixed Annual Rent reserved hereunder plus all Additional Rent for the preceding calendar year as aforesaid. This shall be enforceable provided that it does not result in the imposition of any personal liability upon Tenant's officers, directors or shareholders.

36. Net Lease: It is the intention of the Landlord and the Tenant that the Fixed Annual Rent herein specified shall be net to the Landlord in each Lease Year during the Term. Accordingly, except as otherwise provided in this Lease, all costs, expenses, and obligations of every kind relating to the Demised Premises, including, but not limited to, insurance, water and sewer charges, utility charges, real property taxes or other taxes that may be imposed that relate to the Demised Premises, repairs and all maintenance and replacements, and all other operating expenses, (except as otherwise specifically provided in this Lease) which may arise or become due during the Term shall be paid by the Tenant to the Landlord as Additional Rent, and the Landlord shall be indemnified by the Tenant against such costs, expenses, and obligations.

37. Default by Tenant: If Tenant shall fail to pay any installment of Fixed Annual Rent or Additional Rent on the day the same shall become due and payable hereunder, and such failure shall continue for a period of five (5) business days after notice thereof from Landlord, or if Tenant shall fail to keep and perform promptly any other covenant of this Lease in accordance with the terms of this Lease and such failure shall continue for a period of thirty (30) days after notice thereof from Landlord (collectively "Tenant Event of Default"), Landlord may serve a written three (3) days notice of cancellation of this Lease upon Tenant, and upon the expiration of said three (3) days, this Lease and the Term hereunder shall end and expire as fully and completely as if the expiration of such three (3) day period were the day herein definitely fixed for the end and expiration of this Lease and the Term hereof and Tenant shall then quit and surrender the Demised Premises to Landlord but Tenant shall remain liable as hereinafter provided, or Landlord may pursue any other available legal or equitable remedy. For purposes hereof, the term Tenant Event of Default shall also mean an "Event of Default" as that term is used under the Guaranty made by Tenant's parent, ICON plc, a copy of which is attached hereto as Exhibit "G".

Upon occurrence of a Tenant Event of Default Landlord may, without further notice, re-enter the Demised Premises and dispossess Tenant by summary proceedings or other legal means, and the legal representative of Tenant or other occupant of Demised Premises and remove their effects and hold the Demised Premises as if this Lease had not been made, and Tenant hereby waives the service of notice of intention to re-enter or to institute legal proceedings to that end.

Notwithstanding the foregoing, if Tenant cannot cure a non-monetary default with due diligence prior to the expiration of thirty (30) days from the date of Tenant's receipt of the notice provided for above, and if Tenant commences within thirty (30) days after Tenant's receipt of the notice to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work in order to cure such default, then Landlord shall not have the right to exercise its remedies hereunder by reason of such default so long as said Tenant Event of Default is completely cured within ninety (90) days. Thereafter, Tenant's failure to so remedy the nonmonetary default will be an Tenant Event of Default under this Lease.

In case of any Tenant Event of Default, re-entry, expiration and/or dispossession by summary proceedings or otherwise, (a) the Fixed Annual Rent, and Additional Rent, shall become due thereupon and be paid up to the time of such re-entry, dispossession and/or expiration; (b) Landlord may re-rent the Demised Premises or any part or parts thereof, either in the name of Landlord or otherwise, for a term or terms, which may at Landlord's option be less than or exceed the period which would otherwise have constituted the balance of the Term and may grant concessions or free rent or charge a higher rental than that in this Lease; and/or (c) Tenant or the legal representatives of Tenant shall also pay Landlord as liquidated damages for the failure of Tenant to observe and perform said Tenant's covenants herein contained, any deficiency between the rent hereby reserved and/or covenanted to be paid and the net amount, if any, of the rents collected on account of the subsequent lease or leases of the Demised Premises for each month of the period which would otherwise have constituted the balance of the Term. The failure of Landlord to re-let the Demised Premises or any part or parts thereof shall not release or affect Tenant's liability for damages. In computing such liquidated damages there shall be added to the said deficiency such reasonable expenses as Landlord may incur in connection with re-letting, such as legal expenses, reasonable attorney's fees, brokerage, advertising and for keeping the Demised Premises in good order or for preparing the same for re-letting. Any such liquidated damages shall be paid in monthly installments by Tenant on the rent days specified in this Lease. Landlord, in putting the Demised Premises in good order or preparing the same for re-rental may, at Landlord's option, make such alterations, repairs, replacements and/or decorations in the Demised Premises as Landlord's sole judgment, considers advisable and necessary for the purpose of re-letting the Demised Premises, and the making of such alterations, repairs, replacements, and/or decorations shall not operate or be construed to release Tenant from liability. Landlord shall in no event be liable in any way whatsoever for failure to re-let the Demised Premises, or in the event that the Demised Premises are re-let, for failure to collect the rent thereof under such re-letting, and in no event shall Tenant be entitled to receive any excess, if any, of such net rent collected over the sums payable by Tenant to Landlord hereunder.

Whether or not Landlord shall have collected any monthly deficiency as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord on demand in lieu of any further deficiency as and for liquidated damages, a sum equal to the amount by which the rents for the period that otherwise would have constituted the unexpired portion of the Term exceeds the then fair market rental value of the Demised Premises for the same period (first deducting from such fair market rental value all of Landlord's reasonable expenses in connection with the termination of this Lease, Landlord's re-entry upon the Demised Premises and reletting costs, if any, including all repossession costs, brokerage commissions, attorney's fees and disbursements, alteration costs and other expenses of preparing the Premises for reletting, but only to the extent such expenses have not already been paid to Landlord through prior court proceedings or otherwise), both discounted to present value at the rate of six percent (6%) per annum, less the aggregate amount of deficiencies theretofore collected by Landlord for the same period; provided, however, that if, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Demised Premises, or any part thereof, shall have been relet by Landlord in an arms length transaction for the period that otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair market rental value for the part of the Demised Premises so relet during the term of the reletting.

In the event of a breach or threatened breach by Tenant of any of the covenants or provisions hereof, Landlord shall have the right of injunction and the right to invoke any remedy allowed at law or in equity as if re-entry, summary proceedings and other remedies were not herein provided for. Mention in this Lease of any particular remedy shall not preclude Landlord from any other remedy, in law or in equity, Landlord's choice of remedies being cumulative and not exclusive. Tenant expressly waives any and all rights of redemption granted by or under any present or future laws.

38. Default by Landlord: If any representation made by Landlord herein shall be false, or if Landlord shall breach any warranty or fail to perform any covenant that Landlord is required to perform and such breach or failure shall continue for a period of thirty (30) days after Landlord receives notice thereof from Tenant or if Landlord shall fail to pay any sums due to Tenant or any taxing authority hereunder, and such failure shall continue for a period of ten (10) days after Landlord receives notice thereof from Tenant (collectively, "Landlord Event of Default") then Tenant may, (i) exercise all available legal and equitable rights and remedies, or (ii) cure any Landlord Event of Default and perform any covenants which Landlord has failed to perform, and Landlord shall pay to Tenant within two weeks after receipt of demand all reasonable sums which Tenant expends in curing such default and performing such covenants and if such sums are not timely paid Tenant may bring suit to recover from Landlord all sums due Tenant from Landlord. Notwithstanding the foregoing, any nonmonetary default cannot with due diligence be cured prior to the expiration of thirty (30) days from the date of Landlord's receipt of the notice provided for above, and if Landlord commences within thirty (30) days after the date to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work in order to cure such default, then Tenant shall not have the right to declare this Lease terminated by reason of such default.

39. Right To Cure Default: If Tenant defaults in the performance of any covenants or obligations of the Lease to be performed by Tenant, Landlord may, after expiration of any applicable cure period, or, if in Landlord's opinion, an emergency exists, perform the same without notice for the account and at the expense of Tenant. If Landlord incurs any expense, including reasonable attorney's fees, in instituting, prosecuting or defending any action or proceeding by reason of any default by Tenant, Tenant shall reimburse Landlord the amount of such expense together with interest thereon at the Interest Rate. If Landlord defaults in the performance of any covenants or obligations of the Lease to be performed by Landlord, Tenant may, after fifteen (15) days written notice, except in an emergency, then upon one (1) business day's notice, perform the same for the account and at the expense of Landlord.

40. No Set-Off, Rent Abatement, Consolidation or Counterclaim: The Tenant shall not be entitled to any abatement of rent or rental value or diminution of rent or damages in any proceedings brought by Landlord against Tenant. In any action by the Landlord against Tenant the Tenant shall not have the right of set-off, recoupment or counterclaim for any damages which the Tenant may have sustained by reason of the Landlord's failure to perform any of the terms, covenants and conditions contained in this Lease or for any other cause. The Tenant shall be relegated to an independent action for damages and such independent action shall not at any time be consolidated with any action or proceeding instituted by the Landlord. Tenant shall not interpose any counterclaim (except a mandatory counterclaim) it may otherwise assert in any summary proceeding whether such summary proceeding is based on nonpayment of rents or on Tenant's holding over after expiration of the Term or on any other basis pursuant to Article 7 of the Real Property Actions and Proceedings Law of the State of New York.

No diminution or abatement of rent, or other compensation, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs to the Improvements. In respect to the services agreed to be furnished by Landlord to Tenant, it is agreed that there shall be no diminution or abatement of the rent, or any other compensation for interruption or curtailment of such service when such interruption or curtailment shall be due to accident, alterations or repairs necessary to be made or to the inability or difficulty in securing supplies or labor for the maintenance of such service or to some other cause, not negligence or wrongful acts on the part of Landlord. No such interruption or curtailment of any such service shall be deemed a constructive eviction. Landlord shall not be required to furnish, and Tenant shall not be entitled to receive, any of such services during any period wherein Tenant shall be in default in respect to the payment of rent. Neither shall there be any abatement or diminution of rent because of making repairs to the Demised Premises after the Commencement Date it being understood that the rent shall, in any event, commence to run at such date so above fixed.

41. Access to Premises: Landlord and Landlord's agents shall have the right (but shall not be obligated) to enter the Demised Premises in an emergency at any time, and, at other reasonable times, on reasonable notice, to examine the same and to make such repairs, replacements and improvements which Landlord may elect to perform in the Demised Premises after Tenant's failure to make repairs or perform any work which Tenant is obligated to perform under this Lease, or for the purpose of complying with laws, regulations and other directions of governmental authorities. Landlord may, during the progress of any work in the Demised Premises, take all necessary materials and equipment into the Demised Premises without the same constituting an eviction nor shall the Tenant be entitled to any abatement of rent while such work is in progress nor to any damages by reason of loss or interruption of business or otherwise.

Throughout the Term, Landlord shall have the right to enter the Demised Premises at reasonable hours and on reasonable advance notice for the purpose of showing the same to prospective purchasers and Mortgagees and during the last six (6) months of the Term for the purpose of showing the same to prospective tenants.

42. End of Term: Upon the expiration or other termination of the Term, Tenant shall quit and surrender to Landlord the Demised Premises and the Improvements broom clean, free of rubbish and debris in good order and condition, ordinary wear and damages which Tenant is not required to repair as provided elsewhere in this Lease excepted, and Tenant shall remove all its property from the Demised Premises. Landlord may consider items of Tenant's property that remain in the Demised Premises after the Expiration Date or earlier termination of the Term to have been abandoned, and disposal of same shall be made at the sole costs and expense of Tenant. If the last day of the Term or any renewal thereof falls on Sunday, this Lease shall expire at noon on the preceding Saturday unless it be a legal holiday in which case it shall expire at noon on the preceding business day. Notwithstanding the foregoing, (a) in case of any termination or expiration under Section "37", Tenant shall remain liable as provided therein, and (b) Tenant's or Landlord's accrued liability or obligations, as the case may be, under this Lease shall in all events survive the expiration or earlier termination of the Term. This Section "42" shall survive the Expiration Date or earlier termination of this Lease.

43. Adjacent Excavation: If an excavation shall be made upon land adjacent to the Demised Premises, or shall be authorized to be made, Tenant shall afford to the person causing or authorized to cause such excavation, license to enter upon the Demised Premises for the purpose of doing such work as said person shall deem necessary to preserve the wall or the building of which Demised Premises form a part from injury or damage and to support the same by proper foundations without any claim for damages or indemnity against Landlord, or diminution or abatement of rent.

44. Holdover: In the event Tenant remains in possession of the Demised Premises after the termination or expiration of this Lease, Tenant, at the option of Landlord, shall be deemed to be occupying the Demised Premises as a tenant from month to month at a monthly rental equal to two (2) times the Fixed Annual Rent and Additional Rent payable during the last month of the Term subject to all of the other terms of this Lease insofar as the same are applicable to a month-to-month tenancy. Nothing contained herein shall be deemed an authorization for Tenant to hold over beyond the expiration of the Term and no such holding over shall be an extension or renewal of this Lease. Tenant waives any rights under Section 2201 of the Civil Practice Law and Rules of the State of New York in connection with any holdover proceedings that Landlord may institute against Tenant. This provision shall survive the termination or expiration of this Lease.

45. Right of Redemption: Tenant hereby expressly waives any and all rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event Landlord obtaining possession of the Demised Premises, by reason of the violation by Tenant of any of the covenants and conditions of this Lease, or otherwise.

46. Event of Vacatur: In the event Tenant shall vacate the Demised Premises or cease doing business therein, Tenant shall nevertheless remain obligated to perform all of its obligations set forth in this Lease, and in addition, shall take such commercially reasonable and prudent measures to safeguard the Demised Premises and all building systems contained therein in light of their reduced usage. Such measures shall include, without limitation, security patrols and sufficient running of HVAC systems to prevent unreasonable wear and tear from heat during the summer months and cold during the winter months.

47. Accord And Satisfaction: No payment by Tenant or receipt by Landlord of a lesser amount than the Fixed Annual Rent and Additional Rent Payable under this Lease shall be deemed to be other than on account of the earliest payable Fixed Annual Rent or Additional Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Fixed Annual Rent or Additional Rent or pursue any other remedy provided in this Lease by law.

48. Disclaimer: Except as herein specifically set forth, the Landlord shall not be liable or bound in any manner by express or implied warranties, guarantees, promises, statements, representations or information.

49. Partial Invalidity: If any term, covenant, condition or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

50. Attorney's Fees: In the event of any litigation regarding the rights and obligations under this Lease, the prevailing party shall be entitled to reasonable attorneys' fees and court costs. The provisions of this Section "50" shall also apply to the period prior to the Commencement Date. Additionally, all reasonable costs and expenses, other than routine administrative expenses, including attorneys' fees (whether or not legal proceedings are instituted), involved in collecting rents or enforcing the obligations of Tenant under this Lease, including the cost and expense of instituting and prosecuting legal proceedings or recovering possession of the Demised Premises after breach by Tenant or upon expiration or earlier termination of this Lease, to the extent such costs and expenses have not already been paid as a deficiency or as liquidated damages under Section "37", above, shall be due and payable by Tenant as Additional Rent within twenty (20) days of demand.

51. **Non-Waiver:** No written waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. Furthermore, Landlord's failure during the Lease Term to prepare and deliver to Tenant any statements or bills, or Landlord's failure to make a demand for Additional Rent, shall not in any waive or cause Landlord to forfeit or surrender Landlord's rights to collect any item of Additional Rent which may have become due during the Term.

52. **Lease Not Binding Until Executed:** Submission by Landlord of the within Lease for execution by Tenant shall confer no rights nor impose any obligations on either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties or their attorneys.

53. **Indemnification:** All provisions of this Lease calling for one party to indemnify the other are limited by the condition that such indemnification obligations are limited to the extent permitted by applicable law. If the scope of any indemnification obligation contained in this Lease is too broad to permit enforcement of such obligation to its full extent, then such obligation shall be enforced to the maximum extent permitted by law, and the parties hereby consent and agree that such scope may be judicially modified accordingly in any proceeding brought to enforce such obligation.

54. **Entire Agreement:** This Lease embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Lease.

55. **Landlord Reservation of Rights:** Any reservation of a right by Landlord to enter upon the Demised Premises and to make or perform any repairs, alterations, or other work in, to, or about the Demised Premises which, in the first instance, is the Tenant's obligation pursuant to the Lease, shall not be deemed to:

- (a) impose any obligation on Landlord to do so;
- (b) render Landlord liable to Tenant or any third party for the failure to do so; or
- (c) relieve Tenant from any obligation to indemnify Landlord as otherwise provided elsewhere in the Lease.

56. **Notices:** All notices shall be in writing signed by the party serving the same and shall be sent by national "overnight" courier (i.e., next business day service) such as Federal Express with receipt, in any case, where applicable, with fee prepaid, and addressed to the parties at the address set forth in the Preamble of this Lease or to such other addresses as either party may have furnished to the other from time to time as a place for the service of notice. Any notice to be given to Landlord under the terms of this Lease shall also be given to the Landlord's property manager, Marcus Property Management, Corp., 350 Motor Parkway, Suite 300, Hauppauge, New York 11788. Notices shall be deemed given when received or returned for inability to deliver. Attorneys may send notices for their respective clients. Notices may not be sent by facsimile or electronic medium, except for information purposes only. Copies of such notices given by either party to the other shall be served on their attorneys in the same format as set forth in this Section "56". Landlord's attorney is Forchelli, Curto, Schwartz, Mineo, Carlino & Cohn, LLP, 330 Old Country Road, P.O. Box 31, Mineola, New York 11501, Fax No.: (516) 248-1729, Attn: Brian R. Sahn, Esq. Tenant's attorney is Westerman, Ball, Ederer, Miller & Sharfstein, LLP, 170 Old Country Road, Mineola, New York 11501, Fax No.: (516) 622-9212, Attn: Jonathan M. Hoffman, Esq. Notwithstanding the foregoing, Landlord may send routine bills, invoices and notices by regular mail.

57. **Waiver of Trial by Jury:** Regardless of any law now or hereafter enacted, the respective parties hereto shall and they hereby do waive trial by jury in any action, proceeding, or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use of or occupancy of the Demised Premises, and any emergency statutory or any other statutory remedy.

58. **Tenant's Right to Extend Term:** Provided the Term has not expired or been terminated and no Event of Default by Tenant has occurred under this Lease and be continuing beyond the expiration of any applicable grace or cure period set forth in this Lease as of the date of the Extension Notice (as hereinafter defined) and as of the date of the commencement of the Extended Term (as hereinafter defined), Tenant shall have the option to extend the Term for one (1) period of ten (10) years (the "Extended Term"), commencing as of the Expiration Date as originally scheduled under this Lease. If this Lease is so extended, the new expiration date shall be hereafter referred to as the "Extended Expiration Date."

Tenant may exercise its right of extension as set forth in this Section "58" by providing to Landlord written notice on or before such date which is twenty four (24) months prior to the scheduled date of expiration of the Term (the "Extension Notice"), Time Being of the Essence as against Tenant. The failure of Tenant to timely deliver the Extension Notice as herein above set forth shall be deemed to be Tenant's complete and unequivocal waiver of any right of Tenant to extend the Term.

The Fixed Annual Rent for the first Lease Year of the Extended Term shall be determined as follows:

(a) For purposes hereof, the term "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, N.Y. - Northeastern N.J. Area, All Items (1982-84 = 100), or any successor or substitute index thereto, appropriately adjusted; provided that if there shall be no successor index and the parties shall fail to agree upon a substitute index within thirty (30) days, or if the parties shall fail to agree upon the appropriate adjustment of such successor or substitute index within thirty (30) days, a substitute index or the appropriate adjustment of such successor or substitute index, as the case may be, shall be determined by arbitration, the cost of which shall be borne equally by the parties. The parties shall then use the following formula:

Consumer Price Index in effect in the month of the original Expiration Date divided by the Consumer Price Index in effect on the Commencement Date, times the Fixed Annual Rent paid in the initial Lease Year of the Term, the result of which shall be multiplied by 95%.

So, for example, assuming the Consumer Price Index on the original Expiration Date is 283.0, and the Consumer Price Index in effect in the month of the Commencement Date is 193.0, the Fixed Annual Rent would be determined as follows:

$$283.0 \div 193.0 = 1.466 \text{ (rounded to nearest hundredth)} \times 2,025,750 = 2,970,400 \times 95\% = \$2,821,880.00$$

(b) Notwithstanding anything to the contrary contained herein, in no event, however, shall the Fixed Annual Rent for the first Lease Year of the Extended Term be less than the Fixed Annual Rent in effect for the last Lease Year of the Term prior to the commencement of the Extended Term.

(c) The above result in Section "(a)" shall be limited not to exceed an amount equal to the Fixed Annual Rent from the first initial Lease Year of the Lease increased by 4% per year until the first Lease Year of the Extended Term.

(d) Once determined in accordance with subparagraph "(a)" above, the Fixed Annual Rent during the Extended Term shall increase at the rate of 2.5% for each and every Lease Year of the Extended Term.

59. Miscellaneous Provisions:

A. **Successors:** The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties, their heirs, personal representatives, administrators, successors and to the extent permitted hereby their assigns.

B. **Modifications:** Neither this Lease nor any provision hereof may be modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. The parties agree to enter into any amendments to this Lease that are reasonably requested to correct errors or otherwise achieve the intentions of the parties hereto.

C. **Construction:** The captions appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such Sections of this Lease or in any way affect this Lease. Any gender used shall be deemed to refer to any other gender more grammatically applicable to the party to whom such use of gender relates. The use of singular shall be deemed to include the plural and, conversely, the plural shall be deemed to include the singular. If more than one person and/or entity comprises the landlord under this Lease, the term "Landlord" shall include all persons and/or entities comprising landlord, jointly and severally.

D. **Negotiation of Lease:** The parties hereto agree that each party and their respective counsel have reviewed and revised this Lease and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any amendments, exhibits or schedules hereto.

E. **Survival:** All obligations under this Lease which have not been fully performed by the expiration or termination of this Lease shall survive the expiration or termination of this Lease.

F. **Governing Law:** (a) This Lease shall be governed by, and be construed in accordance with, the laws of the State of New York without regard to the principles of conflicts of laws. To the fullest extent permitted by law, Tenant hereby unconditionally and irrevocably waives any claims to assert that the law of any other jurisdiction governs this Lease and agrees that this Lease shall be governed by and construed in accordance with the laws of the State of New York pursuant to Section 5-1401 of the New York General Obligations Law.

(b) Any legal suit, action or proceeding against Tenant or Landlord arising out of or relating to this Lease may be instituted in any federal or state court in Suffolk County, New York, pursuant to Section 5-1402 of the New York General Obligations Law, and Tenant hereby waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding including, without limitation, any claim of forum non conveniens pursuant to any rule of common law and/or any applicable federal or state statute, law or provision, and Tenant hereby irrevocably submits to the jurisdiction of any such court in any suit, action or proceeding.

G. Exhibits: All exhibits, schedules and riders appended to this Lease are incorporated herein and by this reference made a part hereof. References to "Exhibits" or "Schedules" shall be to Exhibits and Schedules attached to this Lease except where the context requires otherwise.

60. Definitions: The term "Landlord" as used in this Lease means only the owner of the fee or of the leasehold or the mortgagee in possession, for the time being of the Land or the owner of a lease of the Land, so that in the event of any sale or sales of said Land, or in the event of a lease of the Land, the said Landlord shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord arising thereafter, and it shall be deemed and construed without further agreement between the parties or their successors in interest, or between the parties and the purchaser, at any such sale, or the said lessee of the Land, that the purchaser or the lessee has assumed and agreed to carry out any and all covenants and obligations of Landlord hereunder. The words "re-enter" and "re-entry" as used in this Lease are not restricted to their technical legal meaning. The term "rent" or "Rent" includes the Fixed Annual Rent whether so-expressed or expressed in monthly installments, and "additional rent." "Additional rent" means all sums which shall be due to new Landlord from Tenant under this Lease, in addition to the Fixed Annual Rate. The term "business days" as used in this lease, shall exclude Saturdays, Sundays and all days observed by the State or Federal Government as legal holidays. The term "lease year" or "Lease Year" means each anniversary of the Commencement Date.

IN WITNESS WHEREOF, the parties hereto have executed this Lease effective on the date last written below.

Exhibit "A" - Demised Premises
Exhibit "B" - Survey
Exhibit "C" - Building Work
Exhibit "D" - Design and Construction Schedule
Exhibit "E" - Form of Non-Disturbance Agreement
Exhibit "F" - Letter of Credit
Exhibit "G"- Guaranty

[SIGNATURES APPEAR ON FOLLOWING PAGE]

HIGHWOODS PROPERTIES

OFFICE LEASE

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State of Tennessee:
County of Davidson:

OFFICE LEASE

THIS LEASE ("Lease"), made this 17th day of February, 2003 by and between HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership ("Landlord") and ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation ("Tenant"), provides as follows:

1. **BASIC DEFINITIONS AND PROVISIONS.** The following basic definitions and provisions apply to this Lease:

- | | | | |
|----|------------------------------|-----------------------|---|
| a. | <i>Premises.</i> | Rentable Square Feet: | Initial Premises: 70,000
Swing Premises: 11,891 |
| | | Suite: | Entire 3rd, 4th and 5th Floors |
| | | Building: | Seven Springs I |
| | | Street Address: | 320 Seven Springs Way |
| | | City/County: | Brentwood, Davidson |
| | | State/Zip Code: | Tennessee, 37027 |
| b. | <i>Term.</i> | Number of Months: | 120 |
| | | Commencement Date: | July 1, 2003, subject to adjustment
under Section 3(b) |
| | | Expiration Date: | June 30, 2013, subject to adjustment
under Section 3(b) |
| c. | <i>Permitted Use.</i> | | General office space and data center space, including without limitation a raised-floor computer area, FM 200 fire suppression system, a supplemental HVAC system and structural improvements sufficient to support a movable file system |
| d. | <i>Occupancy Limitation.</i> | | No more than 5.3 persons per one thousand (1,000) rentable square feet. |
-

e. *Base Rent.* The minimum base rent for the Term is \$18,609,151.44, payable in monthly installments on the 1st day of each month in accordance with the following Base Rent Schedule:

MONTHS	MONTHLY RENT	\$/SQ. FT.	CUMULATIVE RENT
01-12	\$124,016.67	\$21.26	\$1,488,200.04
13-24	\$147,062.59	\$21.55	\$1,764,751.08
25-36	\$149,928.77	\$21.97	\$1,799,145.24
37-48	\$152,794.96	\$22.39	\$1,833,539.52
49-60	\$155,661.14	\$22.81	\$1,867,933.68
61-72	\$158,527.33	\$23.23	\$1,902,327.96
73-84	\$161,393.51	\$23.65	\$1,936,722.12
85-96	\$164,259.70	\$24.07	\$1,971,116.40
97-108	\$167,125.88	\$24.49	\$2,005,510.56
109-120	\$169,992.07	\$24.91	\$2,039,904.84
BASE RENT:			\$18,609,151.44

- f. *Rent Payment Address.* **Highwoods Realty Limited Partnership**
P.O. Box 409355
Atlanta, GA 30384
Tax ID# 56-1869557
- g. *Security Deposit.* \$155,076.26
- h. *Business Hours.* 7:00 A.M. to 6:00 P.M. Monday through Friday (excluding National and State Holidays).
- i. *Electrical Service.* No more than five (5) watts per useable square foot for convenience outlets and lighting.
- j. *After Hours HVAC Rate.* \$25.00 per hour, per zone, with a minimum of two (2) hours per occurrence.
- k. *Parking.* Unreserved; not less than 4.5 spaces per 1,000 rentable square feet.
- l. *Construction Fee.* The Construction Supervision Fee for alterations is three percent (3%) of the cost of the work. The construction supervision fee for Tenant Improvements is set forth in the Workletter attached as **Exhibit B**.
- m. *Notice Addresses.*

LANDLORD: **HIGHWOODS REALTY LIMITED PARTNERSHIP**
c/o Highwoods Properties, Inc.
3100 Smoketree Court, Suite 600
Raleigh, North Carolina 27604
Attn: Manager, Lease Administration
Facsimile #: 919/876-2448

with a copy to: Highwoods Properties, Inc.
2120 West End Avenue
Suite 100
Nashville, TN 37203
Facsimile: 615-320-5607

TENANT: Icon Clinical Research Inc.
212 Church Road
North Wales, Pennsylvania 19454
Attn: Ms. Lois Valentine and
Mr. David Peters
Facsimile #:215-616-3089

with a copy to: Stephan K. Pahides, Esquire
McCausland, Keen & Buckman
Radnor Court, Suite 160
259 N. Radnor-Chester Road
Radnor, PA 19087
Facsimile: 610-341-1099

n. *Broker.* Julien J. Studley, Inc.
3390 Peachtree Road, NE #800
Atlanta, GA 30326
Facsimile #: 404-467-0710

2. **LEASED PREMISES.**

a. *Premises.* Landlord leases to Tenant and Tenant leases from Landlord the Initial Premises identified in Section 1.a and as more particularly shown on **Exhibit A**, attached hereto. On the first anniversary of the Commencement Date, the Swing Premises, as more particularly shown on **Exhibit A-1** attached hereto, shall be and become a part of the Premises, without the need for any further action by Tenant or Landlord. As to Tenant's right to use and obligation set forth herein with respect to the Swing Premises, from and after the first anniversary of the Commencement Date, the term "Premises" shall refer collectively to the Initial Premises and the Swing Premises.

b. *Rentable Square Foot Determination.* The parties acknowledge that the square foot measurements of the Initial Premises and Swing Premises are as shown above.

c. *Common Areas.* Tenant shall have non-exclusive right to use and access the Common Areas of Seven Springs I (the "Building"). The common areas generally include space that is not included in portions of the Building set aside for leasing to tenants or reserved for Landlord's exclusive use, and include entrances, hallways, lobbies, elevators, restrooms, walkways, driveways, parking areas and plazas ("Common Areas"). Landlord has the exclusive right to (i) designate the Common Areas, (ii) change the designation of any Common Area and otherwise modify the Common Areas, and (iii) permit special use of the Common Areas, including temporary exclusive use for special occasions; provided, that (a) no such change shall materially adversely affect Tenant, its access to the Building or the Premises, Tenant's use and occupancy of the Premises (or the conduct of its business therein) or the exercise or realization of Tenant's other rights under this Lease, and (b) no such change in or to the parking areas serving the Building shall be made in violation of Section 4.d hereof. Tenant shall not interfere with the rights of others to use the Common Areas. All use of the Common Areas shall be subject to the Rules and Regulations promulgated by Landlord. Tenant shall also have the nonexclusive right to use and access all common driveways, walkways and plaza of the Seven Springs office campus of which the Building is a part, as shown on the site plan attached hereto as Exhibit J (as now or hereafter existing, the "Office Campus"), to the extent controlled by Landlord or as permitted by any applicable easements, subject to the Rules and Regulations and the rights of others and shall have unimpeded access between the Premises and a public road.

3. **TERM.**

a. *Commencement and Expiration Dates.* The Lease Term commences on Commencement Date and expires on the Expiration Date, as set forth in Section 1.b.

b. *Adjustments to Commencement Date.* The Commencement Date shall be adjusted as follows:

- i. If Tenant requests possession of the Premises prior to the Commencement Date, and Landlord consents, the Commencement Date shall be the date of possession, provided, however, that, absent such a request by Tenant, Landlord agrees that the Commencement Date shall be the date that is twenty-one (21) days after possession shall be given to Tenant, during which time Tenant may install telephones, computers, fixtures, furniture and equipment.
- ii. If Landlord, for any reason, cannot deliver possession of the Premises to Tenant on the projected commencement date set forth in Section 1.b, then the Commencement Date, Expiration Date, and all other dates that may be affected by their change, shall be revised to conform to the date of Landlord's delivery of possession of the Premises to Tenant plus twenty-one (21) days. Any such delay shall not relieve Tenant of its obligations under this Lease, and neither Landlord nor Landlord's agents shall be liable to Tenant for any loss or damage resulting from the delay in delivery of possession, except as provided below.

c. *Termination by Tenant for Failure to Deliver Possession.* In the event Landlord is unable to deliver possession of the Initial Premises as required herein within sixty (60) days after the projected Commencement Date set forth in Section 1.b due to any reason other than an Excused Delay (“Landlord Delay”), Tenant shall receive for each day past the projected commencement date, until Landlord does deliver possession of the Premises as required herein, an abatement of Base Rent for each day of Landlord Delay, which abatement shall be taken commencing on the Commencement Date. In the event Landlord is unable to deliver possession of the Premises as required herein within ninety (90) days after the projected Commencement Date set forth in Section 1.b (excluding any delays resulting from *force majeure* or caused by Tenant – “Excused Delays”), then Tenant may terminate this Lease by giving notice to Landlord within one hundred (100) days of the projected Commencement Date (excluding Excused Delays). Tenant may not terminate the Lease, however, if Tenant has taken possession of any part of the Premises.

d. *Delivery of Possession.* Unless otherwise specified in the Workletter attached as **Exhibit B**, “delivery of possession” of the Initial Premises shall mean, following Landlord’s completion of the Work, the earlier of: (i) the date Landlord has the Initial Premises ready for occupancy by Tenant as evidenced by a permanent or temporary Certificate of Occupancy issued by a proper governmental authority, and (ii) the date Landlord could have had the Initial Premises ready had there been no Delays attributable to Tenant, including without limitation Tenant’s failure to obtain permits and install low voltage equipment and to install modular furnishings. In the event a temporary Certificate of Occupancy is issued, Landlord shall complete all requirements set forth in such temporary Certificate of Occupancy within the time limits required thereby. Landlord shall provide notice to Tenant that Landlord is making delivery of possession on the date that delivery of possession occurs.

e. *Right to Occupy.* Tenant shall not occupy the Initial Premises until Tenant has complied with all of the following requirements to the extent applicable under the terms of this Lease: (i) delivery of all certificates of insurance, (ii) payment of Security Deposit, (iii) execution and delivery of any required Guaranty of Lease, and (iv) if Tenant is an entity, receipt of a good standing certificate from the State where it was organized and a certificate of authority to do business in the State in which the Premises are located (if different). Tenant’s failure to comply with these (or any other conditions precedent to occupancy under the terms of this Lease) shall not delay the Commencement Date.

f. *Commencement Agreement.* The Commencement Date, Term, and Expiration Date shall be set forth in a Commencement Agreement similar to **Exhibit D**, attached hereto, to be prepared by Landlord and executed by the parties after the Commencement Date.

4. USE.

a. *Permitted Use.* The Premises may be used only for general office purposes and data center in connection with Tenant’s Permitted Use as defined in Section 1c and in accordance with the Occupancy Limitation as set forth in Section 1d (“Permitted Use”).

b. *Prohibited Uses.* Tenant shall not use the Premises:

i. In violation of any restrictive covenants which apply to the Premises;

- ii. In any manner that constitutes a nuisance or trespass;
- iii. In any manner which increases any insurance premiums, or makes such insurance unavailable to Landlord on the Building; provided that, in the event of an increase in Landlord's insurance premiums which results from Tenant's use of the Premises in any manner in violation of this Lease, Landlord may elect to permit the use and charge Tenant for the increase in premiums, and Tenant's failure to pay Landlord, on demand, the amount of such Increase shall be an event of default;
- iv. In any manner that creates unusual demands for electricity, heating or air conditioning without the consent of Landlord as provided hereinbelow in Section 4.c.; or
- v. For any purpose except the Permitted Use, unless consented to by Landlord in writing.

Landlord represents and acknowledges that Tenant's use of the Premises for the Permitted Use shall not cause a violation of any restrictive covenants which apply to the Premises.

c. *Prohibited Equipment in Premises.* Tenant shall not install any equipment in the Premises that places unusual demands on the electrical, heating or air conditioning systems ("High Demand Equipment") without Landlord's prior written consent. No such consent will be given if Landlord determines, in its opinion, that such equipment may not be safely used in the Premises or that electrical service is not adequate to support the equipment. Landlord's consent may be conditioned, without limitation, upon separate metering of the High Demand Equipment and Tenant's payment of all actual and reasonable engineering, equipment, installation, maintenance, removal and restoration costs and utility charges associated with the High Demand Equipment and the separate meter incurred by Landlord. If High Demand Equipment used in the Premises by Tenant affect the temperature otherwise maintained by the heating and air conditioning system, Landlord shall have the right to install supplemental air conditioning units in the Premises with the actual and reasonable cost of engineering; installation, operation and maintenance of the units to be paid by Tenant. All costs and expenses relating to High Demand Equipment and Landlord's reasonable administrative costs (such as reading meters and calculating invoices) shall be Additional Rent, payable by Tenant upon demand. Tenant shall not operate any electrical device (other than normal office equipment) that may emanate waves that could unreasonably and materially interfere with or impair radio or television broadcasting or reception from or in the Building.

d. *Parking.* At all times during the term of this Lease, Landlord shall maintain on the property on which the Building is located, available 24 hours a day, seven days a week (without charge), parking spaces equal to at least 4.5 spaces per 1,000 rentable square feet in the Building, and Tenant shall have the nonexclusive right to use such spaces, together with the employees, invitees, contractors and guests of those parties with possessory rights or managerial duties in the Building and Tenant shall have parking rights as set forth in Section 1k of this Lease. If during the Lease Term Landlord offers reserved parking to any tenant in the Building, Tenant shall be entitled to reserve parking in similar locations and in the same ratio of rentable square feet of leased premises to reserved parking spaces as afforded such other tenant.

5. **RENT.**

a. *Payment Obligations.* Tenant shall pay Base Rent and Additional Rent (collectively, "Rent") on or before the first day of each calendar month during the Term, as follows:

- i. Rent payments shall be sent to the Rent Payment Address set forth in Section 1f.
- ii. Rent shall be paid without previous demand or notice and without set off or deduction. Except as otherwise specifically provided, Tenant's obligation to pay Rent under this Lease is completely separate and independent from any of Landlord's obligations under this Lease.
- iii. If the Term commences on a day other than the first day of a calendar month, then Rent for such month shall be (i) prorated for the period between the Commencement Date and the last day of the month in which the Commencement Date falls, and (ii) due and payable on the Commencement Date.
- iv. For each Rent payment that is due on a monthly basis and that Landlord receives after the fifth (5th) day of the month, Landlord shall be entitled to all default remedies provided under the terms of this Lease, and a late charge in the amount of five percent (5%) of all Rent due for such month.
- v. If Landlord presents Tenant's check to any bank and Tenant has insufficient funds to pay for such check, then Landlord shall be entitled to all default remedies provided under the terms of this Lease and the maximum lawful bad check fee or five percent (5%) of the amount of such check, whichever amount is less.

b. *Base Rent.* Tenant shall pay Base Rent as set forth in Section 1e.

c. *Additional Rent.* In addition to Base Rent, Tenant shall pay as rent all sums and charges due and payable by Tenant under this Lease ("Additional Rent"), including, but not limited to, the following:

- i. Tenant's Proportionate Share of the increase in Landlord's Operating Expenses as set forth below in Section 5.d;
- ii. Any sales or use tax imposed on rents collected by Landlord or any tax on rents in lieu of ad valorem taxes on the Building, even though laws imposing such taxes attempt to require Landlord to pay the same; provided, however, if any such sales or use tax are imposed on Landlord and Landlord is prohibited by applicable law from collecting the amount of such tax from Tenant as Additional Rent, then Landlord, upon sixty (60) days prior notice to Tenant, may terminate this Lease; and

iii. Any construction supervision fees in connection with the construction of Tenant Improvements or alterations to the Premises.

d. *Operating Expenses.* For each Calendar Year (as hereinafter defined) during the Term after 2004, Tenant agrees to pay to Landlord, as Additional Rent, in monthly installments, Tenant's Proportionate Share of any increase in Operating Expenses (as hereinafter defined) incurred by Landlord's operation or maintenance of the Building, above \$5.80 per rentable square foot of the Building (the "Expense Stop"). So long as the Operating Expenses of the Building do not exceed the Expense Stop, Tenant shall pay no Proportionate Share.

If during any Calendar Year the occupancy of rentable area in the Building is less than 95% full, then Operating Expenses (as hereinafter defined), for variable costs only, will be adjusted for such Calendar Year as though at least 95% of the rentable area had been occupied. Tenant's Proportionate Share shall be calculated by dividing the rentable square feet of the Premises at the beginning of such Calendar Year by approximately 129,900 net rentable square feet of the Building, which as of the Commencement Date equals 53.89%, and as of January 1, 2004, shall equal 62.99%.

For the Calendar Year commencing on **January 1, 2005** and for each Calendar Year thereafter during the Term, Landlord shall estimate the amount the Operating Expenses shall increase for such Calendar Year above the Expense Stop. Landlord shall send to Tenant on or before March 1 of each such year a written statement of the amount of Tenant's Proportionate Share of any estimated increase in Operating Expenses and Tenant shall pay to Landlord, monthly or annually, Tenant's Proportionate Share of such increase in Operating Expenses. Within ninety (90) days after the end of each Calendar Year, Landlord shall send a copy of the Annual Statement to Tenant. Pursuant to the Annual Statement, Tenant shall pay to Landlord Tenant's proportionate share of Operating Expense as owed or Landlord shall adjust Tenant's Rent payments if Landlord owes Tenant a credit. After the Expiration Date or any termination of this Lease, Landlord shall send Tenant the final Annual Statement for the Term, and Tenant shall pay to Landlord Additional Rent as owed or if Landlord owes Tenant a credit, then Landlord, promptly, but in any event within sixty (60) days, shall pay Tenant a refund. If there is a decrease in Operating Expenses in any year below Expense Stop then no additional rent shall be due on account of Operating Expenses, but Tenant shall not be entitled to any credit, refund or other payment that would reduce the amount of other additional rent or Base Rent owed. If this Lease expires or terminates on a day other than the December 31, then Additional Rent shall be prorated on a 365-day Calendar Year (or 366 if a leap year). All payments or adjustments for Additional Rent shall be made within thirty (30) days after the applicable Statement is sent to Tenant.

The term "Calendar Year" shall mean each of the twelve month periods (or any portion thereof) during the Term beginning on January 1 and ending on the next following December 31.

The term "Operating Expenses" shall mean all direct costs incurred by Landlord in the provision of services to tenants and in the operation, repair and maintenance of the Building and Common Areas (on a proportionate basis allocated to the Building as to common areas serving the Office Campus) as determined by generally accepted accounting principles, including, but not limited to ad valorem real and personal property taxes assessed on the Building and the land on which it is located (provided, however, in the event the Building is not located on a tax parcel separate from other buildings on the Office Campus, taxes included in the Operating Expenses shall be limited to the percentage of the land within such tax parcel reasonably allocated to the Building), hazard and liability insurance premiums, utilities, heat, air conditioning, janitorial service, labor, materials, supplies, equipment and tools, permits, licenses, inspection fees, management fees (on an annual basis not to exceed four percent (4%) of the Rent (minus an amount equal to \$2.90 times the rentable square feet of the Premises), and common area expenses; provided, however, the term "Operating Expenses" shall not include depreciation on the Building or equipment therein, interest, executive salaries, real estate brokers' commissions, or other expenses that do not relate to the operation of the Building. The annual statement of Operating Expenses shall be accounted for and reported in accordance with generally accepted accounting principles (the "Annual Statement"). In addition, "Operating Expenses" shall not include any of the following:

- (i) Leasing commissions, attorneys' fees, costs, disbursements and other expenses incurred by Landlord or its agents in connection with negotiations for leases with tenants, other occupants or prospective tenants or other occupants of the Building, and similar costs incurred in connection with disputes with and/or enforcement of any lease with tenants, other occupants, or prospective tenants or other occupants of the Building;
- (ii) "Tenant allowances", "tenant concessions", work letter payments, and other costs or expenses (including permit, license and inspection fees) incurred in completing, fixturing, furnishing, renovating or otherwise improving, decorating or redecorating space for tenants or other occupants of the Building, or vacant, leasable space in the Building, including space planning/interior design fees for same;
- (iii) Depreciation and other "non-cash" expense items;
- (iv) Services, items and benefits for which Tenant or any other tenant or occupant of the Building specifically reimburses Landlord;
- (v) Costs or expenses (including fines, penalties and legal fees) incurred due to the violation by Landlord of any terms and conditions of this Lease or of the leases of other tenants in the Building, that would not have incurred but for such violation by Landlord;
- (vi) Penalties for late payment of any Operating Expenses by Landlord, including, without limitation, with respect to taxes, equipment leases, etc.;

(vii) Payments in respect of overhead and/or profit to any subsidiary or affiliate of Landlord, as a result of a non-competitive selection process for services (other than the management fee) on or to the Building, or for goods, supplies or other materials, to the extent that the costs of such services, goods, supplies or materials exceed the costs that would have been paid if the services, goods, supplies or materials had been provided by parties unaffiliated with Landlord, of similar skill, competence and experience, on a competitive basis;

(viii) Payments of principal, finance charges or interest on debt or amortization on any deed of trust or other debt encumbering the Building, and rental payments (or increases in same) under any ground or underlying lease or leases encumbering the Building (except to the extent the same may be made to pay or reimburse property taxes);

(ix) The costs of any "tax fees" or one-time lump sum sewer, water or other utility connection or tapping fees for the Building;

(x) Rentals and other related expenses, if any, incurred in leasing air conditioning systems or other equipment ordinarily considered to be of a capital nature, except equipment which is used in providing janitorial services and which is not affixed to the Building and equipment which is leased on a temporary basis in emergency situations;

(xi) Advertising and promotional expenses;

(xii) Costs or expenses for the acquisition of sculpture, paintings or other works of art, but not the reasonable expenses of maintaining, repairing and insuring same;

(xiii) Costs for which Landlord is compensated through or reimbursed by insurance;

(xiv) Contributions to operating expense reserves (including tax reserves);

(xv) Contributions to political or charitable organizations;

(xvi) Costs incurred in removing the property of former tenants and/or other occupants of the Building;

(xvii) Costs or fees relating to the defense of Landlord's title to or interest in the Building, or any part thereof,

(xviii) Costs or expenses that under generally accepted accounting principles consistently applied, would be construed as capital expenses; and

(xix) Any other expense which, under generally accepted accounting principles, consistently applied, would not be considered to be a normal maintenance or operating expense of the Building or Common Areas.

e. *Review.* If Tenant disputes the amount of Operating Expenses as set forth in the Annual Statement from the Landlord, then Tenant may have Landlord's books and records relating to Operating Expenses audited by a qualified professional selected by Tenant or by Tenant itself, provided Tenant gives written notice of the audit within forty-five (45) days of Tenant's receipt of the Annual Statement. No subtenant shall have any right to conduct an audit and no assigns shall conduct an audit for any period during which such assignee was not in possession of the Premises.

Books and records necessary to accomplish any audit permitted under this Section shall be retained for twelve (12) months after the end of each calendar year, and on receipt of notice of Tenant's dispute of the Operating Expenses shall be made available to Tenant to conduct the audit, which (at Landlord's option) may be either at the Premises, at the Landlord's division office for the area in which the Premises are located, or at Landlord's home office in Raleigh, North Carolina. If Tenant and Landlord dispute the amount of Operating Expenses after Tenant's Audit, then Landlord's independent certified public accountant shall consult with Tenant's professional to reconcile any discrepancies.

In the event that the Tenant elects to have a professional audit Landlord's Operating Expenses as provided in this Lease, such audit must be conducted by an independent nationally or regionally recognized accounting firm that is not being compensated by Tenant on a contingency fee basis. All information obtained through such audit as well as any compromise, settlement or adjustment reached as a result of such audit shall be held in strict confidence by Tenant and its officers, agents and employees and as a condition to such audit, the Tenant's auditor shall execute a written agreement agreeing that the auditor is not being compensated on a contingency fee basis and that all information obtained through such audit as well as any compromise, settlement or adjustment reached as a result of such audit, shall be held in strict confidence and shall not be revealed in any manner to any person except upon the prior written consent of the Landlord, which consent may be withheld in Landlord's sole discretion, or required pursuant to any litigation between Landlord and Tenant materially related to the facts disclosed by such audit, or if required by law.

If Operating Expenses were overstated by four percent (4%) or more, then Landlord shall reimburse Tenant for its reasonable audit costs; otherwise, Tenant shall pay its own costs and shall reimburse Landlord for the reasonable costs of Landlord's certified public accountant. Pending resolution of any dispute, the Tenant shall pay to Landlord the sum so billed by Landlord, subject to ultimate resolution.

6. SECURITY DEPOSIT.

a. *Amount of Deposit.* Tenant shall deposit with Landlord a Security Deposit in the amount set forth in Section 1.g, which sum Landlord shall retain as security for the performance by Tenant of each of its obligations hereunder. The Security Deposit shall not bear interest.

b. *Application of Deposit.* If Tenant at any time fails to perform any of its obligations under this Lease, including its Rent or other payment obligations, its restoration obligations, or its insurance and indemnity obligations, then Landlord may, at its option, apply the Security Deposit (or any portion) to cure Tenant's default or to pay for damages caused by Tenant's default. If the Lease has been terminated, then Landlord may apply the Security Deposit (or any portion) against the damages incurred as a consequence of Tenant's breach. The application of the Security Deposit shall not limit Landlord's remedies for default under the terms of this Lease. If Landlord depletes the Security Deposit, in whole or in part, prior to the Expiration Date or any termination of this Lease, then Tenant, upon notice from Landlord of such depletion, shall restore immediately the amount so used by Landlord.

c. *Refund of Deposit.* Unless Landlord uses the Security Deposit to cure a default of Tenant, to pay damages for Tenant's breach of the Lease, or to restore the Premises to the condition to which Tenant is required to leave the Premises upon the expiration or any termination of the Lease, then Landlord shall, within thirty (30) days after the Expiration Date or any termination of this Lease, refund to Tenant any funds remaining in the Security Deposit. Tenant may not credit the Security Deposit against any month's Rent.

7. **SERVICES BY LANDLORD.**

a. *Base Services.* Provided that Tenant is not then in default, Landlord shall cause to be furnished, twenty-four (24) hours a day, seven (7) days a week (unless otherwise provided), to the Building, or as applicable, the Premises, in common with other tenants the following services:

- i. Cold and hot water (if available from city mains) for drinking, lavatory and toilet purposes.
- ii. Electricity (if available from the utility supplier) for the building standard fluorescent lighting and for the operation of general office machines, such as electric typewriters, desk top computers, dictating equipment, adding machines and calculators, and general service non-production type office copy machines; provided that Landlord shall have no obligation to provide more than the amount of power for convenience outlets and lighting as set forth in Section 1i.
- iii. Operatorless elevator service.
- iv. Building standard fluorescent lighting composed of 2' x 4' fixtures, bulbs and ballasts; Tenant shall service, replace and maintain at its own expense any incandescent fixtures, table lamps, or lighting other than the building standard fluorescent light, and any dimmers or lighting controls other than controls for the building standard fluorescent lighting.
- v. Heating and air conditioning for the reasonably comfortable use and occupancy of the Premises as set forth on **Exhibit F** during Business Hours as set forth in Section 1h; provided that, heating and cooling conforming to any governmental regulation prescribing limitations thereon shall be deemed to comply with this service.

- vi. After Business Hours, weekend and holiday heating and air conditioning at the After Hours HVAC rate set forth in Section 1j, with such charges subject to commercially reasonable annual increases as determined by Landlord.
- vii. Janitorial services five (5) days a week (excluding National and State holidays) after Business Hours as set forth on **Exhibit G**.

b. *Landlord's Maintenance.* Landlord shall keep and maintain the Building and all Common Areas in good condition and repair, to a level consistent with similar "first-class A" office buildings in the Nashville area. Landlord shall keep and maintain the Common Areas reasonably clean and the sidewalks and parking areas well lit, paved and striped, in good repair, and free from accumulations of snow, ice and trash. Landlord shall replace all lighting tubes, lamp ballasts and bulbs for the building standard lighting within the Premises and in the Common Areas. Landlord shall make all repairs and replacements to the Building (including Building fixtures and equipment), Common Areas and Building Standard Improvements in the Premises, except for repairs and replacements that Tenant must make under Section 8. Landlord's maintenance shall include the roof, foundation, exterior walls, interior structural walls, all structural components, and all Building systems, such as mechanical, electrical, HVAC, and plumbing. Repairs or replacements shall be made within a reasonable time (depending on the nature of the repair or replacement needed) after receiving notice from Tenant or Landlord having actual knowledge of the need for a repair or replacement.

c. *No Abatement.* There shall be no abatement or reduction of Rent by reason of any of the foregoing services not being continuously provided to Tenant. Landlord shall have the right to shut down the Building systems (including electricity and HVAC systems) for required maintenance and safety inspections, and in cases of emergency. In making all repairs and restorations and in fulfilling its obligations under this Lease, Landlord shall use best efforts to minimize the disruption of Tenant's use and enjoyment of the Premises, consistent with the task undertaken in connection with such repair or restoration. Notwithstanding the foregoing, in the event Tenant's ability to reasonably conduct Tenant's business at the Premises during normal operating hours, as contemplated by this Lease, is interrupted for seventy-two (72) continuous hours as a result of the interruption of the services to be provided to Tenant referenced in Section 7.a above where such interruption is not the result of a *force majeure*, Base Rent shall abate for the period commencing on the expiration of such seventy-two (72) hour period and ending at such time as Tenant is able to resume the reasonable conduct of Tenant's business at the Premises.

d. *Tenant's Obligation to Report Defects.* Tenant shall use its reasonable efforts to report to Landlord promptly any defective condition in or about the Premises known to Tenant.

e. *Limitation on Landlord's Liability.* Landlord shall not be liable to Tenant for any damage caused to Tenant and its property due to the Building or any part or appurtenance thereof being or becoming out of repair, or arising from the leaking of gas, water, sewer or steam pipes, or from problems with electrical service, unless such damage results from the willful misconduct or gross negligence of Landlord.

8. **TENANT'S ACCEPTANCE AND MAINTENANCE OF PREMISES.**

a. *Acceptance of Premises.* Subject to the terms of the attached Workletter — **Exhibit B**, Tenants occupancy of the Premises is Tenant's representation to Landlord that (i) Tenant has examined and inspected the Premises, (ii) finds the Premises to be as represented by Landlord and satisfactory for Tenant's intended use, and (iii) constitutes Tenant's acceptance of the Premises "as is". Landlord makes no representation or warranty as to the condition of the Premises except as may be specifically set forth herein or in the Workletter.

b. *Move-In Obligations.* Tenant shall schedule its move-in with the Landlord's Property Manager. During Tenant's move-in, a representative of Tenant must be on-site with Tenant's moving company to insure proper treatment of the Building and the Premises. Elevators, entrances, hallways and other Common Areas must remain in use for the general public during business hours. Any specialized use of elevators or other Common Areas must be coordinated with Landlord's Property Manager. Tenant must properly dispose of all packing material and refuse in accordance with the Rules and Regulations. Any damage or destruction to the Building or the Premises due to moving will be the sole responsibility of Tenant.

c. *Tenant's Maintenance.* Tenant shall: (i) keep the Premises and fixtures in good order, (ii) make repairs and replacements to the Premises or Building needed because of Tenant's misuse or negligence; (iii) repair and replace Non-Standard Improvements, including any special equipment or decorative treatments, installed by or at Tenant's request that serve the Premises other than lights and mechanical, electrical or HVAC systems, other than any special HVAC, mechanical, lighting or electrical systems installed by Tenant (unless the Lease is ended because of casualty loss or condemnation); and (iv) not commit waste.

d. *Alterations to Premises.* Tenant shall make no structural alterations to the Premises. If Tenant requests such alterations, then Tenant shall provide Landlord with a complete set of construction drawings. If Landlord consents to the alterations, then the Landlord shall determine the actual cost of the work to be done (to include a construction supervision fee to be paid to Landlord in the amount set forth in Section 11). Tenant may then either agree to pay Landlord to have the work done or withdraw its request for alterations. All such alterations are subject to the prior written approval of Landlord ("Permitted Alterations"), provided such Permitted Alterations (i) do not require a building permit, (ii) do not create an unreasonable burden on the load bearing capability of the floor or any other Building structure, (iii) do not modify, connect to, or interfere with any Building systems (such as the HVAC or electrical systems) and (iv) are not visible outside of the Premises. Tenant shall notify Landlord in writing prior to making any such Permitted Alterations. Prior to making any alterations to any Building systems (such as the HVAC or electrical systems) or any other work for which a permit is required, Tenant shall obtain Landlord's approval, which approval shall not be unreasonably withheld, conditioned or delayed, provided, however, that Landlord's approval may include considerations of the impact of such alterations on HVAC or electrical systems service and capacity for other spaces in the Building. (Any such alterations approved by Landlord are referred to herein as "Approved Alterations"). Notwithstanding the foregoing, Tenant shall be permitted to conduct ongoing decorative activities such as painting and replacement of carpet without prior approval of Landlord, but shall provide notice of such activities.

Tenant may use its own contractor for alterations approved by Landlord provided that: (i) the contractor holds a valid license in the State in which the Premises are located for the work to be performed, (ii) the contractor meets with Landlord's reasonable approval, and (iii) all work performed is subject to Landlord's inspection and reasonable approval. In the event Tenant uses its own contractor for alterations, Tenant shall pay Landlord a fee of three percent (3%) to cover Landlord's reasonable costs for such things as reviewing the plans, approving the contractor and inspecting the work.

Landlord hereby acknowledges and agrees that Tenant may elect to install, at Tenant's expense, in the Building a movable storage file system (the "File System") that requires structural support to the floor or floors beneath the Premises. Landlord grants to Tenant access to all parts of the Building, including without limitation space leased to other tenants, to engineer, study, install, construct and use such structural support as Tenant deems necessary or desirable in connection with the File System (the "Support System"), provided, however, that Tenant shall not interfere with the use of any other tenant in connection with such activity beyond the level of interference enjoyed by Landlord and permitted under the lease with such tenant. Any Support System shall be designed by an engineer licensed in the State of Tennessee who shall prepare and seal the design and construction plans relating to the Support System. Landlord shall make available to such engineer copies of the Building's plans and specifications. Any such design and construction plans for the Support System, including without limitation the location of the File System, shall be subject to the approval of Landlord, which such approval shall not be unreasonably withheld, conditioned or delayed. In addition, Landlord agrees not to unreasonably withhold its consent to a request by Tenant to install similar file systems and support systems, at Tenant's expense, in any Related Building, as hereinafter defined, in which Tenant leases space from Landlord pursuant to a right granted in this Lease.

e. *Restoration of Premises.* At the expiration or earlier termination of this Lease, Tenant shall deliver each and every part of the Premises in good repair and condition, ordinary wear and tear and damage by insured casualty excepted. If Tenant has required or installed Non-Standard Improvements, such improvements shall be removed as part of Tenant's restoration obligation. Landlord, however, may elect in writing to require Tenant to leave any Non-Standard Improvements in the Premises by notice given at the time such Non-Standard Improvements were installed. Tenant shall repair any damage caused by the removal of any Non-Standard Improvements. "Non-Standard Improvements" means such Items as (i) High Demand Equipment and separate meters, (ii) all wiring and cabling from the point of origin to the termination point, (iii) raised floors for computer or communications systems, (iv) telephone equipment, security systems, and UPS systems, (v) equipment racks, (vi) alterations installed by or at the request of Tenant after the Commencement Date, except Permitted Alterations, Approved Alterations and Support Systems, and (vii) any other improvements that are not part of the Building Standard Improvements.

f. *Landlord's Performance of Tenant's Obligations.* If Tenant does not perform its maintenance or restoration obligations in a timely manner, commencing the same within thirty (30) days after receipt of notice from Landlord specifying the work needed, and thereafter diligently and continuously pursuing the work until completion, then Landlord shall have the right, but not the obligation, to perform such work. Any amounts expended by Landlord on such maintenance or restoration shall be Additional Rent to be paid by Tenant to Landlord within thirty (30) days after demand.

g. *Construction Liens.* Tenant shall have no power to do any act or make any contract that may create or be the foundation of any lien, mortgage or other encumbrance upon the reversionary or other estate of Landlord, or any interest of Landlord in the Premises. NO CONSTRUCTION LIENS OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO THE PREMISES SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE PREMISES OR THE BUILDING. Tenant shall keep the Premises and the Building free from any liens arising out of any work performed, materials furnished, or obligations Incurred by or on behalf of Tenant. Should any lien or claim of lien be filed against the Premises or the Building by reason of any act or omission of Tenant or any of Tenant's agents, employees, contractors or representatives, then Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within ten (10) days after the filing thereof. Should Tenant fail to discharge or provide security for the lien within ten (10) days, then Landlord may discharge the lien. The amount paid by Landlord to discharge the lien (whether directly or by bond), plus all reasonable administrative and legal costs incurred by Landlord, shall be Additional Rent payable on demand. The remedies provided herein shall be in addition to all other remedies available to Landlord under this Lease or otherwise.

h. *Communications Compliance.* Tenant acknowledges and agrees that any and all telephone and telecommunication services desired by Tenant shall be ordered and utilized at the sole expense of Tenant. Unless Landlord requests otherwise or consents in writing, all of Tenant's telecommunications equipment shall be located and remain solely in the Premises in accordance with reasonable rules and regulations adopted and published to Tenant by Landlord from time to time. Landlord shall make available to Tenant on a non-exclusive basis, at no cost, risers and conduits within the Building if and to the extent available. Landlord shall not have any responsibility for the maintenance of Tenant's telecommunications equipment, including wiring; nor for any wiring or other infrastructure to which Tenant's telecommunications equipment may be connected. Tenant agrees that, to the extent any telecommunications service is interrupted, curtailed or discontinued, Landlord shall have no obligation or liability with respect thereto unless caused by the gross negligence or intentional act of Landlord or its agents or employees, Landlord shall have the right, upon reasonable prior oral or written notice to Tenant, to temporarily interrupt or turn off telecommunications facilities in the event of emergency or as necessary in connection with repairs to the Building or installation of telecommunications equipment for other tenants of the Building; provided that Landlord shall use best efforts consistent with the nature of such repairs to conduct non-emergency or other repairs during non-business hours. In the event that Tenant wishes at any time to utilize the services of a telephone or telecommunications provider whose equipment is not then servicing the Building, the provider shall not be permitted to install its lines or other equipment within the Building without first securing the prior written approval of Landlord. Landlord's approval may be conditioned in such a manner to as to protect Landlord's financial interests, the interest of the Building, and the other tenants therein, all in a commercially reasonable manner. The refusal of Landlord to grant its approval to any prospective telecommunications provider shall not be deemed a default or breach by Landlord of its obligation under this Lease. The provision of this paragraph may be enforced solely by Tenant and Landlord, are not for the benefit of any other party, and specifically but without limitation, no telephone or telecommunications provider shall be deemed a third party beneficiary of this Lease. Tenant shall not utilize any wireless communications equipment (other than usual and customary cellular telephones), including antennae and satellite receiver dishes (other than as provided in the Satellite Agreement between Landlord and Tenant of even date herewith), within the Premises or the Building, without Landlord's prior written consent. Landlord's consent may be conditioned in such a manner so as to protect Landlord's financial interests, the interests of the Building, and the other tenants therein. At Landlord's option, Tenant may be required to remove any and all telecommunications equipment (including wireless equipment) installed in the Premises or elsewhere in or on the Building by or on behalf of Tenant, including wiring, or other facilities for telecommunications transmittal prior to the expiration or termination of the Lease and at Tenant's sole cost.

i. *Landlord's Representations and Warranties.* Landlord represents to the best of Landlord's knowledge, that: (a) Landlord has not received any notice that the Building is not in compliance with all applicable laws, ordinances and governmental regulations (including all Environmental Laws, as hereinafter defined); (b) Landlord has not received any notice that there exists any violation of building, safety or fire ordinances or regulations respecting the Building; (c) Landlord has not received any notice that there are unpaid assessments for the installation of any sewer and water lines serving the Building or charges for making connection thereto or for street paving or curbing, or for any other public improvements, nor has Landlord received any notice that any governmental authority intends to make any public improvements affecting the Building; (d) Landlord has fee simple title to the Building and has the right, power and authority to enter into this Lease and to perform Landlord's obligations hereunder, and no joinder by any other party and no approvals or consents of any other persons are necessary in order for this Lease to be valid and binding upon Landlord in accordance with its terms; and (e) there are no ground or underlying leases with respect to the Building or any portion thereof.

9. **PROPERTY OF TENANT.**

a. *Property Taxes.* Tenant shall pay when due all taxes levied or assessed upon Tenant's equipment, fixtures, furniture, leasehold Improvements and personal property located in the Premises.

b. *Removal.* Provided Tenant is not in default, Tenant may remove all fixtures and equipment which it has placed in the Premises; provided, however, Tenant must repair all damages caused by such removal. If Tenant does not remove its property from the Premises upon the expiration or earlier termination (for whatever cause) of this Lease, such property shall be deemed abandoned by Tenant, and Landlord may dispose of the same in whatever manner Landlord may elect without any liability to Tenant.

c. *Waiver.* Landlord waives any statutory or common law lien or security interest that it has or may have on, in or to any personal property, equipment or fixtures of Tenant to the security interest of any party with a properly perfected security interest in such property.

10. **SIGNS.** Tenant may not erect, install or display any sign or advertising material upon the exterior of the Building or Premises (including any exterior doors, walls or windows) without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Door and directory signage shall be provided and installed by the Landlord in accordance with building standards at Tenant's expense, unless otherwise provided in the Workletter attached as **Exhibit B**.

11. **ACCESS TO PREMISES.**

a. *Tenant's Access.* Tenant, its agents, employees, invitees, and guests, shall have access to the Premises and reasonable ingress and egress to common and public areas of the Building twenty-four hours a day, seven days a week; provided, however, Landlord by reasonable regulation may control such access for the comfort, convenience, safety and protection of all tenants in the Building, or as needed for making repairs and alterations. Tenant shall be responsible for providing access to the Premises to its agents, employees, invitees and guests after business hours and on weekends and holidays, and shall follow all security rules associated with such access.

b. *Landlord's Access.* Landlord shall have the right, at all reasonable times and upon reasonable oral notice, either itself or through its authorized agents, to enter the Premises (i) to make repairs, alterations or changes as Landlord deems necessary, (ii) to inspect the Premises, mechanical systems and electrical devices, and (iii) to show the Premises to prospective mortgagees and purchasers. Within one hundred eighty (180) days prior to the Expiration Date, Landlord shall have the right, either itself or through its authorized agents, to enter the Premises at all reasonable times to show prospective tenants. Landlord shall use best efforts consistent with the access required to minimize any material disruption of Tenant's business operations when undertaking any inspections of or repairs, replacements or additions, in, to, on or about the Premises or the Building. Tenant may have a representative present during Landlord's entry into the Premises. Landlord agrees to comply, and to cause any prospective mortgagee, purchaser or tenant with respect to their entry into the Premises to comply with Tenant's reasonable safety, security and confidentiality requirements. Entry Into the Premises by any vendor, contractor or subcontractor of Landlord shall be subject to the reasonable security regulations adopted by Tenant and made available to Landlord.

c. *Emergency Access.* Landlord shall have the right to enter the Premises at any time without notice in the event of an emergency, but shall promptly after such entry provide notice thereof to Tenant.

12. **TENANT'S COMPLIANCE.**

a. *Laws.* Tenant shall comply with all applicable laws, ordinances and regulations affecting the Premises, whether now existing or hereafter enacted, provided that Landlord, and not Tenant, shall be responsible for compliance with all such laws, ordinances or regulations that are generally applicable to the Building and not limited to Tenant's particular use of the Premises.

b. *Rules and Regulations.* Tenant shall comply with the Rules and Regulations attached as **Exhibit C**. The Rules and Regulations may be reasonably modified from time to time by Landlord, effective as of the date delivered to Tenant, provided such rules are for the safety, care and convenience of the tenants of the Building uniformly applicable to all tenants in the Building and do not materially increase Tenant's obligations or materially limit Tenant's rights hereunder. Any conflict between this. Lease and the Rules and Regulations shall be governed by the terms of this Lease.

13. **ADA COMPLIANCE.**

a. *Tenant's Compliance.* Tenant, at Tenant's sole expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities now in force, which shall impose any duty upon Landlord or Tenant with respect to the specific use or occupation of the Premises (other than any restrooms located within the Premises, but including any shower facilities within the Premises) or alteration of the Premises made by Tenant to accommodate persons with special needs, including using all reasonable efforts to comply with The Americans With Disabilities Act (collectively, the "ADA") in connection with any alteration made to the Premises after the Commencement Date.

b. *Landlord's Compliance.* Subject to Section 13.a, Landlord, at Landlord's sole expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities now in force, which shall impose any duty upon Landlord or Tenant with respect to the use or occupation of the Building or the Common Areas, other than the interior of the Premises (other than any restrooms (but not shower areas) located within the Premises, which shall be Landlord's responsibility) after the Commencement Date, or alteration of the Building or Common Areas to accommodate persons with special needs, including using all use all reasonable efforts to meet the requirements of the ADA as it applies to the Common Areas and restrooms of the Building; but Landlord shall have no responsibility for ADA compliance with respect to the Premises other than the elevator doorways and doorways from the Premises to any stairwells. Landlord shall not be required to make changes to the Common Areas or restrooms of the Building to comply with ADA standards adopted after construction of the Building unless specifically required to do so by law.

c. *ADA Notices.* If Tenant receives any notices alleging a violation of ADA relating to any portion of the Building or Premises (including any governmental or regulatory actions or investigations regarding non-compliance with ADA), then Tenant shall notify Landlord in writing within ten (10) days of such notice and provide Landlord with copies of any such notice.

14. **INSURANCE REQUIREMENTS.**

a. *Tenant's Liability Insurance.* Throughout the Term, Tenant, at its sole cost and expense, shall keep or cause to be kept for the mutual benefit of Landlord, Landlord's Property Manager, and Tenant, Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit, each Occurrence and General Aggregate-per location of at least TWO MILLION DOLLARS (\$2,000,000), which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises, and which shall insure the indemnity provisions contained in this Lease. Not more frequently than once every three (3) years, Landlord may require the limits to be increased by a commercially reasonable amount if in its reasonable judgment (or that of its mortgagee) the coverage is insufficient.

b. *Tenant's Property Insurance.* Tenant shall also carry the equivalent of ISO Special Form Property Insurance on Tenant's Property for full replacement value and with coinsurance waived. For purposes of this provision, "Tenant's Property" shall mean Tenant's personal property and fixtures, and any Non-Standard Improvements to the Premises. Tenant shall neither have, nor make, any claim against Landlord for any loss or damage to the Tenant's Property, regardless of the cause of the loss or damage.

c. *Certificates of Insurance.* Prior to taking possession of the Premises, and annually thereafter, Tenant shall deliver to Landlord certificates or other evidence of insurance satisfactory to Landlord. All such policies shall be non-assessable and shall contain language to the extent obtainable that: (i) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in forfeiture of the insurance, (ii) that the policies are primary and non-contributing with any insurance that Landlord may carry, and (iii) that the policies cannot be canceled, non-renewed, or coverage reduced except after thirty (30) days' prior notice to Landlord. If Tenant fails to provide Landlord with such certificates or other evidence of insurance coverage, Landlord may obtain such coverage and the cost of such coverage shall be Additional Rent payable by Tenant upon demand.

d. *Insurance Policy Requirements.* Tenant's insurance policies required by this Lease shall: (i) be issued by insurance companies licensed to do business in the state in which the Premises are located with a general policyholder's ratings of at least A- and a financial rating of at least VI in the most current Best's Insurance Reports available on the Commencement Date, or if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies; (ii) name Landlord as an additional insured as its interest may appear [other landlords or tenants may be added as additional insureds in a blanket policy]; (iii) provide that the insurance not be canceled, non-renewed or coverage materially reduced unless thirty (30) days advance notice is given to Landlord; (iv) be primary policies; (v) provide that any loss shall be payable notwithstanding any gross negligence of Landlord or Tenant which might result in a forfeiture thereunder of such insurance or the amount of proceeds payable; (vi) have no deductible exceeding TEN THOUSAND DOLLARS (\$10,000), unless approved in writing by Landlord; and (vii) be maintained during the entire Term and any extension terms.

e. *Landlord's Property Insurance.* Throughout the term of this Lease, Landlord shall keep the Building, including the improvements (but excluding Tenant's Property), insured against damage and destruction by perils insured by the equivalent of ISO Special Form Property Insurance in the amount of the full replacement value of the Building and shall keep in force general public liability insurance in a commercially reasonable amount of coverage.

f. *Mutual Waiver of Subrogation.* Anything in this Lease to the contrary notwithstanding, Landlord hereby releases and waives unto Tenant (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, and Tenant hereby releases and waives unto Landlord (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, all rights to claim damages for any injury, loss, cost or damage to persons or to the Premises or any other casualty, as long as the amount of such injury, loss, cost or damage has been paid either to Landlord, Tenant, or any other person, firm or corporation, under the terms of any Property, General Liability, or other policy of insurance, to the extent such releases or waivers are permitted under applicable law. As respects all policies of insurance carried or maintained pursuant to this Lease and to the extent permitted under such policies, Tenant and Landlord each waive the insurance carriers' rights of subrogation.

15. **INDEMNITY.** Subject to the insurance requirements, releases and mutual waivers of subrogation set forth in this Lease, Tenant agrees as follows:

a. *Indemnity.* Tenant shall indemnify and hold Landlord harmless from and against any and all claims, damages, losses, liabilities, lawsuits, costs and expenses (including reasonable attorneys' fees at all tribunal levels) arising out of or related to (i) any activity, work, or other thing done, by Tenant in or about the Premises or the Building (except If done by Landlord for Tenant's account), (ii) any breach or default by Tenant in the performance of any of its obligations under this Lease, or (iii) any act or neglect of Tenant, or any officer, agent, employee, contractor, servant, invitee or guest of Tenant.

b. *Defense Obligation.* If any such action is brought against Landlord, then Tenant, upon notice from Landlord, shall defend the same through counsel selected by Landlord's insurer, or other counsel acceptable to Landlord. The provisions of this Section shall survive the termination of this Lease.

c. *Landlord's Indemnity.* Subject to the insurance requirements, releases and mutual waivers of subrogation set forth in this Lease, Landlord shall indemnify and hold Tenant harmless from and against any and all claims, damages, losses, liabilities, lawsuits, costs and expenses (including reasonable attorneys' fees at all tribunal levels) arising out of or related to (i) any activity, work, or other thing done, by Landlord in or about the Premises or the Building, (ii) any breach or default by Landlord in the performance of any of its obligations under this Lease, or (iii) any act or neglect of Landlord, or any officer, employee, contractor or servant of Landlord. This indemnity shall not apply to any claim for property loss or damage by Tenant or its officers, agents, employees, contractors or servants. Tenant's failure to obtain any insurance coverage required under the terms of this Lease shall void Landlord's indemnity obligation to the extent such insurance would have provided coverage for the claim. The provisions of this Section shall survive the termination of this Lease.

16. **QUIET ENJOYMENT.** Tenant shall have quiet enjoyment and possession of the Premises provided Tenant promptly and fully complies with all of its obligations under this Lease. No action of Landlord or other tenants working in other space in the Building, or in repairing or restoring the Premises, shall be deemed a breach of this covenant, nor shall such action give to Tenant any right to modify this Lease either as to term, rent payables or other obligations to be performed. Notwithstanding the foregoing, if such action constitutes a breach by Landlord of any other obligation of Landlord under this Lease, Tenant may exercise any and all rights associated with or arising from such default.

17. **SUBORDINATION; ATTORNMENT; NON-DISTURBANCE; AND ESTOPPEL CERTIFICATE.**

a. *Subordination and Attornment.* Tenant agrees to execute within ten (10) business days after request to do so from Landlord or its mortgagee an agreement, in commercially reasonable form:

- i. Making this Lease superior or subordinate to the interests of the mortgagee;
- ii. Agreeing to attorn to the mortgagee;
- iii. Giving the mortgagee notice of, and a reasonable opportunity (which shall in no event be less than thirty (30) days after notice thereof is delivered to mortgagee) to cure any Landlord default and agreeing to accept such cure if effected by the mortgagee;
- iv. Permitting the mortgagee (or other purchaser at any foreclosure sale), and its successors and assigns, on acquiring Landlord's interest in the Premises and the Lease, to become substitute Landlord hereunder, with liability only for such Landlord obligations as accrue after Landlord's interest is so acquired;
- v. Agreeing to attorn to any successor Landlord; and
- vi. Containing such other agreements and covenants on Tenant's part as Landlord's mortgagee may reasonably request.

b. *Non-Disturbance.* Tenant's obligation to subordinate its interests or attorn to any mortgagee is conditioned upon the mortgagee's agreement in writing, in a commercially reasonable form reasonably acceptable to Tenant, not to disturb Tenant's possession and quiet enjoyment of the Premises under this Lease so long as Tenant is in compliance with the terms of the Lease.

c. *Estoppel Certificates.* Tenant agrees to execute within ten (10) business days after request, and as often as requested, estoppel certificates confirming any factual matter requested by Landlord which is true and is within Tenant's knowledge regarding this Lease, and the Premises, including but not limited to: (i) the date of occupancy, (ii) Expiration Date, (iii) the amount of Rent due and date to which Rent is paid, (iii) whether Tenant has any defense or offsets to the enforcement of this Lease or the Rent payable, (iv) any default or breach by Landlord, and (v) whether this Lease, together with any modifications or amendments, is in full force and effect. Tenant shall attach to such estoppel certificate copies of any modifications or amendments to the Lease.

18. **ASSIGNMENT - SUBLEASE.**

a. *Landlord Consent.* Tenant may not assign or encumber this Lease or its interest in the Premises arising under this Lease, and may not sublet all or any part of the Premises without first obtaining the written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Factors which Landlord may consider in deciding whether to consent to an assignment or sublease include (without limitation), (i) the creditworthiness of the assignee and (ii) the proposed use of the Premises. Landlord will not consent to an assignment or sublease that might result in a use that conflicts with the rights of any existing tenant. One consent shall not be the basis for any further consent.

b. *Definition of Assignment.* For the purpose of this Section 18, the word "assignment" shall be defined and deemed to include the following: (i) if Tenant is a partnership, the withdrawal or change, whether voluntary, involuntary or by operation of law, of partners owning thirty percent (30%) or more of the partnership, or the dissolution of the partnership; (ii) if Tenant consists of more than one person, an assignment, whether voluntary, involuntary, or by operation of law, by one person to one of the other persons that is a Tenant; (iii) if Tenant is a corporation, any dissolution or reorganization of Tenant, or the sale or other transfer of a controlling percentage (hereafter defined) of capital stock of Tenant other than to an affiliate or subsidiary or the sale of fifty-one percent (51%) in value of the assets of Tenant; (iv) if Tenant is a limited liability company, the change of members whose interest in the company is fifty percent (50%) or more. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors, or such lesser percentage as is required to provide actual control over the affairs of the corporation; except that, if the Tenant is a publicly traded company, public trades or sales of the Tenant's stock on a national stock exchange shall not be considered an assignment hereunder even if the aggregate of the trades of sales exceeds fifty percent (50%) of the capital stock of the company.

c. *Permitted Assignments/Subleases.* Notwithstanding the foregoing, Tenant may assign this Lease or sublease part or all of the Premises Without Landlord's consent to: (i) any corporation, limited liability company, or partnership that controls, is controlled by, or is under common control with, Tenant at the Commencement Date; or (ii) any corporation or limited liability company resulting from the merger or consolidation with Tenant or to any entity that acquires all of Tenant's assets as a going concern of the business that is being conducted on the Premises; provided however, the assignor remains liable under the Lease and the assignee or sublessee is a bona fide entity and assumes the obligations of Tenant, is as creditworthy as the Tenant, and continues the same Permitted Use as provided under Section 4.

d. *Notice to Landlord.* Landlord must be given prior written notice of every assignment or subletting, and failure to do so shall be a default hereunder.

e. *Prohibited Assignments/Subleases.* Except as provided in Section 18.c above, in no event shall this Lease be assignable by operation of any law, and Tenant's rights hereunder may not become, and shall not be listed by Tenant as an asset under any bankruptcy, insolvency or reorganization proceedings. Acceptance of Rent by Landlord after any non-permitted assignment or sublease shall not constitute approval thereof by Landlord,

f. *Limitation on Rights of Assignee/Sublessee.* Intentionally Omitted.

g. *Tenant Not Released.* No assignment or sublease shall release Tenant of any of its obligations under this Lease, unless such assignment is by way of merger or other corporate reorganization and Tenant will not be a surviving entity.

h. *Landlord's Right to Collect Sublease Rents upon Tenant Default.* If the Premises (or any portion) is sublet and Tenant defaults under its obligations to Landlord, then Landlord is authorized, at its option, to collect all sublease rents directly from the Sublessee. Tenant hereby assigns the right to collect the sublease rents to Landlord in the event of Tenant default. The collection of sublease rents by Landlord shall not relieve Tenant of its obligations under this Lease, nor shall it create a contractual relationship between Sublessee and Landlord or give Sublessee any greater estate or right to the Premises than contained in its Sublease.

i. *Excess Rents.* If Tenant assigns this Lease or subleases all or part of the Premises at a rental rate that exceeds the rentals paid to Landlord, then any such excess, net of all reasonable costs incurred by Tenant in connection with such assignment or sublease, shall be paid over to Landlord by Tenant.

j. *Landlord's Fees.* Tenant shall pay Landlord an administration fee of \$1,000.00 per assignment or sublease transaction for which consent is required.

k. *Unauthorized Assignment or Sublease.* Any unauthorized assignment or sublease shall constitute a default under the terms of this Lease. In addition to its other remedies for Default, Landlord may elect to increase Base Rent to 150% of the Base Rent reserved under the terms of this Lease.

19. **DAMAGES TO PREMISES.**

a. *Landlord's Restoration Obligations.* If the Building or Premises are damaged by fire or other casualty ("Casualty"), then Landlord shall repair and restore the Premises to substantially the same condition of the Premises immediately prior to such Casualty, subject to the following terms and conditions:

- i. The casualty must be insured under Landlord's insurance policies, and Landlord's obligation is limited to the extent of the insurance proceeds received by Landlord. Landlord's duty to repair and restore the Premises shall not begin until receipt of the insurance proceeds.
- ii. Landlord's lender(s) must permit the insurance proceeds to be used for such repair and restoration.
- iii. Landlord shall have no obligation to repair and restore Tenant's trade fixtures, decorations, signs, contents, or any Non-Standard Improvements to the Premises.

b. *Termination of Lease by Landlord.* Landlord shall have the option of terminating the Lease if: (i) the Premises is rendered wholly untenable; (ii) the Premises is damaged in whole or in part as a result of a risk which is not covered by Landlord's insurance policies; (iii) Landlord's lender does not permit a sufficient amount of the insurance proceeds to be used for restoration purposes; (iv) the Premises is damaged in whole or in part during the last year of the Term; or (v) the Building containing the Premises is damaged (whether or not the Premises is damaged) to an extent of fifty percent (50%) or more of the fair market value thereof. If Landlord elects to terminate this Lease, then it shall give notice of the cancellation to Tenant within sixty (60) days after the date of the Casualty. Tenant shall vacate and surrender the Premises to Landlord within fifteen (15) days after receipt of the notice of termination.

c. *Termination of Lease by Tenant.* Tenant shall have the option of terminating the Lease if: (i) Landlord has failed to substantially restore the damaged Building or Premises within one hundred eighty (180) days of the Casualty ("Restoration Period"); (ii) the Restoration Period has not been delayed by *force Majeure*, it being agreed that Landlord's lack of capital or insurance proceeds shall not constitute *force Majeure*; and (iii) Tenant gives Landlord notice of the termination within fifteen (15) days after the end of the Restoration Period (as extended by any *force Majeure* delays); or if such casualty occurs within the last year of the Term. If Landlord is delayed by *force Majeure*, then Landlord must provide Tenant with notice of the delays within fifteen (15) days of the *force Majeure* event stating the reason for the delays and a good faith estimate of the length of the delays.

d. *Tenant's Restoration Obligations.* Unless terminated, the Lease shall remain in full force and effect, and Tenant shall promptly repair, restore, or replace Tenant's trade fixtures, decorations, signs, contents, and any Non-Standard Improvements to the Premises that were not installed by Landlord prior to the Commencement Date. All repair, restoration or replacement shall be at least to the same condition as existed prior to the Casualty. The proceeds of all Insurance carried by Tenant on its property shall be held in trust by Tenant for the purposes of such repair, restoration, or replacement.

e. *Rent Abatement.* If the Premises is rendered substantially untenable by the Casualty, then the Rent payable by Tenant shall be fully abated. If the Premises is only partially damaged, then Tenant shall continue the operation of Tenant's business in any part not damaged to the extent reasonably practicable from the standpoint of prudent business management, and Rent and other charges shall be abated proportionately to the portion of the Premises rendered untenable. The abatement shall be from the date of the Casualty until the Premises have been substantially repaired and restored, or until Tenant's business operations are restored in the entire Premises, whichever shall first occur. However, if the Casualty is caused by the negligence or other wrongful conduct of Tenant or of Tenant's subtenants, licensees, contractors, or invitees, or their respective agents or employees, and Landlord does not recover any loss of income or rental interruption insurance as a result of such Casualty, there shall be no abatement of Rent.

f. *Waiver of Claims.* The abatement of the Rent set forth above is Tenant's exclusive remedy against Landlord in the event of a Casualty. Tenant hereby waives all claims against Landlord for any compensation or damage for loss of use of the whole or any part of the Premises and/or for any inconvenience or annoyance occasioned by any Casualty and any resulting damage, destruction, repair, or restoration.

20. **EMINENT DOMAIN.**

a. *Effect on Lease.* If all of the Premises are taken under the power of eminent domain (or by conveyance in lieu thereof), then this Lease shall terminate as of the date possession is taken by the condemnor, and Rent shall be adjusted between Landlord and Tenant as of such date. If only a portion of the Premises is taken and Tenant can continue use of the remainder in a manner reasonably satisfactorily to Tenant for its business purposes, then this Lease will not terminate, but Rent shall abate in a just and proportionate amount to the loss of use occasioned by the taking.

b. *Right to Condemnation Award.* Landlord shall be entitled to receive and retain the entire condemnation award for the taking of the Building and Premises. Tenant shall have no right or claim against Landlord for any part of any award received by Landlord for the taking. Tenant shall have no right or claim for any alleged value of the unexpired portion of this Lease, or its leasehold estate, or for costs of removal, relocation, business interruption expense or any other damages arising out of such taking. Tenant, however, shall not be prevented from making a claim against the condemning party (but not against Landlord) for any moving expenses, loss of profits, or taking of Tenant's personal property (other than its leasehold estate) to which Tenant may be entitled; provided that any such award shall not reduce the amount of the award otherwise payable to Landlord for the taking of the Building and Premises.

21. **ENVIRONMENTAL COMPLIANCE.**

a. *Environmental Laws.* The term "Environmental Laws" shall mean all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies and bodies applicable to the Premises, pertaining to, environmental matters or regulating, prohibiting or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended.

b. *Tenant's Responsibility.* Tenant covenants and agrees that it will keep and maintain the Premises at all times in compliance with Environmental Laws. Tenant shall not (either with or without negligence) cause the escape, disposal or release of any biologically active or other hazardous substances, or materials on the Property. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or in compliance with the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought onto the Property any such materials or substances except to use in the ordinary course of Tenant's business, and then only after notice is given to Landlord of the identity of such substances or materials. No such notice shall be required, however, for commercially reasonable amounts of ordinary office supplies and janitorial supplies. Tenant shall execute affidavits, representations and the like, from time to time, at Landlord's request, concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises.

c. *Tenant's Liability.* Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section 21 including, but not limited to: (i) the cost of full remediation of any contamination to bring the Property into the same condition as prior to the Commencement Date and into full compliance with all Environmental Laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises and any other contaminated areas have been remediated and brought into compliance with all Environmental Laws; and (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section 21.

d. *Limitation on Tenant's Liability.* Tenant's obligations under this Section 21 shall not apply to any condition or matter constituting a violation of any Environmental Laws: (i) which existed prior to the commencement of Tenant's use or occupancy of the Premises; (ii) which was not caused, in whole or in part, by Tenant or Tenant's agents, employees, officers, partners, contractors or invitees; or (iii) to the extent such violation is caused by, or results from the acts or neglects of Landlord or Landlord's agents, employees, officers, partners, contractors, guests, or invitees.

e. *Inspections by Landlord.* Landlord and its engineers, technicians, and consultants (collectively the "Auditors") may, from time to time as Landlord deems appropriate, conduct periodic tests and examinations ("Audits") of the Premises to confirm and monitor Tenant's compliance with this Section 21. Such Audits shall be conducted in such a manner as to minimize the interference with Tenant's Permitted Use; however in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant's compliance with this Section 21. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section 21, in which case, the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per calendar year), shall be paid for on demand by Tenant.

f. *Landlord's Liability.* Landlord represents and warrants that, to the best of Landlord's knowledge, there are no hazardous materials or biologically active substances on the Premises or the Office Campus as of the Commencement Date in violation of any Environmental Laws. Landlord shall indemnify and hold Tenant harmless from any liability resulting from Landlord's violation of this representation and warranty. Landlord shall hold Tenant free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Tenant shall incur, or which Tenant would otherwise incur, by reason of Landlord's breach of its representation and warranty set forth above. In the event that it is discovered that any hazardous material or biologically active substance is present in the Premises or on the Property (a "Discovery"), and such was not introduced by Tenant or any of its agents, contractors or employees, then Landlord shall cause any such hazardous substances or biologically active substances to be promptly, fully and properly cleaned-up and removed from the Premises and the Property, in compliance with all applicable laws, orders and regulations.

g. [Title]. In the event of any Discovery that renders the Premises substantially untenable or if Tenant's ability to access the Premises is substantially hindered, Tenant shall have the option of terminating the Lease if: (i) Landlord has failed to substantially remove or remediate the Discovery within one hundred eighty (180) days of the Casualty ("Removal Period"); (ii) the Removal Period has not been delayed by *force Majeure*, it being agreed that Landlord's lack of capital or insurance proceeds shall not constitute *force Majeure*; and (iii) Tenant gives Landlord notice of the termination within fifteen (15) days after the end of the Removal Period (as extended by any *force Majeure* delays); or if such Discovery occurs within the last year of the Term. If Landlord is delayed by *force Majeure*, then Landlord must provide Tenant with notice of the delays within fifteen (15) days of the *force Majeure* event stating the reason for the delays and a good faith estimate of the length of the delays.

h. *Property*. For the purposes of this Section 21, the term "Property" shall include the Premises, Building, all Common Areas, the real estate upon which the Building is located; all personal property (including that owned by Tenant); and the soil, ground water, and surface water of the real estate upon which the Building is located.

i. *Liability After Termination of Lease*. The covenants contained in this Section 21 shall survive the expiration or termination of this Lease, and shall continue for so long as either party or its respective successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which the other party has agreed to indemnify it or them under this Section 21.

22. **DEFAULT.**

a. *Tenant's Default*. Tenant shall be in default under this Lease only if Tenant:

- i. Fails to pay when due any Base Rent, Additional Rent, or any other sum of money which Tenant is obligated to pay, as provided in this Lease and such failure continues for a period of five (5) days of written notice thereof from Landlord, provided that Landlord shall not be obligated to provide such notice more than twice in any twelve month period;
- ii. Breaches any other agreement, covenant or obligation in this Lease and such breach is not remedied within thirty (30) days after Landlord gives Tenant notice specifying the breach, or if such breach cannot, with due diligence, be cured within thirty (30) days, Tenant does not commence curing within thirty (30) days and with reasonable diligence completely cure the breach within a reasonable period of time after the notice;

- iii. Files any petition or action for relief under any creditor's law (including bankruptcy, reorganization, or similar action), either in state or federal court, or has such a petition or action filed against it which is not stayed or vacated within ninety (90) days after filing; or
- iv. Makes any transfer in fraud of creditors as defined in Section 548 of the United States Bankruptcy Code (11 U.S.C. 548, as amended or replaced), has a receiver appointed for its assets (and the appointment is not stayed or vacated within ninety (90) days), or makes an assignment for benefit of creditors.

b. *Landlord's Remedies.* In the event of a Tenant default, Landlord at its option may do one or more of the following:

- i. Terminate this Lease and recover all damages caused by Tenant's breach, including damages for lost future rent;
- ii. Repossess the Premises, with or without terminating, and relet the Premises at such amount as Landlord deems reasonable;
- iii. Declare the entire remaining Base Rent and Additional Rent immediately due and payable, such amount to be discounted to its present value at a discount rate equal to the U.S. Treasury Bill or Note rate with the closest maturity to the remaining term of the Lease as selected by Landlord;
- iv. Bring action for recovery of all amounts due from Tenant;
- v. Seize and hold any personal property of Tenant located in the Premises and assert against the same a lien for monies due Landlord;
- vi. Lock the Premises and deny Tenant access thereto without obtaining any court authorization; or
- vii. Pursue any other remedy available in law or equity.

c. *Landlord's Expenses; Attorneys Fees.* All reasonable expenses of Landlord in repairing, restoring, or altering the Premises for reletting as general office space, together with leasing fees and all other expenses in seeking and obtaining a new Tenant, shall be charged to and be a liability of Tenant. Landlord's reasonable attorneys' fees in pursuing any of the foregoing remedies, or in collecting any Rent or Additional Rent due by Tenant hereunder, shall be paid by Tenant.

d. *Remedies Cumulative.* All rights and remedies of Landlord are cumulative, and the exercise of any one shall not be an election excluding Landlord at any other time from exercise of a different or inconsistent remedy. No exercise by Landlord of any right or remedy granted herein shall constitute or effect a termination of this Lease unless Landlord shall so elect by notice delivered to Tenant. The failure of Landlord to exercise its rights in connection with this Lease or any breach or violation of any term, or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be a waiver of such term, covenant or condition or any subsequent breach of the same or any other covenant or condition herein contained. In the event of a default hereunder by Tenant, Landlord shall use its commercially reasonable efforts to mitigate the damages suffered by Landlord in connection with such breach, provided, however, that such mitigation shall not prevent Landlord from exercising Landlord's remedies under Sections 22.b.iii and 22.b.iv above.

e. *No Accord and Satisfaction.* No acceptance by Landlord of a lesser sum than the Rent, Additional Rent and other sums then due shall be deemed to be other than on account of the earliest installment of such payments due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed as accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Lease.

f. *No Reinstatement.* No payment of money by Tenant to Landlord after the expiration or termination of this Lease shall reinstate or extend the Term, or make ineffective any notice of termination given to Tenant prior to the payment of such money. After the service of notice or the commencement of a suit, or after final judgment granting Landlord possession of the Premises, Landlord may receive and collect any sums due under this Lease, and the payment thereof shall not make ineffective any notice or in any manner affect any pending suit or any judgment previously obtained.

g. *Summary Ejectment.* Tenant agrees that in addition to all other rights and remedies Landlord may obtain an order for summary ejectment from any court of competent jurisdiction without prejudice to Landlord's rights to otherwise collect rents or breach of contract damages from Tenant.

h. *Landlord Default.* Landlord shall be in default under this Lease if Landlord breaches any agreement, covenant or obligation in this Lease and such breach is not remedied within thirty (30) days after Tenant gives Landlord written notice specifying the breach, or if such breach cannot, with due diligence, be cured within thirty (30) days, Landlord does not commence curing within thirty (30) days and with reasonable diligence completely cure the breach within a reasonable period of time after the notice.

In the event of a Landlord default, Tenant may, in addition to any remedies available to Tenant at law, cure the default on behalf of Landlord, and the reasonable costs of such cure shall be paid to Tenant by Landlord upon written demand. In no event shall Landlord be liable to Tenant for any special, consequential, incidental or punitive damages arising from any breach of this Lease.

23. **MULTIPLE DEFAULTS.** Tenant acknowledges that any rights or options of first refusal, or to extend the Term, to expand the size of the Premises, to purchase the Premises or the Building, or other similar rights or options which have been granted to Tenant under this Lease are conditioned upon the prompt and diligent performance of the terms of this Lease by Tenant. Accordingly, should Tenant materially default under this Lease on four (4) or more occasions during the twenty-four (24) month period prior to the permitted exercise of such right or option, in addition to all other remedies available to Landlord, all such rights and options shall automatically, and without further action on the part of any party, expire and be of no further force and effect.

24. **BANKRUPTCY.**

a. *Trustee's Rights.* Landlord and Tenant understand that, notwithstanding contrary terms in this Lease, a trustee or debtor in possession under the United States Bankruptcy Code, as amended, (the "Code") may have certain rights to assume or assign this Lease. This Lease shall not be construed to give the trustee or debtor in possession any rights greater than the minimum rights granted under the Code.

b. *Adequate Assurance.* Landlord and Tenant acknowledge that, pursuant to the Code, Landlord is entitled to adequate assurances of future performance of the provisions of this Lease. The parties agree that the term "adequate assurance" shall include at least the following:

- i. In order to assure Landlord that any proposed assignee will have the resources with which to pay all Rent payable pursuant to the provisions of this Lease, any proposed assignee must have, as demonstrated to Landlord's satisfaction, a net worth (as defined in accordance with generally accepted accounting principles consistently applied) of not less than the net worth of Tenant on the Effective Date (as hereinafter defined), increased by seven percent (7%), compounded annually, for each year from the Effective Date through the date of the proposed assignment. It is understood and agreed that the financial condition and resources of Tenant were a material inducement to Landlord in entering into this Lease.
- ii. Any proposed assignee must have been engaged in the conduct of business for the five (5) years prior to any such proposed assignment, which business does not violate the Use provisions under Section 4 above, and such proposed assignee shall continue to engage in the Permitted Use under Section 4. It is understood that Landlord's asset will be substantially impaired if the trustee in bankruptcy or any assignee of this Lease makes any use of the Premises other than the Permitted Use.

c. *Assumption of Lease Obligations.* Any proposed assignee of this Lease must assume and agree to be personally bound by the provisions of this Lease.

25. **NOTICES.**

a. *Addresses.* All notices, demands and requests by Landlord or Tenant shall be sent to the Notice Addresses set forth in Section 1m, or to such other address as a party may specify by duly given notice.

b. *Form; Delivery; Receipt.* **ALL NOTICES, DEMANDS AND REQUESTS WHICH MAY BE GIVEN OR WHICH ARE REQUIRED TO BE GIVEN BY EITHER PARTY TO THE OTHER MUST BE IN WRITING UNLESS OTHERWISE SPECIFIED.** Notices, demands or requests shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by express, registered or certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery to the receiving party's address as set forth above or (iv) delivered via telecopier or facsimile transmission to the facsimile number listed above, with an original counterpart of such communication sent concurrently as specified in subsection (ii) or (iii) above and with written confirmation of receipt of transmission provided. Each such notice, demand or request shall be deemed to have been received upon the earlier of the actual receipt or refusal by the addressee or three (3) business days after deposit thereof at any main or branch United States post office if sent in accordance with subsection (ii) above, and the next business day after deposit thereof with the courier if sent pursuant to subsection (iii) above.

c. *Address Changes.* The parties shall notify the other of any change in address, which notification must be at least fifteen (15) days in advance of it being effective.

d. *Notice by Legal Counsel.* Notices may be given on behalf of any party by such party's legal counsel.

26. **HOLDING OVER.** If Tenant holds over after the Expiration Date or other termination of this Lease, such holding over shall not be a renewal of this Lease but shall create a tenancy-at-sufferance. Tenant shall continue to be bound by all of the terms and conditions of this Lease, except that during such tenancy-at-sufferance Tenant shall pay to Landlord (i) Base Rent at the rate equal to one hundred fifty percent (150%) of that provided for as of the expiration or termination date, and (ii) any and all Operating Expenses and other forms of Additional Rent payable under this Lease. The increased Rent during such holding over is intended to compensate Landlord partially for losses, damages and expenses, including frustrating and delaying Landlord's ability to secure a replacement tenant. If Landlord loses a prospective tenant because Tenant fails to vacate the Premises on the Expiration Date or any termination of the Lease after notice to do so, then Tenant will be liable for such damages as Landlord can prove because of Tenant's wrongful failure to vacate.

27. **RIGHT TO RELOCATE.** [INTENTIONALLY DELETED]

28. **BROKER'S COMMISSIONS.**

a. *Broker.* Each party represents and warrants to the other that it has not dealt with any real estate broker, finder or other person with respect to this Lease in any manner, except the Broker identified in Section 1n.

b. *Landlord's Obligation.* Landlord shall pay any commissions or fees that are payable to the Broker with respect to this Lease pursuant to Landlord's separate agreement with the Broker.

c. *Indemnity.* Each party shall indemnify and hold the other party harmless from any and all damages resulting from claims that may be asserted against the other party by any other broker, finder or other person (including, without limitation, any substitute or replacement broker claiming to have been engaged by indemnifying party in the future), claiming to have dealt with the indemnifying party in connection with this Lease or any amendment or extension hereto, or which may result in Tenant leasing other or enlarged space from Landlord. The provisions of this Section shall survive the termination of this Lease.

29. **MISCELLANEOUS.**

a. *No Agency.* Tenant is not, may not become, and shall never represent itself to be an agent of Landlord, and Tenant acknowledges that Landlord's title to the Building is paramount, and that it can do nothing to affect or impair Landlord's title.

b. *Force Majeure.* The term "*force majeure*" means: fire, flood, extreme weather, labor disputes, strike, lock-out, riot, government interference (including regulation, appropriation or rationing), unusual delay in governmental permitting, unusual delay in deliveries or unavailability of materials, unavoidable casualties, Act of God, or other causes beyond the Landlord's reasonable control.

c. *Building Standard Improvements.* The term "Building Standard Improvements" shall mean the standards for normal construction of general office space within the Building as specified by Landlord, including design and construction standards, electrical load factors, materials, fixtures and finishes, and shall include, without limitation, the items listed on **Exhibit B**.

d. *Limitation on Damages.* Notwithstanding any other provisions in this Lease, Landlord shall not be liable to Tenant for any special, consequential, incidental or punitive damages.

e. *Satisfaction of Judgments Against Landlord.* If Landlord, or its employees, officers, directors, stockholders or partners are ordered to pay Tenant a money judgment because of Landlord's default under this Lease, said money judgment may only be enforced against and satisfied out of: (i) Landlord's interest in the Building in which the Premises are located including the rental income and proceeds from sale; and (ii) any insurance or condemnation proceeds received because of damage or condemnation to, or of, said Building that are available for use by Landlord. No other assets of Landlord or said other parties exculpated by the preceding sentence shall be liable for, or subject to, any such money judgment.

f. *Interest.* Should Tenant fail to pay any amount due to Landlord within 30 days of the date such amount is due (whether Base Rent, Additional Rent, or any other payment obligation), then the amount due shall begin accruing interest at the rate of 12% per annum, compounded monthly, or the highest permissible rate under applicable usury law, whichever is less, until paid.

g. *Legal Costs.* Should either party prevail in any legal proceedings against the other for breach of any provision in this Lease, then such non-prevailing party shall be liable for the costs and expenses of the prevailing party, including its reasonable attorneys' fees (at all tribunal levels).

h. *Sale of Premises or Building.* Landlord may sell the Premises or the Building without affecting the obligations of Tenant hereunder; upon the sale of the Premises or the Building, Landlord shall be relieved of all responsibility for the Premises and shall be released from any liability thereafter accruing under this Lease provided the purchaser of the Property assumes this Lease in writing.

- i. *Time of the Essence.* Time is of the essence in the performance of all obligations under the terms of this Lease.
- j. *Transfer of Security Deposit.* If any Security Deposit or prepaid Rent has been paid by Tenant, Landlord may transfer the Security Deposit or prepaid Rent to Landlord's successor and upon such transfer, Landlord shall be released from any liability for return of the Security Deposit or prepaid Rent.
- k. *Tender of Promises.* The delivery of a key or other such tender of possession of the Premises to Landlord or to an employee of Landlord shall not operate as a termination of this Lease or a surrender of the Premises unless requested in writing by Landlord.
- l. *Tenant's Financial Statements.* Upon reasonable request of Landlord not exceeding once in any calendar year, Tenant agrees to cause Guarantor (as defined in **Exhibit E** to this Lease) to furnish to Landlord copies of Guarantor's most recent annual, quarterly and monthly financial statements, audited if available. The financial statements shall be prepared in accordance with generally accepted accounting principles, consistently applied. The financial statements shall include a balance sheet and a statement of profit and loss, and the annual financial statement shall also include a statement of changes in financial position and appropriate explanatory notes. Landlord may deliver the financial statements to any prospective or existing mortgagee or purchaser of the Building.
- m. *Recordation.* This Lease may not be recorded without Landlord's prior written consent, but Tenant and Landlord agree, upon the request of the other party, to execute a memorandum hereof for recording purposes.
- n. *Partial Invalidity.* The invalidity of any portion of this Lease shall not invalidate the remaining portions of the Lease.
- o. *Binding Effect.* This Lease shall be binding upon the respective parties hereto, and upon their heirs, executors, successors and assigns.
- p. *Entire Agreement.* This Lease supersedes and cancels all prior negotiations between the parties, and no changes shall be effective unless in writing signed by both parties. Tenant acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties except those expressed in this Lease, and that this Lease contains the entire agreement of the parties hereto with respect to the subject matter hereof. All Exhibits referenced herein are made a part hereof as if set out in full herein.
- q. *Good Standing.* If requested by Landlord, Tenant shall furnish reasonable appropriate legal documentation evidencing the valid existence in good standing of Tenant, and the authority of any person signing this Lease to act for the Tenant. If Tenant signs as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant has and is qualified to do business in the State in which the Premises are located, that the corporation has a full right and authority to enter into this Lease and that each of the persons signing on behalf of the corporation is authorized to do so.

- r. *Terminology.* The singular shall include the plural, and the masculine, feminine or neuter includes the other.
- s. *Headings.* Headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.
- t. *Choice of Law.* This Lease shall be interpreted and enforced in accordance with the laws of the State in which the Premises are located.
- u. *Effective Date.* The submission of this Lease to Tenant for review does not constitute a reservation of or option for the Premises, and this Lease shall become effective as a contract only upon the execution and delivery by both Landlord and Tenant. The date of execution shall be entered on the top of the first page of this Lease by Landlord, and shall be the date on which the last party signed the Lease, or as otherwise may be specifically agreed by both parties. Such date, once inserted, shall be established as the final day of ratification by all parties to this Lease, and shall be the date for use throughout this Lease as the "Effective Date".

v. *Generator License Agreement and Satellite Antenna Agreement.* Landlord and Tenant have agreed upon the form of a Generator License Agreement and a Satellite Agreement, copies of which are attached hereto as **Exhibits H and I**, respectively. The parties shall use the forms in the event the parties agree on the placement of a generator or satellite antenna, as applicable, and Landlord shall not unreasonably withhold such agreement,

w. *Confidentiality.* Landlord agrees that it shall not issue any press release that includes the name of Tenant or the guarantor of the Lease, or any derivative of either such name or that in any way identifies Tenant or such guarantor, in connection with this Lease or otherwise. Notwithstanding the foregoing, Landlord may (i) disclose the identity of Tenant in connection with any filings required by law; and (ii) disclose in a press release that it has leased space to a leading clinical research organization.

30. **OPTIONS TO RENEW LEASE TERM.**

a. *Option to Extend.* Tenant shall have the right and option to renew the Lease (the "Renewal Options") for two (2) additional periods of five (5) years each (the "Renewal Lease Terms") (a separate notice is required. for each Renewal Lease Term); provided, however, such Renewal Option is contingent upon the following (i) Tenant is not in default at the time Tenant gives Landlord notice of Tenant's intention to exercise the Renewal Option; (ii) upon the Expiration Date or the expiration of any Renewal Lease Term, Tenant has no outstanding default; (iii) no event has occurred that upon notice or the passage of time would constitute a default; (iv) Tenant is not disqualified by multiple defaults as provided in the Lease; and (v) Tenant or its permitted assignee or sublessee is occupying the Premises. Following the expiration of the second Renewal Lease Term, Tenant shall have no further right to renew the Lease pursuant to this Renewal Option.

b. *Exercise of Option.* Tenant shall exercise each Renewal Option by giving Landlord notice at least three hundred sixty-five (365) days prior to the Expiration Date or the last day of any Renewal Lease Term. If Tenant fails to give such notice to Landlord prior to said three hundred sixty-five (365) day period, then Tenant shall forfeit the Renewal Option. If Tenant exercises the Renewal Option, then during any such Renewal Lease Term, Landlord and Tenant's respective rights, duties and obligations shall be governed by the terms and conditions of the Lease. Time is of the essence in exercising the Renewal Option.

c. *Term.* If Tenant exercises the Renewal Option, then during any such Renewal Lease Term, all references to the term "Term", as used in the Lease, shall mean the "Renewal Lease Term".

d. *Suspension of Renewal Option on Transfer by Tenant.* In the event that at any time prior to the time that Tenant exercises a Renewal Option, Tenant has subleased all of the Premises to a subtenant, and Landlord provides notice to Tenant that in Landlord's reasonable judgment, acting in good faith, such subtenant is (i) involved in on-going criminal activities, including without limitation illegal drug trafficking; or (ii) in violation of any laws relating to terrorism or money laundering, including Executive Order No. 13224 on Terrorist Financing (effective September 24, 2001), and the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pubic Law 107-56); or (iii) engaged in a business or use at the Premises other than the use permitted under the Lease; or (iv) of a type of tenant that Landlord would not normally accept as a tenant in Landlord's properties that are similar in nature to the Building, based upon Landlord's judgment of such tenant's business, financial condition, business history, proposed use or other similar lawful considerations, then upon Tenant's receipt of such notice, Tenant's Renewal Rights set forth in this Section 30 shall be suspended for so long as such Subtenant remains a subtenant of Tenant of the Premises.

e. *Base Rent for Renewal Lease Term.* The Minimum Base Rent for the Renewal Lease Term shall be at the Fair Market Rental Rate, determined as follows:

- i. *Definition.* The term "Fair Market Rental Rate" shall mean the market rental rate for the time period such determination is being made for office space in class "A" office buildings in the Brentwood/Cool Springs, Tennessee area ("Area") of comparable condition for space of equivalent quality, size, utility and location. Such determination shall take into account all relevant factors, including, without limitation, the following matters: the credit standing of Tenant; the length of the term; expense stops; the fact that Landlord will experience no vacancy period and that Tenant will not suffer the costs and business interruption associated with moving its offices and negotiating a new lease; construction allowances and other tenant concessions that would be available to tenants comparable to Tenant in the Area (such as moving expenses allowance, free rent periods, and lease assumptions and take-over provisions, if any, but specifically excluding the value of improvements installed in the Premises at Tenant's cost), and whether adjustments are then being made in determining the rental rates for renewals in the Area because of concessions offered by Landlord to Tenant (or the lack thereof for the Renewal Lease Term in question). For purposes of such calculation, a commission in connection with the Renewal Lease Term in question, to be paid by Landlord to a representative of Tenant, and based on then current market rates, shall be included to the extent actually required to be paid.

- ii. *Determination.* Landlord shall deliver to Tenant notice of the Fair Market Rental Rate (the “FMR Notice”) for the Premises for the Renewal Lease Term in question within thirty (30) days after Tenant exercises the option giving rise for the need to determine the Fair Market Rental Rate. If Tenant disagrees with Landlord’s assessment of the Fair Market Rental Rate specified in a FMR Notice, then it shall so notify Landlord in writing with fifteen (15) business days after delivery of such FMR Notice; otherwise, the rate set forth in such notice shall be the Fair Market Rental Rate. If Tenant timely delivers to Landlord notice that Tenant disagrees with Landlord’s assessment of the Fair Market Rental Rate, then Landlord and Tenant shall meet to attempt to determine the Fair Market Rental Rate. If Tenant and Landlord are unable to agree on such Fair Market Rental Rate within ten (10) business days after Tenant notifies Landlord of Tenant’s disagreement with Landlord’s assessment thereof, then Landlord and Tenant shall appoint an independent real estate appraiser with at least five (5) years’ commercial real estate appraisal experience in the Area market. The two appraisers shall then, within ten (10) days after their designation, select an independent third appraiser with like qualification. If the two appraisers are unable to agree on the third appraiser within such ten (10) days period, either Landlord or Tenant, by giving five (5) days prior notice thereof to the other, may apply to the then presiding Clerk of Circuit Court of Davidson County for selection of a third appraiser who meets the qualifications stated above. Within fifteen (15) business days after the selection of the third appraiser, a majority of the appraisers shall determine the Fair Market Rental Rate. If a majority of the appraisers is unable to agree upon the Fair Market Rental Rate by such time, then the two (2) closest appraisals shall be averaged and the average will be the Fair Market Rental Rate. Tenant shall bear the entire costs of the appraisers. Notwithstanding the foregoing, in the event the Fair Market Rental Rate is determined by the appraisers as described above, Tenant shall have five (5) business days after the receipt of the establishment of the Fair Market Rental Rate to withdraw the exercise of the Renewal Option.
- iii. *Administration.* If Tenant has exercised the Renewal Option and the Fair Market Rental Rate for the Renewal Lease Term has not been determined in accordance with this Lease by the time that Rent for the Renewal Lease Term is to commence in accordance with the terms hereof, then Tenant shall pay Rent for the Renewal Lease Term based on the Fair Market Rental Rate proposed by Landlord pursuant to this Lease until such time as the Fair Market Rental Rate has been so determined, at which time appropriate cash adjustments shall be made between Landlord and Tenant such that Tenant is charged Rent based on the Fair Market Rental Rate (as finally determined pursuant to this Lease) for the Renewal Lease Term during the interval in question.

31. **EXPANSION OPTIONS OF TENANT.**

a. *Right of First Refusal.* During the Lease, Tenant shall have a continual right of first refusal on any space that becomes available in the Building, subject to the extension, expansion, renewal or other rights of other tenants (each a "Third Party Tenant") in the Building or other buildings owned by Landlord on the Office Campus.

b. *Other Tenant Leases.* As an additional right to the right of first refusal provided in Section 31.a above, during the first seven (7) years of the Term, Tenant shall have a continuing right of first refusal on any space that becomes available within the Building, and Landlord shall not grant to any other Third Party Tenant any extension of premises or renewal of the lease of such Third Party Tenant (each a "Third Party Lease") unless such Third Party Tenant is exercising an option to extend or renew granted in the Third Party Lease or such Third Party Tenant expands its existing space and extends the term of the Third Party Lease to provide that the termination of the Third Party Lease is coterminous with the lease for the expanded space. Notwithstanding and without limiting the foregoing, if Tenant provides written notice to Landlord no later than January 31, 2008 of Tenant's intent to lease the space thereunder, Landlord shall not grant any renewal of that certain lease between Landlord and Title Enterprise Services Company, LLC dated March 18, 2002 for 5,673 square feet of space in the Building.

c. *Exercise of Right of First Refusal.* In addition to the contingencies listed in Section 31.d below, Tenant's right of first refusal under this Section shall require that Tenant provide written notice to Landlord of the exercise of such right within ten (10) business days after written notice from Landlord thereof (each, an "Availability Notice"). Within ten (10) business days after receipt of a request from Tenant, Landlord shall provide to Tenant an Availability Notice on all space in the Building or the Office Campus that is not currently leased or the subject of an executed letter of intent, provided that Tenant shall not be entitled to make such request more than four (4) times in any twelve month period. Tenant's failure to exercise such right as provided above shall remove such space from Tenant's right of first refusal, provided that within two hundred seventy (270) days after the date of Tenant's receipt of the Availability Notice with respect thereto, Landlord has entered into a lease with such third party or has executed a letter of intent with the third party and is diligently working to enter into such lease, in which case the two hundred seventy day period shall be extended as long as Landlord and the third party are actively negotiating the terms of such lease. In addition to the written notice from Landlord, Landlord shall, upon request of Tenant therefor, provide to Tenant a list of Third Party Leases that will expire within seven (7) years of the Commencement Date and the date, if any, that such Third Party Tenants must exercise rights of renewal or extension.

d. *Contingency.* Tenant's right of first refusal under this Section is contingent upon the following, all effective as of the date such right of first refusal is exercised by Tenant: (i) Tenant is not in default under the Lease; (ii) no event has occurred that upon notice or the passage of time would constitute a default; (iii) Tenant is not disqualified by multiple defaults as provided in the Lease; and (iv) Tenant or its permitted assignee is occupying the Premises.

e. *Rent and Term.* In the event Tenant exercises on one or more occasion any right of first refusal under this Section, the space within the Building added under the right of first refusal (the "Added Space") will be added to the Premises and the Base Rent for the Initial Premises and all other provisions of this Lease shall be applicable to the Added Space. In the event that the Added Space is unfinished shell space ("Shell Space"), the term for such Added Space shall be the greater of (i) not less than five (5) years or (ii) Term of the Lease, as extended or renewed. In the event that the Added Space is second generation, finished space ("Finished Space"), the term for the Added Space shall be the greater of (i) not less than three (3) years or (ii) Term of the Lease, as extended or renewed. Commencement of Base Rent and Additional Rent payments, for Finished Space, shall occur on the earlier of (i) occupancy by Tenant or (ii) two (2) months after delivery of possession to Tenant of the Added Space in broom-clean and vacant condition. Commencement of Base Rent and Additional Rent payments for Shell Space, shall occur on the earlier of (i) occupancy by Tenant or (ii) three (3) months after Landlord provides possession to Tenant of the Added Space in broom-clean and vacant condition with Base Building Improvements completed.

f. *Improvement Allowance.* Landlord shall grant an Allowance for the Tenant in the amount of \$25.00 per rentable square foot for Shell Space and an Allowance of \$2.00 per rentable square foot for each year of the term established for Finished Space, not to exceed \$12.00 per rentable square foot, and Landlord and Tenant will execute a Workletter for the Added Space in the form of **Exhibit B** attached hereto and incorporated herein by reference.

g. *Space in Other Buildings.* Subject to availability, in the event that Tenant has additional space needs that cannot be met in the Building, but additional buildings are constructed, owned and controlled by Landlord or an affiliate of Landlord in the Office Campus (each, a "Related Building"), Landlord will extend to Tenant the option of leasing additional space in such other buildings under terms set forth above in Subsections 31.c, e and f (the "Rent Terms"). In addition, following the initial lease term of any space in a Related Building, and subject to the rights of any Third Party Tenant in such Related Building, Tenant shall have the right of first offer on any space which Landlord or the owner or manager of such Related Building Intends to offer to the general market on the Rent Terms. Landlord shall provide to Tenant notice of such space being available and the terms and conditions on which Landlord is willing too lease such space. If Tenant desires to lease such space it shall provide notice of such election to Landlord within ten (10) days after its receipt of the availability notice from Landlord. If Tenant fails to notify Landlord that it elects to lease such space, Landlord shall be free to lease such space to a third party on substantially the same terms and conditions offered to Tenant. If Landlord does not within two hundred seventy (270) days after the date of Tenant's receipt of the Availability Notice with respect thereto, enter into a lease or execute a letter of intent with the third party and thereafter diligently negotiate to enter into such lease, Landlord shall first offer the space to Tenant again before offering such space to the general market.

32. **ASSIGNMENT AND ASSUMPTION OF TENANT'S EXISTING LEASE.**

a. Tenant is the tenant under an existing Lease Agreement between Tenant and Sun Life Assurance Company of Canada ("Sun Life"), successor to Maryland Park Center, Limited Liability Company (the "MPC Landlord") dated April 25, 1997, as amended by Amendment to Lease dated September 23, 1997, as further amended by Second Amendment to Lease dated December 9, 1997, as further amended by Third Amendment to Lease dated February 6, 1998, and as further amended by Fourth Amendment to Lease dated March 16, 2001, for space located in Maryland Park Center, Eastpark Drive, Brentwood, Tennessee (as amended, the "MPC Lease"). Landlord acknowledges that it has received and reviewed a copy of the MPC Lease and is familiar with the terms and conditions set forth therein.

b. In consideration of Tenant entering into this Lease, Landlord has agreed to assume from Tenant all of Tenant's interest, rights and duties under the MPC Lease. Under the MPC Lease the consent of Sun Life is required prior to the assignment of the MPC Lease from Tenant to Landlord ("Sun Life's Consent"). Tenant shall request such consent from Sun Life. Upon Tenant's request, Landlord agrees to use reasonable commercial efforts, but at no cost to Landlord (except Landlord's legal fees), to assist Tenant in its efforts to obtain the Sun Life Consent and shall provide to Sun Life such information as may be required or requested under the MPC Lease, and will execute and deliver to Sun Life any and all agreements, certifications and instruments that may, under the MPC Lease, be required in connection with an assignment of the MPC Lease, without the imposition or requirement by Landlord of any terms or conditions not contained in the MPC Lease or the modification or amendment of the terms and conditions contained in the MPC Lease. Tenant may request Sun Life to issue the Sun Life Consent at such time as Tenant determines is appropriate. Landlord, without Tenant's written consent, shall not discuss or negotiate with Sun Life, or its agents, the assignment of the MPC Lease as contemplated herein. Any fees or charges imposed by Sun Life in connection with the Sun Life Consent shall be paid by Tenant. Upon the termination of the MPC Lease, Landlord shall pay to Tenant any money held by or on behalf of Sun Life as a security deposit under the MPC Lease and actually paid by Sun Life to Landlord. In the event that the MPC Lease is assumed by Landlord, (i) Landlord shall perform all of the obligations of tenant thereunder in a timely manner and in accordance with the terms and conditions of the MPC Lease; and (ii) the lease assumption agreement to be entered into between Landlord and Tenant shall contain standard indemnity agreements between the parties with respect to their respective periods of tenancy under the MPC Lease.

c. Notwithstanding the foregoing, if on the Commencement Date the Sun Life Consent has not been obtained (the “Non-Assumption”), then from and after the Commencement Date, Landlord shall perform for Tenant all of the covenants, duties, agreements and obligations of Tenant under the MPC Lease, including without limitation the payment of all rent and additional rent thereunder (collectively, the “Assumed Obligations”). In the event of the Non-Assumption, Landlord shall pay to Tenant within ten (10) days after receipt from Tenant of a demand for payment together with a copy of an invoice from Sun Life, or its agent, relating to such demand (each, a “Payment Notice”), the amount set forth in such Payment Notice. Moreover, in the event of the Non-Assumption, Landlord shall pay to Tenant on a monthly basis all fixed amounts of rent and other payments set forth in the MPC Lease, without notice or demand, promptly upon receipt by Landlord of the Base Rent and Additional Rent due hereunder for such month (the “Received Funds”). Landlord shall make such monthly payments either directly to the MPC Landlord, if directed by Tenant or otherwise to Tenant, by wire transfer instructions, provided to Landlord from time to time by Tenant, within forty-eight (48) hours after Landlord’s receipt of the Received Funds. Provided that Landlord is not in default hereof, in the event Tenant receives any reimbursement from the landlord under the MPC Lease relating to the over-payment of operating expenses or other charges, Landlord shall have the right to receive from the Tenant such reimbursement to the extent that Landlord made a corresponding overpayment to Tenant, but not with respect to any payments made by Tenant prior to the Commencement Date. Landlord shall perform all Assumed Obligations in a timely manner and in accordance with the terms and conditions of the MPC Lease.

d. From the date of this Lease, Tenant agrees not to amend, modify, extend, expand or otherwise change the terms of the MPC. Lease without the express written consent of Landlord. In the event the MPC Lease is assumed by Landlord, Landlord will not amend, modify, expand or otherwise change the terms of the MPC Lease in any manner that would increase or extend the liability of Tenant thereunder without the express written consent of Tenant.

e. In the event that Landlord fails to make any required payments to the MPC Landlord in the event that Landlord assumes the MPG Lease as contemplated under Subsection B above or in the event that Landlord fails to make any required payments to Tenant set forth in Subsection C above, without in any way limiting Landlord’s obligations hereunder, Tenant may, but shall not be obligated to, perform such obligation (each, a “Tenant Cure”). In the event of any Tenant Cure, Tenant shall have the right to offset from the next payment of Rent due an amount equal to one hundred ten percent (110%) of the costs and expenses actually and reasonably incurred by Tenant in effecting such Tenant Cure to the extent of any Received Funds.

33. **EXHIBITS.**

- a. **Exhibit A — Premises**
- b. **Exhibit A-1 — Swing Premises**
- c. **Exhibit B — Workletter**
- d. **Exhibit C — Rules and Regulations**
- e. **Exhibit D — Commencement Letter**
- f. **Exhibit E — Guaranty of Lease**
- g. **Exhibit F — HVAC Specifications**

- h. **Exhibit G — Cleaning Specifications**
- i. **Exhibit H — Form of Generator License Agreement**
- j. **Exhibit I — Form of Satellite Agreement**
- k. **Exhibit J — Site Plan of Office Campus**

EXHIBIT A
PREMISES

Exhibit A

FXMBTT A-1
Swing Premises

Exhibit A

EXHIBIT B
(WORKLETTER — ALLOWANCE)

WORKLETTER. This **Exhibit B** sets forth the rights and obligations of Landlord and Tenant with respect to space planning, engineering, final workshop drawings, and the construction and installation of any improvements to the Premises to be completed before the Commencement Date (“Tenant Improvements”). This Workletter contemplates that the performance of this work will proceed in four stages in accordance with the following schedule: (i) preparation of a space plan; (ii) final design and engineering and preparation of final plans and working drawings; (iii) preparation by the Contractor (as hereinafter defined) of an estimate of the additional cost of the initial Tenant Improvements; (iv) submission and approval of plans by appropriate governmental authorities and construction and installation of the Tenant Improvements by the Commencement Date.

In consideration of the mutual covenants hereinafter contained, Landlord and Tenant do mutually agree to the following:

1. **Allowance.** Landlord agrees to provide an allowance of up to \$27.50 per rentable square foot for the Initial Premises and the Swing Premises, to design, engineer, install, supply and otherwise to construct the Tenant Improvements in the Premises that will become a part of the Building (the “Allowance”). Tenant is fully responsible for the payment of all costs in connection with the Tenant Improvements in excess of the Allowance. Without limiting the foregoing, the Allowance may be used for cabling and wiring, moving expenses, communications equipment and furniture, the costs of Tenant’s construction consultant and any costs expended by Tenant to obtain Sun Life’s Consent under Section 32.b of the Lease, and any unused portion of the Allowance may be applied toward the Base Rent obligations of Tenant under the Lease.

2. **Space Planning, Design and Working Drawings.** Tenant shall retain Meyers and Associates (“Architect”), who will do the following at Tenant’s expense (which expense may be deducted from the Allowance):

a. Complete construction drawings for Tenant’s partition layout, reflected ceiling grid, telephone and electrical outlets, keying, and finish schedule.

b. All plans and working drawings for the construction and completion of the Premises (the “Plans”) shall be subject to Landlord’s prior written approval. Any changes or modifications Tenant desires to make to the Plans shall also be subject to Landlord’s prior approval. Landlord agrees that it will not unreasonably withhold its approval of the Plans, or of any changes or modifications thereof; provided, however, Landlord shall have sole and absolute discretion to approve or disapprove any improvements that will be visible to the exterior of the Premises, or which may affect the structural integrity of the Building. Landlord will provide written notice to Tenant of its disapproval of any Plans, together with detail explanations of the reasons for such disapproval. Any approval of the Plans by Landlord shall not constitute approval of any Delays caused by Tenant and shall not be deemed a waiver of any rights or remedies that may arise as a result of such Delays. Landlord may condition its approval of the Plans if: the Plans require unusual or extraordinary design elements or materials that would cause Landlord to deliver the Premises to Tenant after the scheduled Commencement Date. If Landlord does not notify Tenant of its rejection or approval of any Plans submitted to it for review within five (5) business days after Landlord’s receipt thereof, Landlord will be deemed to have given its approval. The Plans, as approved by Landlord are sometimes hereinafter referred to as the “Approved Plans.”

Exhibit B

3. **Tenant Plan Delivery Date.**

a. Tenant acknowledges that the Architect is acting on behalf of the Tenant and that Tenant (not Landlord) is responsible for the timely completion of the Plans.

b. Landlord and Tenant have selected a general contractor (the "Contractor") to undertake, construct, install and complete the Tenant Improvements in accordance with the Approved Plans (the "Work"). Landlord will hereafter assist Tenant in negotiating a final contract with the Contractor.

c. Tenant covenants to provide a reflected ceiling, electrical and partition layout no later than February 17, 2003. Tenant further covenants and agrees to deliver to Landlord on or before February 24, 2003 (the "Tenant Plan Delivery Date"), the Approved Plans stamped by an architect licensed in the State of Tennessee and in form and substance suitable for submission for permitting, but excluding final engineered mechanical, plumbing and electrical drawings.

d. Time is of the essence in the delivery of the final Plans. It is vital that the final Plans be delivered to Landlord by the Tenant Plan Delivery Date in order to allow Landlord sufficient time to review such Plans, to discuss with Tenant any changes therein which Landlord believes to be necessary or desirable, to enable the Contractor to prepare an estimate of the cost of the Tenant Improvements, to obtain required permits, and to substantially complete the Tenant Improvements within the time frame provided in the Lease.

4. **Work and Materials at Tenant's Expense.** The Work will be completed at Tenant's expense (which expense may be deducted from the Allowance. Landlord shall coordinate and facilitate all communications between Tenant and the Contractor.

a. Prior to commencing Work, Landlord shall submit to Tenant in writing the cost of the Work, which shall include (i) the Contractor's cost for completing the Work (including the Contractor's general conditions, overhead and profit) and (ii) a construction supervision fee of one and one-half percent (1.5%) to be paid to Landlord manage and oversee the work to be done on Tenant's behalf, provided no such fee shall be due or payable if the Contractor is an affiliate or otherwise related to Landlord. Tenant shall have five (5) business days to review and approve the cost of the Work. Landlord shall not authorize the Contractor to proceed with the work until the cost is mutually agreed upon and approved in writing by Tenant and delivered to Landlord.

Exhibit C

b. Any changes in the approved cost of the Work shall be by written change order signed by the Tenant. Tenant agrees to process change orders in a timely fashion. Tenant acknowledges that the following items may result in change orders:

- i. Municipal or other governmental inspectors require changes to the Premises such as additional exit lights, fire damper or whatever other changes they may require. In such event, Landlord will notify the Tenant of the required changes, but the cost of such changes and any delay associated with such changes shall be the responsibility of the Tenant.
- ii. Tenant makes changes to the Plans or requests additional work. Tenant will be notified of the cost and any delays that would result from the change by a change order signed by Tenant before the changes are implemented. Any actual delays caused by such changes shall not delay the Commencement Date of the Lease.
- iii. Any errors or omissions in the Plans or specifications which require changes. Landlord will notify the Tenant of the required changes, but the cost of such changes and any actual delay associated with such changes shall be the responsibility of the Tenant, and shall not delay the commencement date of the Lease.
- iv. Materials are not readily available, require quick ship charges, or require substitution.
- v. The upfit schedule requires Express Review to get permits, which will increase the costs of the permitting process.

c. All work performed in connection with the construction of the Premises shall be performed in a good and workmanlike manner and in accordance with all applicable laws and regulations and with the Approved Plans.

5. **Signage and Keys.** Landlord shall provide the following in accordance with building standards at Tenant's expense (which expense may be deducted from the Allowance): (i) door and directory signage; (ii) suite and Building keys or entry cards; and (iii) the placement of Tenant's name on the existing monument sign located on the south side of the Building.

6. **Commencement Date.**

a. The Commencement Date shall be the date twenty-one (21) days after the Contractor has completed the Work to the extent that Tenant can possess the Premises for the purpose of installing furnishings, fixtures and equipment. The remaining work to be performed by Contractor pursuant to the Approved Plans shall have been substantially completed by the Commencement Date (excluding items of work and adjustment of equipment and fixtures that can be completed without causing material Interference with Tenant's use of the Premises – i.e., "punch list items"). The Contractor shall be required to complete any such punch list items within thirty (30) days after delivery of the Premises. Substantial completion shall include the provision of operational utility systems, including without limitation telephone trunk lines, to the Premises. Notwithstanding and without limiting any other provision of this Lease, if delivery of possession, as defined in Section 3.d of the Lease, is not made by July 8, 2003, and such delay is attributable to a Landlord Delay, Tenant shall receive a credit against Base Rent in the amount of \$2,219.00 for each day of delay after July 8, 2003.

Exhibit D

- b. Notwithstanding the foregoing, if Landlord shall be actually delayed in delivering possession of the Premises as a result of:
- i. Tenant's failure to approve the space plan within the time specified;
 - ii. Tenants failure to furnish to Landlord the final Plans on or before the Tenant Plan Delivery Date;
 - iii. Tenant's failure to approve Landlord's cost estimates;
 - iv. Tenant's failure to timely respond to change orders;
 - v. Tenant's changes in the Tenant Improvements or the Plans (notwithstanding Landlord's approval of any such changes);
 - vi. Tenant's request for changes in or modifications to the Plans subsequent to the Tenant Plan Delivery Date;
 - vii. Inability to obtain materials, finishes or installations requested by Tenant that are not part of the Building Standard Improvements, but only if such inability results from a *force Majeure*;
 - viii. The performance of any work by any person, firm or corporation employed or retained by Tenant; or
 - ix. Any other act or omission by Tenant or its agents, representatives, and/or employees;

then, in any such event, for purposes of determining the Commencement Date, the Premises shall be deemed to have been delivered to Tenant on the date that Landlord and Architect reasonably and in good faith determine that the Premises would have been substantially completed and ready for delivery if such delay or delays had not occurred.

7. **Tenant Improvement Expenses in Excess of the Allowance.** Tenant agrees to pay to Landlord, promptly upon being billed periodically or otherwise, all costs and expenses in excess of the Allowance, Incurred in connection with the Tenant Improvements, engineering, space planning and final workshop drawings. Tenant's payment of periodic billings for costs and expenses in excess of the Allowance, is not subject to the completion of punch list items, as defined herein. Such costs and expenses shall include all amounts charged by the Contractor for performing such work and providing such materials (including the Contractor's general conditions, overhead and profit). If unpaid within thirty (30) days after receipt of invoice from Landlord, a late charge in the amount of ten percent (10%) of the amount due shall be paid by Tenant.

Exhibit E

8. **Repairs and Corrections.** The Contractor shall be required to provide Tenant a one-year warranty from the date of delivery of the Premises and completion of any punch list items to the extent applicable to such items, transferable to Tenant, for defective workmanship and materials. All manufacturers' and builders' warranties with respect to the Work shall be issued to or transferred to Tenant, without recourse to the Landlord. Tenant shall repair or correct any defective work or materials installed by Tenant or any contractor other than the Contractor selected by Landlord, or any work or materials that prove defective as a result of any act or omission of Tenant or any of its employees, agents, invitees, licensees, subtenants, customers, clients, or guests.

9. **Inspection of Premises; Possession by Tenant.** Prior to taking possession of the Premises, Tenant, Architect, if requested by Tenant, and Landlord shall inspect the Premises and Tenant shall give Landlord notice of any defects or Incomplete work ("Punchlist"). Tenant's possession of the Premises constitutes acknowledgment by Tenant that the Premises are in good condition and that all work and materials provided by Landlord are satisfactory as of such date of occupancy, except as to (i) any defects or incomplete work set forth in the Punchlist, (ii) latent defects, and (iii) any equipment that is used seasonally if Tenant takes possession of the Premises during a season when such equipment is not in use.

10. **Access During Construction.** During construction of the Tenant Improvements and with prior approval of Landlord, Tenant shall be permitted reasonable access to the Premises for the purposes of taking measurements, making plans, installing trade fixtures, and doing such other work as may be appropriate or desirable to enable Tenant to assume possession of and operate in the Premises; provided, however, that such access does not interfere with or delay construction work on the Premises and does not include moving furniture or similar items into the Premises. Prior to any such entry, Tenant shall comply with all insurance provisions of the Lease. All waiver and indemnity provisions of the Lease shall apply upon Tenant's entry of the Premises.

11. **Base Building Improvements.** Landlord at its sole cost and expense, without charge against the Allowance, shall provide the Premises and the Building with Base Building Improvements. Included in Base Building improvements are the following minimum features of the Leased Premises and/or the Building:

Floors

Concrete slab construction. Up to 100 lbs. per square foot live load capacity.

Walls

Multi-Tenant Floor — Tenant side of main corridor walls will require drywall and tenant finishes. Exterior walls framed.

Exhibit F

Single-Tenant Floor — Main corridor will not be constructed (except for 1st floor). Exterior walls framed.

Ceilings

Exposed structure.

Mechanical

HVAC system type and capacity: 400 ton condenser water system with two (2) single cell cooling towers and two (2) condenser water pumps. Variable air volume self contained unit on each floor with 72 tons on the first floor and 80 tons on floors 3 and 4 and 85 tons on floor 5. Full energy management system to efficiently control all mechanical units/systems.

Central air handling units with main duct loop to include power induction units. Air distribution from power induction units shall be installed as part of tenant build out. Tenant will be charged against the Allowance the cost for existing power induction units and tenant air distribution. Landlord has identified approximately 48 existing units on the 5th, 4th and the 3rd floors, at a total cost of \$60,048.00.

Building Connectivity

Landlord, at its sole cost and expense, shall provide underground connectivity, in the form of multiple conduits, to its buildings in the Office Campus.

Restrooms

Finished on each floor.

Main Lobby

Finished as exists

Interior Common Areas

Finished on first floor and all multi-tenant upper floors

Electrical

Breaker space available in one high-voltage (277/480 V) and two low-voltage (120/280 V) electrical panels. Panels located in a central electrical closet on each floor.

Sprinkler System

Sprinkler main distribution system throughout each floor with upturned heads.

Exhibit G

Window Treatment

Horizontal aluminum blinds with 1" slats at all exterior windows.

Exhibit H

EXHIBIT C
Rules and Regulations

1. **Access to Building.** On Saturdays, Sundays, legal holidays and weekdays between the hours of 6:00 P.M. and 8:00 A.M., access to the Building and/or to the halls, corridors, elevators or stairways in the Building may be restricted and access shall be gained by use of a key or electronic card to the outside doors of the Buildings. Landlord may from time to time establish reasonable security controls for the purpose of regulating access to the Building. Tenant shall be responsible for providing access to the Premises for its agents, employees, invitees and guests at times access is restricted, and shall comply with all such security regulations so established.

2. **Non-Smoking Facility.** This office building is a non-smoking facility.

No smoking is allowed in any Leased Premises or in the common areas of the office building.

3. **Protecting Premises.** The last member of Tenant to leave the Premises shall close and securely lock all doors or other means of entry to the Premises.

4. **Building Directories.** The directories for the Building in the form selected by Landlord shall be used exclusively for the display of the name and location of tenants. Any additional names and/or name change requested by Tenant to be displayed in the directories must be approved by Landlord and, if approved, will be provided at the sole expense of Tenant.

5. **Large Articles.** Other than in connection with Tenant's initial move-in, furniture, freight and other large or heavy articles may be brought into the Building only at times and in the manner designated by Landlord and always at Tenant's sole responsibility. All damage done to the Building, its furnishings, fixtures or equipment by moving or maintaining such furniture, freight or articles shall be repaired at Tenant's expense.

6. **Signs.** Tenant shall not paint, display, inscribe, maintain or affix any sign, placard, picture, advertisement, name, notice, lettering or direction on any part of the outside or inside of the Building, or on any part of the inside of the Premises which can be seen from the outside of the Premises, without the written consent of Landlord, and then only such name or names or matter and in such color, size, style, character and material as shall be first approved by Landlord in writing. Landlord, without notice to Tenant, reserves the right to remove, at Tenant's expense, all matter other than that provided for above.

7. **Intentionally Omitted.**

8. **Intentionally Omitted.**

9. **Defacing Premises and Overloading.** Tenant shall not place anything or allow anything to be placed in the Premises near the glass of any door, partition, wall, window or window sill that may be unsightly from outside the Premises. Tenant shall not place or permit to be placed any article of any kind on any window ledge or on the exterior walls; blinds, shades, awnings or other forms of inside or outside window ventilators or similar devices shall not be placed in or about the outside windows in the Premises except to the extent that the character, shape, color, material and make thereof is approved by Landlord. Tenant shall not overload any floor or part thereof in the Premises, or any facility in the Building or any public corridors or elevators therein by bringing in or removing any large or heavy articles and Landlord may direct and control the location of safes, files, and all other heavy articles and, if considered necessary by Landlord may require Tenant at its expense to supply whatever supplementary supports necessary to properly distribute the weight.

10. **Obstruction of Public Areas.** Tenant shall not, whether temporarily, accidentally or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any sidewalk, court, hall, passageway, entrance, or shipping area. Tenant shall lend its full cooperation to keep such areas free from all obstruction and in a clean and sightly condition, and move all supplies, furniture and equipment as soon as received directly to the Premises, and shall move all such items and waste (other than waste customarily removed by Building employees) that are at any time being taken from the Premises directly to the areas designated for disposal. All courts, passageways, entrances, exits, elevators, escalators, stairways, corridors, halls and roofs are not for the use of the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of Landlord, shall be prejudicial to the safety, character, reputation and interest of the Building and its tenants; provided, however, that nothing herein contained shall be construed to prevent such access to persons with whom Tenant deals within the normal course of Tenant's business so long as such persons are not engaged in illegal activities.

11. **Additional Locks.** Tenant shall not attach, or permit to be attached, additional locks or similar devices to any door or window, change existing locks or the mechanism thereof, or make or permit to be made any keys for any door other than those provided by Landlord. Upon termination of this Lease or of Tenant's possession, Tenant shall immediately surrender all keys to the Premises.

12. **Communications or Utility Connections.** If Tenant desires signal, alarm or other utility or similar service connections installed or changed, then Tenant shall not install or change the same without the approval of Landlord, and then only under direction of Landlord and at Tenant's expense. Tenant shall not install in the Premises any equipment which requires a greater than normal amount of electrical current for the permitted use without the advance written consent of Landlord. Tenant shall ascertain from Landlord the maximum amount of load or demand for or use of electrical current which can safely be permitted in the Premises, taking into account the capacity of the electric wiring in the Building and the Premises and the needs of other tenants in the Building, and shall not in any event connect a greater load than that which is safe.

13. **Office of the Building.** Service requirements of Tenant will be attended to only upon application at the office of Highwoods Properties, Inc. Employees of Landlord shall not perform, and Tenant shall not engage them to do any work outside of their duties unless specifically authorized by Landlord.

Exhibit 2

14. **Restrooms.** The restrooms, toilets, urinals, vanities and the other apparatus shall not be used for any purpose other than that for which they were constructed, and no foreign substance of any kind whatsoever shall be thrown therein. The expense of any breakage, stoppage or damage resulting from the violation of this rule by an employee, contractor, guest or invitee of Tenant shall be borne by the Tenant whom, or whose employees or invitees, shall have caused it.

15. **Intoxication.** Landlord reserves the right to exclude or expel from the Building any person who, in the judgment of Landlord, is intoxicated, or under the influence of liquor or drugs, or who in any way violates any of the Rules and Regulations of the Building.

16. **Nuisances and Certain Other Prohibited Uses.** Except as permitted by the Lease, Tenant shall not (a) install or operate any internal combustion engine, boiler, machinery, refrigerating, heating or air conditioning apparatus in or about the Premises; (b) engage in any mechanical business, or in any service in or about the Premises or Building, except those ordinarily embraced within the Permitted Use as specified in Section 3 of the Lease; (b) use the Premises for housing, lodging, or sleeping purposes; (c) prepare or warm food in the Premises (heating coffee and individual lunches of employees excepted) except by express permission of Landlord; (d) place any radio or television antennae on the roof or on or in any part of the Inside or outside of the Building other than the inside of the Premises, or place a musical or sound producing instrument or device inside or outside the Premises which may be heard outside the Premises; (e) use any power source for the operation of any equipment or device other than dry cell batteries or electricity; (f) bring or permit to be in the Building any bicycle, other vehicle, dog (except in the company of and for the purpose of assistance to a disabled person) other animal or bird; (g) make or permit any objectionable noise or odor to emanate from the Premises; (h) disturb, harass, solicit or canvass any occupant of the Building; (i) do anything in or about the Premises which could be a nuisance or tend to injure the reputation of the Building; (j) allow any firearms in the Building or the Premises except as approved by Landlord in writing.

17. **Solicitation.** Tenant shall not canvass other tenants in the Building to solicit business or contributions and shall not exhibit, sell or offer to sell, use, rent or exchange any products or services in or from the Premises unless ordinarily embraced within the Tenant's Permitted Use as specified in Section 3 of the Lease.

18. **Energy Conservation.** Tenant shall not unduly waste electricity, water, heat or air conditioning and agrees to cooperate fully with landlord to insure the most effective operation of the Building's heating and air conditioning, and shall not allow the adjustment (except by Landlord's authorized Building personnel) of any controls. No space heaters are allowed in any Leased Premises.

19. **Building Security.** At all times other than normal business hours the exterior Building doors and suite entry door(s) must be kept locked to assist in security. The janitorial service, upon completion of its duties, will lock all Building doors. Problems in Building and suite security should be directed to Landlord at (615) 320-5566.

20. **Parking.** Parking is in designated parking areas only. There may be no vehicles in “no parking” zones or at curbs. Handicapped spaces are for handicapped persons and the Police Department will ticket unauthorized (unidentified) cars in handicapped spaces. Landlord reserves the right to remove vehicles that do not comply with the Lease or these Rules and Regulations and Tenant shall indemnify and hold harmless Landlord from its reasonable exercise of these rights with respect to the vehicles of Tenant and its employees, agents and invitees.

21. **Janitorial Service.** The Janitorial staff will remove all trash from trash cans. Any container or boxes left in hallways or apparently discarded unless clearly and conspicuously labeled DO NOT REMOVE may be removed without liability to Tenant. Any large volume of trash resulting from delivery of furniture, equipment, etc., should be removed by the delivery company, Tenant, or Landlord at Tenant’s expense. Janitorial service will be provided after hours five (5) days a week. All requests for trash removal other than normal janitorial services should be directed to Landlord at (615) 320-5566.

Exhibit 4

EXHIBIT D
COMMENCEMENT AGREEMENT

This COMMENCEMENT AGREEMENT (the "Agreement"), made and entered into as of this ____ day of _____, 2003, by and between **HIGHWOODS REALTY LIMITED PARTNERSHIP**, with its principal office at 2120 West End. Avenue, Ste. 100, Nashville, Tennessee 37203 ("Landlord") and **ICON CLINICAL RESEARCH INC.**, a Pennsylvania corporation, with its principal office at 320 Seven Springs Way, Brentwood, Tennessee 37027 ("Tenant");

WITNESSETH:

WHEREAS, Tenant and Landlord entered into that certain Lease Agreement dated _____ (the "Lease"), for space designated as Suite ____, comprising approximately _____ rentable square feet, in the Seven Springs I Building, located at 320 Seven Springs Way, City of Brentwood, County of Davidson, State of Tennessee; and

WHEREAS, the parties desire to establish the Commencement Date and Expiration Date as set forth below,

NOW, THEREFORE, in consideration of the mutual and reciprocal promises herein contained, Tenant and Landlord hereby agree that said Lease hereinafter described be, and the same is hereby modified in the following particulars:

1. The term of the Lease by and between Landlord and Tenant actually commenced on _____ (the "Commencement Date"). The initial term of said Lease shall terminate on _____ (the "Expiration Date"). Section 3, entitled "Term", and all references to the Commencement Date and Termination Date in the Lease are hereby amended.
 2. The Initial Premises contains _____ rentable square feet of space.
 3. Except as modified and amended by this Agreement, the Lease shall remain in full force and effect.
-

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be duly executed, as of the day and year first above written.

Tenant:

**ICON CLINICAL RESEARCH INC.,
a Pennsylvania corporation**

By: _____

**Printed
Name:** _____

Title: _____

Date: _____

Landlord:

**HIGHWOODS REALTY LIMITED
PARTNERSHIP, a North Carolina
limited partnership**

By: Highwoods Properties, Inc.,
a Maryland corporation,
its sole general partner

By: _____

**Printed
Name:** W. Brian Reames

Title: Vice President

Date: _____

Exhibit 2

EXHIBIT E
GUARANTY OF LEASE

This Guaranty is made as of the ____ day of _____, 2003, by ICON PLC, whose address is South County Business Park, Leopardstown, Dublin 18, Ireland ("Guarantor"), in favor of HIGHWOODS REALTY LIMITED PARTNERSHIP ("Landlord"), whose address is 3100 Smoketree Court, Suite 600, Raleigh, North Carolina 27604 (the "Guaranty").

1. *Lease.* The "Lease" shall mean that certain Office Lease dated _____, _____, by and between Landlord and ICON Clinical Research Inc. ("Tenant") for the property located at 320 Seven Springs Way, Brentwood, Davidson County, Tennessee 37027 and all extensions, renewals, amendments, supplements or modifications thereto.

2. *Purpose and Consideration.* The execution and delivery of this Guaranty by Guarantor is a condition to Landlord's entering into the Lease with Tenant and is made to induce Landlord to enter into the Lease. Guarantor is a stockholder, partner, member, manager, officer or director of Tenant.

3. *Guaranty.* Guarantor hereby absolutely, unconditionally and irrevocably, guarantees the compliance with and performance by Tenant of each of the provisions, covenants, agreements and conditions applicable to Tenant contained in the Lease and guarantees the full and prompt payment by Tenant of the Base Rent, Additional Rent another amount payable by Tenant under the Lease, as and when the same become due, whether by acceleration or otherwise. This is a Guaranty of payment and not of collection. Guarantor further acknowledges and agrees to comply with the obligations provided in Section 291 of the Lease pertaining to the provisions of financial statements.

4. *Guaranty as Independent.* The obligations of Guarantor hereunder are independent of the obligations of Tenant, and Guarantor expressly agrees that a separate action or actions may be brought and prosecuted against Guarantor whether or not any action is brought against Tenant and whether or not Tenant is joined in any action against Guarantor and that Landlord may pursue any rights or remedies it has under the Lease and under this Guaranty in any order or simultaneously or in any other manner.

5. *Authorizations to Landlord.* Guarantor authorizes Landlord, without notice or demand and without affecting Guarantor's liability hereunder, from time to time to (i) with Tenant change, amend, modify or alter any of the terms, covenants, agreements, or conditions contained in the Lease; (ii) with Tenant extend or renew the Lease; (iii) change, renew, compromise, extend, accelerate or otherwise change the time for payment of any amounts payable under the Lease as may be permitted thereunder; (iv) consent to any assignment, sublease, pledge or transfer of the Lease by Tenant or of Tenant's interest in the Premises; (v) release Tenant and substitute any one or more parties as Tenants or sublessees under the Lease; (vi) waive or fail to take action with respect to any default by Tenant under the Lease; and (vii) waive or fail to take action with respect to any remedy under the Lease.

6. *Application of Payments Received by Landlord.* Any sums of money that Landlord receives from or on behalf of Tenant may be applied by Landlord to reduce any indebtedness of Tenant to Landlord as Landlord, in its sole discretion, deems appropriate.

7. *Waiver by Guarantor.* Guarantor hereby waives (i) any right to require Landlord to proceed against, give notice to or make demand upon Tenant; (ii) any right to require Landlord to pursue any remedy of Landlord; (iii) any right to participate in or to direct the application of any security held by Landlord; (iv) any defense arising out of any disability or other defense of Tenant, including cessation, impairment, modification, or limitation, from any cause, of liability of Tenant or of any remedy for the enforcement of such liability; and (v) any rights under *N.C. G.S. 26-7 et seq.*

8. *Subordination by Guarantors.* Guarantor hereby agrees that any indebtedness of Tenant to Guarantor, whether now existing or hereafter created, shall be subordinated to any indebtedness of Tenant to Landlord.

9. *Notices and Demands.* All notices and demands under this Guaranty shall be in writing and shall be deemed properly given and received when actually given and received three (3) business days after mailing, (i) if sent by registered or certified United States mail, postage prepaid, return receipt requested, addressed to the party to receive the notice or demand at the address set forth for such party in the first paragraph of this Guaranty or at such other address as either party may notify the other in writing or (ii) delivered to a nationally recognized overnight courier service for next business day delivery, to its addressee at such party's address as set forth above. A copy of any notices given by Guarantor to Landlord shall be sent, to Highwoods Properties, Inc., 2120 West End Avenue Suite 100, Nashville, Tennessee 37203. A copy of any notices sent to Guarantor shall be sent to Stephan K. Pahides, Esquire, McCausland, Keen & Buckman, Radnor Court, Suite 160, 259 N. Radnor-Chester Road, Radnor, PA 19087.

10. *Payment of Costs of Enforcement.* In the event any action or proceeding is brought to enforce this Guaranty and if Landlord is held entitled to recovery against Guarantor, Guarantor agrees to pay all costs and expenses of Landlord in connection with such action or proceeding, including reasonable attorneys' fees; or if Guarantor prevails, Landlord agrees to pay all costs and expenses of Guarantor in connection with such action or proceeding, including reasonable attorneys' fees.

11. *Binding Effect.* This Guaranty shall be binding upon Guarantor and its heirs, personal representatives, successors and assigns and shall inure to the benefit of Landlord and its successors and assigns.

12. *Severability.* If any provision of this Guaranty shall be held invalid or unenforceable, the remainder of this Guaranty shall not be affected thereby and there shall be deemed substituted for the affected provision, a valid and enforceable provision as similar as possible to the affected provision.

Exhibit 2

13. *Governing Law.* This Guaranty shall be interpreted under and enforced according to the laws of the State in which the Premises are located.
14. *Captions for Convenience.* The headings and captions hereof are for convenience only and shall be not considered in interpreting the provisions hereof.
15. Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the Lease.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed under seal the day and year first above written.

ICON PLC

By: _____

**Print
Name:** _____

Title: _____

Date: _____

Exhibit 3

EXHIBIT F
AIR CONDITIONING & HEATING DESIGN STANDARDS

The following are design standards for the building air-conditioning system for cooling and heating in the air in the Building:

1. During the normal heating season to maintain an average indoor dry bulb temperature of not less than 70 degrees F (21 degrees C) or more than 75 degrees (24.4 degrees C) when the outdoor dry bulb temperature is lower than 65 degrees F (18 degrees C) but not lower than 9 degrees F (-13 degrees C).
 2. To maintain comfort cooling for an average indoor dry bulb temperature of not more than 75 degrees F when the outside dry bulb temperature is 95 degrees F (24 degrees C).
 3. During the intermediate season, the waterside economizer shall be controlled by an outdoor air enthalpy sensor. Economizer cycle shall be energized at an outdoor air enthalpy of 20 BTU/LB (adjustable). The cooling tower fans shall be energized and all tower fans shall run when the basin water temperature is above 46 degrees F. (adjustable). For every degree (adjustable) below 46 degrees F. one tower fan shall be deenergized. No tower fans shall run when the outside air enthalpy falls below 12 BTU/LB or the basin water temperature is less than 41 degrees F. (adjustable). The waterside economizer is deenergized when the outdoor air enthalpy rises above 20 BTU/LB (adjustable). The automatic changeover returns the system to its normal operation.
 4. To furnish not less than .10 cubic feet of fresh air per minute per square foot of rentable area, and between .20 and 1.0 cubic feet of total air per minute, per square foot of rentable occupied space.
 5. Landlord will not be responsible for the failure of the air-conditioning system if such failure results from (i) the occupancy of the Premises with more than an average of one (1) person for each one hundred eighty nine (189) rentable square feet of floor area (ii) the installation or operation by Tenant of machines and appliances, the installed electrical load of which when combined with the load of all lighting fixtures exceeds five (5) watts per square foot of floor area and in any manner exceeding the aforementioned occupancy and electrical load criteria, or (iii) rearrangement of partitioning after the initial preparation of the Premises. If interference with normal operation of the air-conditioning system in the Premises results, necessitating changes in the air conditioning system servicing the Premises, such changes shall be made by Landlord upon written notice to Tenant at Tenant's sole cost and expense. Tenant agrees to lower and close window coverings when necessary because of the sun's position whenever the air conditioning system is in operation, and Tenant agrees at all times to cooperate fully with Landlord and to abide by all the Rules and Regulations attached hereto as well as reasonable rules and regulations which Landlord may hereafter prescribe involving the air conditioning system.
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6. The current design standards for the building air conditioning system for cooling and heating the air in the subject building meet:

- a. Standard 55-1992. Thermal comfort guidelines prescribed in Figure 5 of Chapter 8 of the 2001 American Society of Heating and Refrigeration Engineers (“ASHRAE”), excerpt of ASHRAE Standard 55; and
- b. Standard 62-1989 (Ventilation for Acceptable Indoor Air Quality) established by ASHRAE.

Exhibit 2

EXHIBIT G
CLEANING SERVICES
(Five Nights Per Week)

TENANT'S PREMISES

1. Vacuum clean all carpeted areas.
 2. Sweep and dust mop all non-carpeted areas. Wet mop whenever necessary. Spray buff and/or wash and polish all tile floors once per month.
 3. All office furniture such as desks, chairs, files, filing cabinets, etc. shall be dusted with a clean treated dust cloth whenever necessary and only if such surfaces are clear of Tenant's personal property including but not limited to plants.
 4. Intentionally deleted.
 5. Empty wastepaper baskets and remove waste to the designated areas.
 6. All vertical surfaces within arms reach shall be spot cleaned to remove finger marks and smudges. Baseboard and window sills are to be spot cleaned whenever necessary.
 7. All cleaning of cafeterias, vending areas, kitchen facilities are excluded. Tenant may make necessary arrangements for same directly with Landlord's cleaning maintenance company.
 8. Cleaning hours shall be Monday through Friday between 5:30 p.m. and 11:00 p.m.
 9. No cleaning service is provided on Saturday, Sunday and Building Holidays.
 10. Cartons or refuse in excess which can not be placed in wastebaskets will be marked "Trash" by Tenant for removal.
 11. Cleaning maintenance company will not remove nor clean tea, coffee cups or similar containers unless placed in proper waste basket. If such liquids are spilled in waste baskets, the waste baskets will be emptied but not otherwise cleaned. Landlord will not be responsible for any stained carpet caused from liquids leaking or spilling from Tenant's wastepaper receptacles.
 12. Upon completion of cleaning, all lights will be turned off and doors locked leaving the Premises in an orderly condition.
 13. Glass entrance doors will be cleaned nightly. Interior glass doors or glass partitions are excluded. Tenant may make arrangements for same with Landlord's cleaning maintenance company.
-

14. Exterior windows will be cleaned at least twice each Lease Year.
15. Window blinds shall be dusted at least once per Lease Year.

COMMON AREAS

1. Vacuum- all carpeting in entrance lobbies, outdoor mats and all corridors.
2. Wash glass doors in entrance lobby with a clean damp cloth and dry towel. Dust and wipe handles and railings daily.
3. Clean cigarette urns. Sweep and/or wet mop all resilient tile flooring. Hard surface floors such as quarry tile, etc., shall be cleaned nightly. Resilient tile flooring and hard surface floors shall be deep scrubbed once per Lease Year.
4. Wash, clean and disinfect water fountains.
5. Clean all elevators and stairwells.
6. Lavatories — Men and Women.
 - a. Floors in all lavatories shall be wet mopped each evening with a germicidal detergent to ensure a clean and germ free surface.
 - b. Wash and polish all mirrors, shelves, bright work including any piping and toilet seats.
 - c. Wash and disinfect wash basins and sinks using a germicidal detergent.
 - d. Wash and disinfect toilet bowls and urinals.
 - e. Keep lavatory partitions, tiled walls, dispensers and receptacles in a clean condition using a germicidal detergent when necessary.
 - f. Empty and sanitize sanitary disposal receptacles.
 - g. Fill toilet tissue holders, towel dispensers and soap dispensers. Refills to be supplied by Landlord.
7. Clean all air ventilation grill work in ceilings.
8. Atrium glass, interior and exterior, shall be cleaned at least twice per Lease Year.

Exhibit 2

EXHIBIT H

GENERATOR LICENSE AGREEMENT

THIS GENERATOR LICENSE AGREEMENT (as it may be amended in accordance with the terms hereof, this "Agreement") Is made as of the _____ day of _____, 2003, by and between HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership, ("Owner") and ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation ("Licensee").

WHEREAS, Owner is the owner of certain improved real property commonly known as the Seven Springs I Office Building (the "Building"); and

WHEREAS, Licensee is a tenant in the Building pursuant to a lease dated , 2003 by and between Owner and Licensee (together with all amendments or modifications to such lease, the "Lease"); and

WHEREAS, Licensee desires to have the right to install one (1) generator (the "Generator") on the land upon which the Building is located (the "Land") and Owner wishes to grant Licensee such right pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises set forth above, for the terms and conditions delineated below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties do hereby agree as follows:

1. Grant of License.

Owner hereby grants to Licensee the right, upon the terms and conditions contained herein, to install, repair, maintain and operate one (1) Generator (the "License") on the Land at the location on the Land that Is shown in cross-hatch on Exhibit A, attached to and made a part hereof (the "Licensed Area"). Licensee may also use the Building's conduits and the area of the Land from the Licensed Area to the Building Conduits, subject to reasonable space limitations and Owner's reasonable requirements for use of such conduits Land area, for purposes of installing cable from the Generator to the Licensee's premises in the interior of the Building. Licensee shall also have the right to tap into and use the Building's electrical system to provide electrical power to the Generator, provided that Licensee shall be responsible for all costs associated with such use. Licensee shall pay to Owner rental in equal monthly payments of \$125.00 (\$1,500.00 annual rental) in advance, on or before the first day of each calendar month during the term of this Agreement, without previous demand or notice therefor by Owner and without set off or deduction.

2. Term of License.

The term of this Agreement and Licensee's rights in and to the License shall commence on the date the Generator is installed on the Licensed Area and shall terminate simultaneously with the expiration of the Lease. Notwithstanding anything to the contrary herein, at any time prior to thirty (30) days before the termination of the Lease, Licensee shall have the right to terminate this Agreement by providing to Owner written notice of same not less than thirty (30) days prior to such termination.

3. Right of Use.

Licensee hereby represents and warrants to Owner that Licensee shall not use the Generator full time but only as a back-up source. In the event Licensee desires to change its use of the Generator from a back-up source to full time use, Licensee shall first obtain the written consent of Owner and the granting of such consent shall be in the Owner's sole discretion. Owner shall have the right to use the remainder of the Land for any purpose including permitting other tenants in the Building to lease space on the Land provided that Licensee continues to have reasonable access to the Licensed Area and the Generator.

4. Installation Maintenance and Operation of the Generator.

(a) Licensee, at its own cost and expense, shall install, repair, maintain and operate (i) the Generator, (ii) the pad upon which the Generator shall be located (the "Pad"), (iii) the visual screening, fencing, if desired by Licensee, and concealment of the Generator ("Screening"), (iv) cabling required in connection with the installation, use and maintenance of the Generator ("Cabling"), and (v) any other work required in connection with the installation, repair, maintenance and operation of the Generator, the Pad, the Screening and/or the Cabling (collectively, the "Work"). Prior to Licensee's installation of the Generator, the Pad, the Screening and the Cabling, Licensee shall submit to Owner written plans for same that shall include a photograph of the Generator, the dimensions of the Generator, a drawing of the Pad and the Screening, a description of the materials to be used in the installation of the Pad and the Screening, the location of the Cabling and any other information, reasonably requested by Owner (collectively, the "Plans"). The Plans shall be subject to the review and approval of Owner in Owner's reasonable discretion and Licensee shall not begin the installation of the Generator, the Pad the Screening or the Cabling without such Owner's consent. Owner shall provide notice to Licensee of its approval or rejection of the Plans within ten (10) business days after Owner's receipt thereof. Any notice of rejection shall set forth in reasonable detail the reasons therefore. In the event Owner fails to timely provide such notice to Licensee, Owner shall be deemed to have granted its consent and approval of the Plans. In no event shall the Owner have any liability for the Work. Any and all expenses incurred in connection with the Work, including without limitation utility charges related thereto, shall be the sole responsibility of Licensee. Licensee shall have access to the Licensed Area at all times, subject to any reasonable restrictions of Owner. All Work shall be completed in a workmanlike manner. If the real estate taxes or insurance premiums for the Land and/or Building are increased as a result of the installation of the Generator on the Licensed Area, then Licensee shall pay its share of any such increase directly attributable to such installation upon receipt of adequate documentation from Owner.

Exhibit 2

(b) Should any claim of lien or other lien be filed against the Land and/or the Building by reason of any act or omission of Licensee or any of Licensee's agents, employees, contractors or representatives, then Licensee shall cause the same to be canceled and discharged of record by bond or otherwise within thirty (30) days after the filing thereof. Should Licensee fail to discharge such lien within such thirty (30) day period, then Owner may discharge the same, in which event Licensee shall reimburse Owner, on demand, as additional rent hereunder, for the amount of the lien or the amount of the bond, if greater, plus all administrative costs incurred by Owner in connection therewith.

5. Environmental Compliance.

(a) Licensee shall not (either with or without negligence) cause the escape, disposal or release of any biologically active or other hazardous substances or materials on the Land, including without limitation the Licensed Area. Licensee shall not store or use such substances or materials on the Land, including without limitation the Licensed Area, in any manner not sanctioned by law or in compliance with the highest standards prevailing in the industry for the storage and use of such substances or materials. Licensee covenants and agrees that the Licensed Area will at all times during its use or occupancy thereof be kept and maintained so as to comply with all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies and bodies applicable to the Licensed Area, pertaining to environmental matters or regulating, prohibiting or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or material including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended, provided that Licensee shall not have any responsibility with respect to any environmental condition existing prior to the date hereof or not caused by Licensee or its agents, contractors or employees.

(b) Licensee shall hold Owner free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Owner shall incur, or which Owner would otherwise incur, by reason of Licensee's failure to comply with this Section 5 including, but not limited to the reasonable fees and expenses of Owner's attorneys, engineers, and consultants incurred by Owner in enforcing and/or confirming compliance with this Section 5.

(c) The covenants contained in this Section 5 shall survive the expiration or termination of this Agreement, and shall continue for so long as Owner and its successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which Licensee has agreed to indemnify Owner under this Section 5.

6. Right to Relocate.

Owner, at its option, may substitute for the Licensed Area other space on the Land (the "Substitute Licensed Area") at any time during the term of this Agreement. Owner shall give Licensee at least sixty (60) days written notice of its intention to relocate Licensee to the Substitute Licensed Area. Owner agrees to construct, at its own expense, the Pad, the Screening and the Cabling as expeditiously as possible so that they are in substantially the same condition as they existed immediately prior to the relocation. Owner shall, at its sole cost and expense, relocate the Generator and reconnect the Generator so that it is fully operational following such relocation. Such relocation and reconnection shall be undertaken by Owner at a time reasonably acceptable to Licensee. All such work undertaken by Owner in connection with any such relocation shall be performed in a good and workmanlike manner and in accordance with all applicable laws, orders and regulations of all applicable governmental authorities. Licensee agrees to occupy the Substitute Licensed Area as soon as Owner's work is substantially completed.

7. Limitation of Liability/Indemnity.

Except if caused by the gross negligence or willful misconduct of Owner or its employees, agents or representatives, Owner shall not have any obligations or liability associated with respect to the Generator or any obligation to comply with any laws or regulations relating thereto. Licensee's installation, repair, maintenance and operation of the Generator shall be at its own risk and expense. Licensee agrees to maintain a liability and property damage insurance policy relating to the Generator, with minimum limits of liability of One Million Dollars (\$1,000,000.00) for injury (or death to any one or more persons) and for damage to property. Licensee shall provide Owner with a certificate or binder of insurance in a form reasonably satisfactory to Owner certifying coverage in accordance with this Agreement, naming Owner as an additional insured and providing that same may not be canceled without at least thirty (30) days' prior written notice to the Owner. Licensee shall indemnify and hold Owner harmless from and against any claims, demands, or causes of action for loss of life, personal injury or damage to property directly arising from the installation, repair, maintenance, operation and/or removal of the Generator, unless caused by the gross negligence or willful misconduct of Owner or Owner's agents, invitees, successors or assigns.

8. Compliance with Laws.

Licensee shall comply with all applicable laws, ordinances, governmental orders or regulations and applicable orders or directions from any public office or body having jurisdiction, whether now existing or hereinafter enacted with respect to the Licensed Area, the use and/or occupancy thereof and the Work. Licensee shall be responsible for obtaining, if required, any building permits, and any licenses or permits which may be required in connection with the Work. If required by any governmental agency, Licensee shall install a waterproof label on the Generator specifying the name, address and phone number of the Licensee and the name and phone number of a person to contact in an emergency. Licensee shall not make or permit any use of the Licensed Area, other than as contemplated hereby, which directly or indirectly is forbidden by law, ordinance, governmental regulations or order or direction of applicable public authority, which may be dangerous to persons or property or which may constitute a nuisance to other tenants of the Building or owners of property adjacent to the Land.

Exhibit 4

9. Destruction/Condemnation.

In the event the Land is damaged to such a degree that the Generator can no longer be operated or the Building (or a significant portion thereof) is taken by powers of eminent domain so that the Generator can no longer be operated, Owner shall promptly make available to Licensee an alternative location on the Land in which to locate the Generator, Pad, Screening, Cabling and related equipment and such area shall be thereafter the Licensed Area. If such area is unacceptable to Licensee, Licensee may immediately terminate its rights hereunder by providing written notice to Owner. In the event of such a casualty or condemnation and provided that the Lease has been terminated because of such casualty or condemnation pursuant to the provisions therein, this Agreement may also be terminated by Owner simultaneous with the Lease termination.

10. Subordination.

The rights and liabilities of Licensee hereunder shall be subordinate to any encumbrance now encumbering the Land and/or the Building. Licensee's rights hereunder shall not be disturbed by any future mortgage, provide Licensee agrees to enter into a subordination, nondisturbance and attornment agreement with such mortgage as provided in the Lease.

11. Termination.

Upon the expiration or sooner termination of this Agreement, this Agreement shall immediately terminate and the Licensee shall immediately quit and surrender the Licensed Area to the Owner. Licensee shall within thirty (30) days after such termination remove at its own cost and expense the Generator, Pad, Screening, Cabling and related equipment, and shall restore the Land to substantially the same condition which was found prior to the installation of the Generator, Pad Screening, Cabling and related equipment, reasonable wear and tear excepted. The Generator shall be considered personal property of Licensee and not a structural improvement to the Land. If, however, Licensee fails to timely perform such removal, the Generator shall be deemed abandoned by Licensee and may be claimed by Owner or removed by Owner at Licensee's expense.

12. Miscellaneous Provisions.

Any notice required hereunder shall be in writing and shall be delivered in accordance with the terms and to the addresses set forth in the Lease. This Agreement shall be governed exclusively by the provisions hereof and by the laws of the jurisdiction in which the Building is located. This Agreement shall not be revocable and shall continue for the full term as set forth in Section 2 hereof, unless terminated by mutual written agreement of the parties hereto or otherwise in accordance with the terms of this Agreement. The terms and conditions herein shall be binding upon the parties hereto and upon their respective successors and assigns. Any assignee of Licensee's interests under the Lease may also assume Licensee's interests hereunder. Any change or modification to this Agreement should only be effective if in writing and signed by both parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day, month and year first above written.

LICENSEE:

**ICON CLINICAL RESEARCH INC.,
a Pennsylvania corporation**

By: _____

Printed Name: _____

Title: _____

Date: _____

Mailing Address:

Icon Clinical Research Inc.
212 Church Road
North Wales, Pennsylvania 19454
Attn: Ms. Lois Valentine and
Mr. David Peters
Facsimile #: 215-616-3089

OWNER:

**HIGHWOODS REALTY LIMITED
PARTNERSHIP, a North Carolina
Limited Partnership**

By: Highwoods Properties, Inc.
A Maryland corporation,
its Sole general partner

By: _____

Printed Name: W. Brian Reames

Title: Vice President

Date: _____

Mailing address:
2120 West End Avenue, Suite 100
Nashville, Tennessee 37203
Facsimile: 615-320-5607

EXHIBIT I

SATELLITE ANTENNA AGREEMENT

This Addendum of Lease, ("Addendum") is made this ____ day of _____, 2003, by and between HIGHWOODS REALTY LIMITED PARTNERSHIP, a North Carolina limited partnership ("Landlord") and ICON CLINICAL RESEARCH, INC., a Pennsylvania corporation ("Tenant") and amends the lease agreement dated _____, 2003 ("Lease") by and between Landlord and Tenant.

WHEREAS, Tenant has requested that Landlord consent to Tenant's installation and operation of a satellite antennae on the roof of the Building;
and

WHEREAS, Landlord desires to consent to the installation and operation of the antennae subject to certain conditions;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties contract and further agree as follows:

1. Capitalized terms used herein and not otherwise defined shall have the meaning given in the Lease.
 2. Consent. Landlord, in consideration of the covenants and agreements to be performed by the Tenant and upon the terms and conditions herein stated, consents to the Tenant installing, maintaining and operating, during the term of this agreement, a _____ ("Equipment"), of a size, weight, design and shape described on Exhibit A, attached hereto and made a part hereof, or such subsequent weight, design and shape as reasonably approved by Landlord, on the roof of the Building for the purpose of _____ [e.g., transmitting and/or receiving microwave or radio signals], in a manner consistent with Tenant's business, and such cables and wires, on the roof and within the conduits of the building, as are necessary to connect the Equipment to Tenant's space demised under the Lease (collectively, the "Cables").
 2. Assignment. Tenant shall not be permitted to assign or sublet the Equipment installation and operation rights to any other party and the right to operate the Equipment shall expire upon the termination of Tenant's Lease or the earlier termination of this Addendum.
 3. Restrictions. Tenant shall neither knowingly and willfully transmit nor receive any communications via the Equipment that is restricted by law on the basis of being obscene or otherwise subjects Landlord to potential civil or criminal liability. Further, Tenant's operation of the Equipment shall not interfere with the use or operation of other tenant's communications existing on the date of this agreement. Following Tenant's installation of the Equipment, Landlord shall not permit any other tenant in the Building to install equipment on the roof of the Building that interferes with the use or operation of the Equipment.
-

4. Liens. Should any claim of lien or other lien be filed against the Land and/or the Building by reason of any act or omission of Licensee or any of Licensee's agents, employees, contractors or representatives, then Licensee shall cause the same to be canceled and discharged of record by bond or otherwise within thirty (30) days after the filing thereof. Should Licensee fail to discharge such lien within such thirty (30) day period, then Owner may discharge the same, in which event Licensee shall reimburse Owner, on demand, as additional rent hereunder, for the amount of the lien or the amount of the bond, if greater, plus all administrative costs incurred by Owner in connection therewith.
5. Location. The location of the Equipment and any appurtenances (the "Dish Site") thereto shall be as shown on cross-hatch on Exhibit B, attached hereto and made a part hereof. Owner, at its option, may substitute for the Dish Site other space on the roof of the Building (the "Substitute Site") at any time during the term of this Agreement, provided that such Substitute Site is usable by Tenant with any interference. Owner shall give Licensee at least sixty (60) days written notice of its intention to relocate Licensee to the Substitute Site. Owner agrees to relocate the Equipment and the Cables and reconnect the Equipment and the Cables so that it is fully operational following such relocation. Such relocation and reconnection shall be undertaken by Owner at a time reasonably acceptable to Licensee. All such work undertaken by Owner in connection with any such relocation shall be performed in a good and workmanlike manner and in accordance with all applicable laws, orders and regulations of all applicable governmental authorities. Licensee agrees to occupy the Substitute Site as soon as Owner's work is substantially completed.
6. Term. The term of this agreement shall commence on the date first written above and shall continue until termination is provided under paragraph 17 hereof or upon the termination of the Lease and any amendments thereto, whichever first occurs.
7. Payment. Tenant agrees to pay the Landlord, in addition to the rent and other charges paid to the Landlord or assumed by the Tenant in the Lease a monthly fee of \$250.00 on the first day of each calendar month during the term of this agreement. The fee will be prorated for any partial calendar month in which this addendum is in effect. If, the Landlord's insurance premium or real estate assessment increases as a direct result of the installation and operation of the Equipment, the Tenant shall pay all such increases each year as additional rent within thirty (30) days of receipt of the bill and adequate documentation of such increase from Landlord. The Tenant will have no right to an abatement or reduction in the amount of rent if for any reason the Tenant is unable to use the Equipment, unless due to the negligent or willful act or omission of Landlord, its agents, contractors or employees. Notwithstanding the foregoing, Landlord shall waive any payment for the first installation of Equipment, subject to the approval rights retained herein.

Exhibit 2

8. Installation of Equipment.

- a. As set forth in paragraph 1, the size, weight, design and shape of any substitute Equipment is subject to Landlord's approval. In this regard, Tenant shall submit all specifications of the Equipment to the Landlord for approval. Tenant agrees to pay Landlord's reasonable cost of review and approval of the plans and specifications within 30 days of written approval from Landlord. Consent of Landlord shall not constitute any representations or warranty by the Landlord that such alterations are feasible, advisable, accurate or sufficient or that the Tenant will be granted permits for construction or operation by appropriate governmental authorities, or that the resulting premises shall be safe, habitable or tenantable, or fit for Tenant's purposes.
- b. Tenant's installation contractor for the Equipment shall be subject to Landlord's prior review and approval, which such approval shall not be unreasonably withheld, conditioned or delayed, and such contractor must provide evidence of liability and workmen's compensation insurance reasonably satisfactory to the Landlord prior to installation. Tenant's contractors and subcontractors must comply with all building rules in effect, including but not limited to rules relating to the use of elevators, tool storage and removal of debris. Tenant may begin construction within ____ days of Landlord's written approval if all other applicable provisions of this Addendum have been complied with and within 30 days of commencing construction shall complete the installation of the Equipment.
- c. Upon installation of the Equipment, Landlord has the right to inspect such Equipment in order to verify that such installation and the Equipment complies with the approvals previously given by the Landlord. If such inspection reveals any material deviation from Landlord's prior approvals, such material deviation shall constitute a breach of this addendum and the Landlord may either require that Tenant immediately conform the Equipment to the approved specifications, or terminate this addendum pursuant to paragraph 17 herein.
- d. Within 10 days of completion of the installation of the Equipment, the Tenant shall notify the Landlord of same. The work to install the Equipment will be accepted by Landlord when the last of the following condition occurs:

Exhibit 3

- i. Landlord and/or its representative has inspected the Equipment after construction is complete and has determined that such construction has been substantially completed in accordance with the approved plans and specifications;
 - ii. Tenant provides Landlord with the final certificates and other permits required by law, if any;
 - iii. Tenant certifies to Landlord that Tenant has paid the installation cost in full or established an escrow satisfactory to Landlord;
 - iv. Tenant delivers to Landlord copies of the record drawings and specifications which shall bear the stamp of a lawfully licensed design professional, if required by law, along with modifications annotated thereto; and
 - v. Tenant provides Landlord with copies of final lien waivers from its contractor, as well as any significant subcontractors and suppliers as requested by Landlord, in a form reasonably acceptable to Landlord.
 9. Access. Tenant may only access the roof of the Building through common areas of the Building and other designated areas and Tenant agrees that it will not pass through other tenants' spaces, nor will it interfere with any other tenants' businesses. Additionally, Tenant agrees to give the Landlord reasonable notice prior to accessing the roof, any cabling or communication closets. Tenant also agrees only to access same during normal business hours and upon Landlord's consent, not to be unreasonably withheld, conditioned or delayed.
 10. Use of Building Electricity. Landlord agrees to allow Tenant to utilize electricity in the Building for the purposes of operating the Equipment. However, the proposed connection of electricity and location of the electric cables on the roof and throughout the Building shall be subject to the Landlord's prior review and approval. Landlord, at its sole discretion, may have a submetering device installed at Tenant's expense to allocate additional electrical costs to Tenant as a result of the use of the Equipment.
 11. Changes in Equipment. Any future installations or changes in the Equipment or any Cables shall be subject to all the conditions and restrictions for original installation of the Equipment as set forth herein, and shall be subject to Landlord's prior approval.
 12. Nonexclusive Use. Landlord reserves the right to install any other equipment or allow other tenants or licensees to install, maintain and operate other equipment on the roof and in the Building. Landlord shall have the right to do maintenance, repairs and remodeling to the Building and roof space at any time without Tenant's prior approval, provided such does not interfere with the use or operation of the Equipment.
-

13. Installation and Maintenance of Cable in the Building. In the event that Tenant desires to run any Cable through the Building in connection with the installation and maintenance of the Equipment, Tenant agrees to submit work drawings to the Landlord specifying the following:
- a. The locations throughout the Building where the Cable will be located.
 - b. The manner in which the Cabling will be run through the Building.
 - c. The communications closets, if any, which will be utilized in installing and maintaining such Cabling.
 - d. The amount of Cable which will be required to be utilized.
 - e. The type of Cable which will be utilized.

Additionally, Tenant agrees that all Cable shall be shielded cable, that the cable coating shall comply with all applicable fire codes and is properly labeled so that it can be identified by the Landlord, Landlord's agents or third parties. Landlord warrants to Tenant that, as of the date of this Addendum, conduit space exists for Tenant use in running the Cable from the roof to its demised premises.

Tenant further agrees to provide Landlord reasonable notice prior to installing any Cable, and such notice shall set forth the times at which Tenant expects to be installing or working on such cables. Tenant agrees that it will not pass through other tenants' spaces, nor interfere with any other tenants' businesses when installing or maintaining such cables.

14. Zoning. Tenant acknowledges that the Landlord has made no representations or warranties to the Tenant that the Equipment Is permitted under applicable zoning ordinances. Tenant represents and warrants to the Landlord that it has ascertained that the Equipment and installation thereof is so permitted under applicable zoning laws, including but not limited to any zoning laws relating to height restrictions.
15. Compliance with Law. Tenant warrants that it will comply with all applicable laws and regulations of the United States, the State of Tennessee, or any political subdivision thereof in connection with the installation and use of the Equipment. Tenant further warrants that Tenant shall, at its sole cost and expense, obtain any and all governmental licenses and permits' necessary, not only to install said Equipment, but also to operate said Equipment as herein contemplated. Tenant further agrees to obtain and maintain all necessary permits during the term hereof and that if it fails to do so after receipt of written notice from Landlord and the passing of thirty (30) days, Landlord may require Tenant to remove the Equipment at Tenant's sole cost and expense.

16. **Insurance.** Tenant agrees to procure and maintain while this agreement is in effect, such policies of liability and property damage insurance in amounts not less than \$1,000,000 naming Landlord as an additional insured thereunder and written by insurance companies reasonably satisfactory to the Landlord as Landlord reasonably deems necessary.
17. **Termination.** In the event of a breach of any provision hereof by Tenant, Landlord may terminate this addendum upon thirty (30) days written notice to the Tenant at the address set forth below. Landlord, at its sole option, may require the Tenant at any time prior to the expiration of this addendum, to immediately terminate the operation of the Equipment if it is (i) causing physical damage to the structural integrity of the Building, or (ii) causing a safety hazard. If the Tenant fails to promptly correct the item(s) in i-ii caused by the Equipment to the Landlord's reasonable satisfaction, Landlord, in its sole discretion, may require Tenant to remove the Equipment at Tenant's own cost and expense. Termination of this addendum for cause or otherwise shall not affect the parties rights or responsibilities pursuant to the Lease.

LANDLORD: **HIGHWOODS REALTY LIMITED PARTNERSHIP**
c/o Highwoods Properties, Inc.
3100 Smoketree Court, Suite 600
Raleigh, North Carolina 27604
Attn: Manager, Lease Administration
Facsimile #: 919/876-2448

with copy to: Highwoods Properties, Inc.
2120 West End Avenue, Suite 100
Nashville, Tennessee 37203
Facsimile: 615-320-5607

TENANT: Icon Clinical Research Inc.
212 Church Road
North Wales, Pennsylvania 19454

Attn: Ms. Lois Valentine and
Mr. David Peters
Facsimile #: 215-616-3089

with copy to: Stephan K. Pahides, Esquire
McCausland, Keen & Buckman
Radnor Court, Suite 160
259 N. Radnor-Chester Road
Radnor, Pennsylvania 19087
Facsimile: 610-341-1099

18. **Indemnity.** Tenant shall indemnify and hold harmless Landlord from all claims, suits, losses and liabilities arising from Tenant's installation, maintenance, or operation of the Equipment or any cabling in breach of the terms of this Addendum or from any breach or default by Tenant hereinunder, or from any injuries or damages occurring in connection therewith, except if caused by the negligence or misconduct of Landlord, its agents, contractors or employees.
19. **Subordination.** Tenant accepts Landlord's consent herein granted subject and subordinate to any mortgage or deed of trust and to all amendments, renewals, extensions and refinancing thereof, that may now or hereafter exist or constitute a lien upon the interest of Landlord in the Building or any part thereof, subject to the rights of non-disturbance afforded Tenant under the provisions of the Lease.
20. **Repair Removal.** Tenant shall not in any manner deface, injure, or damage the roof of the Building, or any portion of the Building and will pay the cost of repairing any damage or injury to the roof, the Building, or any part thereof by the Tenant, its agents or employees. Upon expiration or sooner termination of this addendum: (i) Tenant shall remove the Equipment and repair any damages caused by such removal and restore the roof, Building and its contents to the substantially the same condition it was in prior to the installation of the Equipment within thirty (30) days following such termination. Additionally, at the option of the Landlord, Landlord shall either (i) retain ownership of all cables running through the Building, or (ii) require Tenant, at Tenant's sole cost and expense, to remove such cables, repair any damage caused by such removal, and restore those portions of the Building utilized to the substantially the same condition they were in prior to the installation of the cable.

If at any time under the provisions herein Tenant is required to remove the Equipment or cabling from the Building and Tenant is unable or unwilling to do so or the Tenant does not promptly repair damage to the roof, Building or its contents occasioned by the Installation, maintenance or operation of the Equipment, Landlord may after thirty (30) days notice remove or repair same and charge Tenant for the cost of said removal and/or repairs.

Exhibit 7

IN WITNESS WHEREOF, the undersigned authorities have hereunto executed this addendum, effective on the day and year first above-written.

TENANT:

**ICON CLINICAL RESEARCH INC.,
a Pennsylvania corporation**

By: _____

Printed Name: _____

Title: _____

Date: _____

LANDLORD:

**HIGHWOODS REALTY LIMITED
PARTNERSHIP, a North Carolina
Limited Partnership**

By: Highwoods Properties, Inc.
A Maryland corporation,
its Sole general partner

By: _____

Printed Name:

Title: Vice President

Date: _____

**Certification of Chief Executive Officer
Pursuant to Section 302 of
the Sarbanes-Oxley Act of 2002**

I, Peter Gray, certify that:

1. I have reviewed this annual report on Form 20-F of ICON plc (“the registrant”).
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company’s internal control over financial reporting.
5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Dated: February 19, 2009

/s/ Peter Gray

Peter Gray
Chief Executive Officer

**Certification of Chief Financial Officer
Pursuant to Section 302 of
the Sarbanes-Oxley Act of 2002**

I, Ciaran Murray, certify that:

1. I have reviewed this annual report on Form 20-F of ICON plc (“the registrant”).
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company’s internal control over financial reporting.
5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Dated: February 19, 2009

/s/Ciaran Murray

Ciaran Murray
Chief Financial Officer

**Certification Pursuant to 18 U.S.C. Section 1350,
As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of ICON plc (the "Company") on Form 20-F for the year ending December 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Peter Gray, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: February 19, 2009

/s/ Peter Gray

Peter Gray
Chief Executive Officer

The foregoing certification is being furnished solely pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code) and is not being filed as part of the report or as a separate disclosure document. A signed original of this written statement required by section 906 has been provided to ICON plc and will be retained by ICON plc and furnished to the Securities and Exchange Commission or its staff upon request.

**Certification Pursuant to 18 U.S.C. Section 1350,
As Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report of ICON plc (the "Company") on Form 20-F for the year ending December 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Ciaran Murray, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

- (1) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Date: February 19, 2009

/s/Ciaran Murray

Ciaran Murray
Chief Financial Officer

The foregoing certification is being furnished solely pursuant to section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code) and is not being filed as part of the report or as a separate disclosure document. A signed original of this written statement required by section 906 has been provided to ICON plc and will be retained by ICON plc and furnished to the Securities and Exchange Commission or its staff upon request.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors
ICON plc

Dear Sirs:

We consent to the incorporation by reference in the registration statement on Form S-8 (No. 333-152802) of ICON plc of our reports dated February 19, 2009, with respect to the consolidated balance sheets of ICON plc as of December 31, 2008 and 2007 and the related consolidated statements of operations, shareholders' equity and comprehensive income, and cash flows for each of the years in the three-year period ended December 31, 2008, and the effectiveness of internal control over financial reporting as of December 31, 2008, which report appears in the December 31, 2008 Annual Report on Form 20-F of ICON plc.

Our report on the consolidated financial statements refers to the Company's adoption of FASB Interpretation No. 48, *Accounting for Uncertain Income Taxes*, as of January 1, 2007 and its adoption of Statement of Financial Accounting Standard No. 123(R), *Share Based Payments*, as of January 1, 2006.

/s/ KPMG

KPMG
Chartered Accountants
Dublin, Ireland
March 31, 2009