FORM 10-Q

CEPHEID - CPHD

Filed: May 07, 2008 (period: March 31, 2008)

Quarterly report which provides a continuing view of a company's financial position

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2008

OR

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

For the transition period from _____to_____

Commission file number 000-30755

CEPHEID

(Exact Name of Registrant as Specified in its Charter)

California	**77-0441625**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
904 Caribbean Drive, Sunnyvale, California	**94089-1189**
(Address of Principal Executive Office)	(Zip Code)

(408) 541-4191
(Registrant's Telephone Number, Including Area Code)

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

Yes ☑ No ☐

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

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

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

☐ Yes ☑ No

As of April 25, 2008 there were 56,924,977 shares of the registrant's common stock outstanding.

REPORT ON FORM 10-Q FOR THE QUARTER ENDED MARCH 31, 2008

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PART I — FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

CEPHEID
CONDENSED CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	March 31, 2008 (unaudited)	December 31, 2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 20,000	$ 16,476
Marketable securities	—	27,550
Accounts receivable, net	26,540	21,263
Inventory	27,094	23,821
Prepaid expenses and other current assets	3,848	2,565
Total current assets	77,482	91,675
Property and equipment, net	20,168	17,174
Investments	22,856	—
Other non-current assets	488	923
Intangible assets, net	39,474	40,629
Goodwill	14,844	14,844
Total assets	$ 175,312	$ 165,245
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 14,810	$ 10,587
Accrued compensation	5,844	8,573
Accrued royalties	7,318	6,913
Accrued collaboration profit sharing	2,083	522
Accrued and other liabilities	5,566	4,742
Income tax payable	—	213
Deferred revenue	3,939	4,016
Total current liabilities	39,560	35,566
Deferred revenue	1,791	2,054
Other liabilities	657	690
Total liabilities	42,008	38,310
Commitments and contingencies		
Shareholders' equity:		
Common stock, no par value; 100,000,000 shares authorized, 56,900,036 and 55,611,398 shares issued and outstanding at March 31, 2008 and December 31, 2007, respectively	261,539	254,807
Additional paid-in capital	29,994	26,697
Accumulated other comprehensive income (loss)	(1,470)	340
Accumulated deficit	(156,759)	(154,909)
Total shareholders' equity	133,304	126,935
Total liabilities and shareholders' equity	$ 175,312	$ 165,245

See accompanying notes.

CEPHEID

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

	Three Months Ended March 31,	
	2008	2007
Revenues:		
System sales	$ 14,324	$ 6,837
Reagent and disposable sales	27,596	15,230
Total product sales	41,920	22,067
Other revenue	2,913	3,477
Total revenues	44,833	25,544
Costs and operating expenses:		
Cost of product sales	22,986	13,877
Collaboration profit sharing	3,733	3,497
Research and development	9,898	6,922
Sales and marketing	6,941	4,493
General and administrative	4,747	3,935
Total costs and operating expenses	48,305	32,724
Loss from operations	(3,472)	(7,180)
Other income (expense):		
Interest income	540	912
Interest expense	(1)	(10)
Other income (expense), net	743	125
Other income, net	1,282	1,027
Net loss before income tax benefit	(2,190)	(6,153)
Income tax benefit	340	—
Net loss	$ (1,850)	$ (6,153)
Basic and diluted net loss per share	$ (0.03)	$ (0.11)
Shares used in computing basic and diluted net loss per share	56,152	55,012

See accompanying notes.

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

	Three Months Ended March 31,	
	2008	2007
Cash flows from operating activities:		
Net loss	$ (1,850)	$ (6,153)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,721	1,440
Amortization of intangible assets	1,155	1,036
Amortization of prepaid compensation expense	63	63
Stock-based compensation related to employees and consulting services rendered	3,261	2,001
Deferred rent	(31)	3
Changes in operating assets and liabilities:		
Accounts receivable	(5,278)	208
Inventory	(3,237)	(944)
Prepaid expenses and other current assets	(1,261)	(1,280)
Other non-current assets	(143)	225
Accounts payable and other current liabilities	7,015	(1,224)
Income taxes payable	(213)	—
Accrued compensation	(2,730)	(1,193)
Accrued expense for patent-related matter	—	(3,350)
Deferred revenue	(346)	346
Net cash used in operating activities	(1,874)	(8,822)
Cash flows from investing activities:		
Capital expenditures	(4,770)	(1,190)
Payments for technology licenses	—	(4,462)
Cost of Sangtec acquisition, net of cash acquired	—	(27,359)
Proceeds from maturities of marketable securities	2,550	32,000
Proceeds from the sale of fixed assets	340	—
Transfer to unrestricted cash	517	—
Net cash provided used in investing activities	(1,363)	(1,011)
Cash flows from financing activities:		
Net proceeds from the issuance of common shares and exercise of stock options and awards	6,732	733
Principal payments under equipment financing	—	(147)
Payment of note payable	(4)	(3)
Net cash provided by financing activities	6,728	583
Effect of exchange rate change on cash	33	(52)
Net increase (decrease) in cash and cash equivalents	3,524	(9,302)
Cash and cash equivalents at beginning of period	16,476	17,186
Cash and cash equivalents at end of period	$ 20,000	$ 7,884

See accompanying notes.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. Organization and Summary of Significant Accounting Policies

Organization and Business

Cepheid (the "Company" or "we") was incorporated in the State of California on March 4, 1996. We are a molecular diagnostics company that develops, manufactures, and markets fully-integrated systems for genetic analysis in the Clinical Molecular Diagnostic, Industrial and Biothreat markets. Our systems enable rapid, sophisticated genetic testing for organisms and genetic-based diseases by automating otherwise complex manual laboratory procedures.

The condensed consolidated balance sheet at March 31, 2008, the condensed consolidated statements of operations for the three months ended March 31, 2008 and 2007, and the condensed consolidated statements of cash flows for the three months ended March 31, 2008 and 2007 are unaudited. In the opinion of management, these condensed consolidated financial statements reflect all adjustments (consisting of normal recurring adjustments) that are necessary for a fair presentation of the results for and as of the periods shown. The accompanying condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States. However, certain information or footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"). The results of operations for such periods are not necessarily indicative of the results expected for the remainder of 2008 or for any future period. The condensed consolidated balance sheet as of December 31, 2007 is derived from audited financial statements as of that date but does not include all of the information and footnotes required by accounting principles generally accepted in the United States for complete financial statements. These condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and related notes included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2007 filed with the SEC.

Principles of Consolidation

The condensed consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries after elimination of intercompany transactions and balances. In February 2007, we acquired Sangtec Molecular Diagnostics AB ("Sangtec"), which became our Swedish subsidiary, Cepheid AB. The condensed consolidated financial statements include the results of operations of Sangtec subsequent to its acquisition date of February 14, 2007. The functional currency of our French subsidiary, Cepheid SA, is the Euro, and the functional currency of our Swedish subsidiary is the Swedish Krona; accordingly, all gains and losses arising from foreign currency transactions in currencies other than the functional currency are included in the condensed consolidated statements of operations. Adjustments resulting from translating the financial statements of foreign subsidiaries into U.S. Dollars are reported as a separate component of accumulated other comprehensive income in shareholders' equity.

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from these estimates.

Fair Value of Financial Instruments

In February 2007, the FASB issued Statement of Financial Accounting Standards No. 157 ("SFAS 157"), "Fair Value Measurements" ("SFAS 157"), which establishes guidelines for measuring fair value and expands disclosures regarding fair value measurements. SFAS 157 does not require any new fair value measurements but rather eliminates inconsistencies in guidance found in various prior accounting pronouncements and is effective for fiscal years beginning after November 15, 2007. In February 2008, the Financial Accounting Standards Board ("FASB") issued FASB Staff Position No. FAS 157-2, "Effective Date of FASB Statement No. 157", which provides a one year deferral of the effective date of SFAS 157 for non-financial assets and non-financial liabilities, except those that are recognized or disclosed in the financial statements at fair value at least annually, until fiscal years beginning after November 15, 2008, and interim periods within those fiscal years. Therefore, we adopted the provisions of SFAS 157 with respect to our financial assets and liabilities only. The partial adoption of SFAS 157 for financial assets and liabilities did not have a material impact on our consolidated financial position, results of operations, or cash flows. See Note 2 for information and related disclosures regarding our fair value measurements.

In February 2007, the FASB issued SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities — Including an Amendment of FASB Statement No. 115" ("SFAS 159"). The fair value option established by SFAS 159 permits all entities to choose to measure eligible items at fair value at specified election dates. A business entity will report unrealized gains and losses on items for which the fair value option has been elected in earnings (or another performance indicator if the business entity does not report earnings) at each subsequent reporting date. The fair value option: (a) may be applied instrument by instrument, with a few exceptions, such as investments otherwise accounted for by the equity method; (b) is irrevocable (unless a new election date occurs); and (c) is applied only to entire instruments and not to portions of instruments. We adopted SFAS 159 effective January 1, 2008, and the adoption did not affect our condensed consolidated financial statements.

Cash, Cash Equivalents and Investments

Cash and cash equivalents consist of cash on deposit with banks, money market instruments, commercial paper and debt securities with maturities from the date of purchase of 90 days or less. Interest income includes interest, dividends, amortization of purchase premiums and discounts and realized gains and losses on sales of securities.

Our investments are designated as available-for-sale, and realized and unrealized gains and losses on investments are determined on the specific identification method. Unrealized holding gains or losses are reported as a component of accumulated other comprehensive income (loss). Investments with maturities greater than 90 days and less than one year are classified as short-term; otherwise they are classified as long-term.

An impairment charge is recognized in the condensed consolidated statement of operations when the decline in the fair value of a security below the amortized cost basis is determined to be other-than-temporary. We consider various factors in determining whether to recognize an impairment charge, including the duration of time and the severity to which the fair value has been less than our amortized cost basis, any adverse changes in the investees' financial condition and our intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in market value. To date, we have not recorded any impairment charges on investments related to other-than-temporary declines in market value.

Inventory

Inventory is stated at the lower of standard cost (which approximates actual cost) or market, with cost determined on the first-in-first-out method. Accordingly, allocation of fixed production overheads to conversion costs is based on normal capacity of the production. Abnormal amounts of idle facility expense, freight, handling costs and spoilage are expensed as incurred and not included in overhead.

The components of inventories were as follows (in thousands):

	March 31, 2008	December 31, 2007
Raw Materials	$ 12,204	$ 9,956
Work in Process	7,893	7,550
Finished Goods	6,997	6,315
	$ 27,094	$ 23,821

Goodwill

Goodwill relates entirely to our purchase of Sangtec. In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets", goodwill is tested for impairment on an annual basis, or earlier if indicators of impairment exist. We perform our annual test for impairment of goodwill during our fourth fiscal quarter.

Impairment of Long-Lived Assets Other Than Goodwill

We review our long-lived assets other than goodwill for impairment under SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets". We conduct the impairment review when events or circumstances indicate the carrying value of a long-lived asset may be impaired by estimating the future undiscounted cash flows to be derived from an asset to assess whether or not a potential impairment exists. If the carrying value exceeds our estimate of future undiscounted cash flows, an impairment value is calculated as the excess of the carrying value of the asset over our estimate of fair market value. Events or circumstances which could trigger an impairment review include a significant adverse change in the business climate, an adverse action or assessment by a

regulator, unanticipated competition, significant changes in our use of acquired assets, our overall business strategy, or significant negative industry or economic trends. There were no impairment charges recorded in any of the periods presented.

Warranty Reserve

We warrant our systems to be free from defects for a period of 12 to 15 months from the date of sale and our disposable products to be free from defects, when handled according to product specifications, for the stated life of such products. Accordingly, a provision for the estimated cost of warranty repair or replacement is recorded at the time revenue is recognized. Our warranty provision is established using management's estimate of future failure rates and of the future costs of repairing any system failures during the warranty period or replacing any disposable products with defects. The activities in the warranty provision for the three months ended March 31, 2008 and 2007 consisted of the following (in thousands):

	Three Months Ended March 31,	
	2008	2007
Balance at beginning of period	$ 549	$ 256
Costs incurred and charged against reserve	(177)	(41)
Accrual related to current period product sales	287	118
Adjustment to pre-existing warranties	45	(17)
Balance at end of period	$ 704	$ 316

Revenue Recognition

In accordance with Staff Accounting Bulletin ("SAB") No. 104, "Revenue Recognition", we recognize revenue from product sales when there is persuasive evidence that an arrangement exists, delivery has occurred, the price is fixed or determinable and collectibility is reasonably assured. No right of return exists for our products except in the case of damaged goods. We have not experienced any significant returns of our products. Other revenue includes contract revenues and grant and government sponsored research revenue. Contract revenues include fees for technology licenses and research and development services, royalties under license and collaboration agreements. Contract revenue related to technology licenses is generally fully recognized only after the license period has commenced, the technology has been delivered and no further involvement by us is required. When we have continuing involvement related to a technology license, revenue is recognized over the license term. Royalties are typically based on licensees' net sales of products that utilize our technology, and royalty revenues are recognized as earned in accordance with the contract terms when the royalties can be reliably measured and their collectibility is reasonably assured, such as upon the receipt of a royalty statement from the customer. Grants and government sponsored research revenue and contract revenue related to research and development services are recognized as the related services are performed based on the performance requirements of the relevant contract. Service revenue is recognized when the services have been provided. Shipping and handling costs are expensed as incurred and included in cost of product sales. In those cases where we bill shipping and handling costs to customers, the amounts billed are classified as revenue.

From time to time, we enter into revenue arrangements with multiple deliverables. Multiple element revenue agreements are evaluated under Emerging Issues Task Force ("EITF") Issue No. 00-21, "Revenue Arrangements with Multiple Deliverables" ("EITF 00-21"), to determine whether the delivered item has value to the customer on a stand-alone basis and whether objective and reliable evidence of the fair value of the undelivered item exists. Deliverables in an arrangement that do not meet the separation criteria in EITF 00-21 must be treated as one unit of accounting for purposes of revenue recognition. Advance payments received in excess of amounts earned, such as funds received in advance of products to be delivered or services to be performed, are classified as deferred revenue until earned.

Stock-Based Compensation

We follow the accounting provisions of SFAS No.123 (revised 2004), "Share-Based Payment" ("SFAS 123(R)"), for share-based awards granted to employees and directors, including employee stock option awards, restricted stock and employee stock purchases made under our Employee Stock Purchase Plan ("ESPP"), using the estimated grant date fair value method of accounting in accordance with SFAS No. 123(R). We recognize the fair value of our stock option awards on a straight-line basis over the requisite service period of each award, which is generally four years. Stock-based compensation to other than employees is determined in accordance with SFAS No. 123(R) and EITF Issue No. 96-18, "Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring, or in Conjunction with Selling, Goods, or Services".

Income Taxes

In June 2006, the Financial Accounting Standards Board ("FASB") issued Interpretation No. 48, "Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109" ("FIN 48"). FIN 48 clarifies the recognition threshold and measurement attribute for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. FIN 48 also provides guidance on de-recognition, classification, interest and penalties, accounting in interim periods, disclosure and transition.

The Company recognizes interest and penalties related to uncertain tax positions in income tax expense. For the periods presented, we did not recognize any interest or penalties related to uncertain tax positions in the condensed consolidated statements of operations, and at March 31, 2008 and December 31, 2007, we had no accrued interest or penalties.

Net Loss per Share

Basic net loss per share has been calculated based on the weighted-average number of common shares outstanding during the period. Shares used in diluted net loss per share calculations exclude anti-dilutive common stock equivalent shares, consisting of stock options. These anti-dilutive common stock equivalent shares totaled approximately 7,905,000 and 7,561,000 at March 31, 2008 and 2007, respectively.

Comprehensive Loss

Comprehensive loss includes net loss as well as other comprehensive income or loss. Other comprehensive income or loss consists of foreign currency translation adjustments and unrealized gains and losses on available-for-sale securities. The following table presents the calculation of comprehensive loss, including components of other comprehensive loss (in thousands):

	Three Months Ended March 31,	
	2008	2007
Net loss	$ (1,850)	$ (6,153)
Other comprehensive income (loss):		
Foreign currency translation adjustments	334	52
Unrealized loss on available-for-sale securities	(2,144)	—
Comprehensive loss	$ (3,660)	$ (6,101)

Reclassifications

Certain reclassifications have been made to prior period amounts to conform to the current presentation.

Recent Accounting Pronouncements

There have been no recent accounting pronouncements or changes in accounting pronouncements during the three months ended March 31, 2008, as compared to the recent accounting pronouncements described in our Annual Report on Form 10-K for the fiscal year ended December 31, 2007, that are of significance, or potential significance, to us.

2. Fair Value

In accordance with SFAS 157, the following table represents the fair value hierarchy for our financial assets (cash equivalents and investments) measured at fair value on a recurring basis as of March 31, 2008 (in thousands):

	Level 1	Level 2	Level 3	Total
Cash equivalent — Money market funds	$ 11,264	$ —	$ —	$ 11,264
Investments — taxable auction variable rate notes	—	—	22,856	22,856
	$ 11,264	$ —	$ 22,856	$ 34,120

Level 3 assets consist of auction rate securities whose underlying assets are generally student loans, most of which are guaranteed by the federal government. In February 2008, auctions began to fail for these securities, and each auction since then has failed. Based on the overall failure rate of these auctions, the frequency of the failures, and the underlying maturities of the securities, a portion of which are greater than 30 years, we have classified auction rate securities as long-term assets on our condensed consolidated

balance sheet as of March 31, 2008. These investments were valued at fair value as of March 31, 2008. The following table provides a summary of changes in fair value of our auction rate securities as of March 31, 2008 (in thousands):

	Level 1	Level 3
Balance at December 31, 2007	$ 27,550	$ —
Net settlements	(2,550)	—
Transfer	(25,000)	25,000
Unrealized loss included in accumulated other comprehensive loss	—	(2,144)
	$ —	$ 22,856

Our investment portfolio of auction rate securities is structured with short-term interest rate reset dates of generally less than 90 days, but with contractual maturities that are well in excess of ten years. Our auction rate securities primarily consist of investments that are either backed by pools of student loans, which are principally guaranteed by the Federal Family Educational Loan Program ("FFELP"), or insured. Accordingly, we believe that the credit quality of these securities is high based on these guarantees. We determined the fair market values of our financial instruments based on the fair value hierarchy established in SFAS 157, which requires an entity to maximize the use of observable inputs (Level 1 and Level 2 inputs) and minimize the use of unobservable inputs (Level 3 inputs) when measuring fair value. Given the current failures in the auction markets to provide quoted market prices of the securities, as well as the lack of any correlation of these instruments to other observable market data, we valued these securities using a discounted cash flow methodology with the most significant input categorized as Level 3. Significant inputs that went into the model were the credit quality of the issuer, the percentage and the types of guarantees, the timing and probability of the auction succeeding or the security being called and discount factors.

Based on an analysis of other-than-temporary impairment factors, we recorded a temporary impairment within other accumulated comprehensive loss of approximately $2.1 million at March 31, 2008 related to these auction rate securities. We believe we have the ability to hold these investments until maturity. However, the funds associated with failed auctions will not be accessible until a successful auction occurs, a buyer is found outside of the auction process, or the underlying securities mature, are refinanced or are recalled by the issuer. Given the recent disruptions in the credit markets and the fact that the liquidity for these types of securities remains uncertain, we have classified all of our auction rate securities as long-term assets in our condensed consolidated balance sheet as our ability to liquidate such securities in the next 12 months is uncertain. We will continue to evaluate our accounting for these investments quarterly.

3. Intangible Assets

Intangible assets related to licenses are recorded at cost, less accumulated amortization. Intangible assets related to technology acquired in acquisitions and other intangible assets are recorded at fair value at the date of acquisition, less accumulated amortization. Intangible assets are amortized over their estimated useful lives, ranging from 3 to 20 years, on a straight-line basis, except for intangible assets acquired in the acquisition of Sangtec, which are amortized on the basis of economic useful life. Amortization of intangible assets is primarily included in cost of product sales in the accompanying condensed consolidated statements of operations.

The recorded value and accumulated amortization of major classes of intangible assets at March 31, 2008 were as follows (in thousands):

	Recorded Value	Accumulated Amortization	Net Book Value
Licenses	$ 40,885	$ 11,029	$ 29,856
Technology acquired in acquisitions	8,613	455	8,158
Other	2,170	710	1,460
	$ 51,668	$ 12,194	$ 39,474

Included in licenses was $19.9 million in connection with a patent license agreement with F. Hoffman-La Roche Ltd., effective July 1, 2004. The net book value of this license was $15.1 million and $15.5 million at March 31, 2008 and December 31, 2007, respectively.

Amortization expense of intangible assets was $1.2 million and $1.0 million for the three months ended March 31, 2008 and 2007, respectively. The expected future annual amortization expense of intangible assets recorded on our condensed consolidated balance sheet as of March 31, 2008 is as follows, assuming no impairment charges (in thousands):

For the Years Ending December 31,	Amortization Expense
2008 (remaining nine months)	$ 3,466
2009	4,927
2010	4,886
2011	4,792
2012	4,686
Thereafter	16,717
Total expected future annual amortization	$ 39,474

4. Segment and Significant Concentrations

We and our wholly owned subsidiaries operate in one business segment.

We currently sell our products through our direct sales force and through third-party distributors. There was one direct customer that accounted for 31% and 53% of total product sales for the three months ended March 31, 2008 and 2007, respectively. We have distribution agreements with several companies to distribute products in the U.S. and have several regional distribution arrangements throughout Europe, Japan, South Korea, China, Mexico and other parts of the world. The following table provides a breakdown of product sales by geographic region for the three months ended March 31, 2008 and 2007:

	Three Months Ended March 31,	
	2008	2007
	(As a percent of total product sales)	
Product Sales Geographic information:		
North America	75%	81%
Europe	24%	18%
Japan and other	1%	1%
Total product sales	100%	100%

No single country outside of the United States represented more than 10% of our total revenues, total net assets or total net property, plant and equipment in any period presented.

There was one customer whose accounts receivable balance represented 28% and 22% of total receivables as of March 31, 2008 and December 31, 2007, respectively.

5. Collaboration Profit Sharing

Collaboration profit sharing represents the amount that we pay to Applied Biosystems Group under our collaboration agreement to develop reagents for use in the Biohazard Detection System developed for the United States Postal Service. Under the agreement, computed gross margin on anthrax cartridge sales are shared equally between the two parties. As of March 31, 2008 and December 31, 2007, the accrued profit sharing liability was $2.1 million and $0.5 million, respectively. Collaboration profit sharing expense was $3.7 million and $3.5 million for the three months ended March 31, 2008 and 2007, respectively. The total revenues and cost of product sales related to these cartridge sales are included in the respective balances in the condensed consolidated statement of operations.

6. Stock-Based Compensation Expense

The stock-based compensation expense in the condensed consolidated statement of operations for the three months ended March 31, 2008 and 2007 was as follows (in thousands):

	Three Months Ended March 31,	
	2008	2007
Cost of product sales	$ 350	$ 266
Research and development	1,263	744
Sales and marketing	845	371
General and administrative	803	620
Total stock-based compensation expense	$ 3,261	$ 2,001

The impact on basic and diluted net loss per share resulting from the adoption of SFAS 123(R) was $0.06 and $0.04 for the three months ended March 31, 2008 and 2007, respectively. In addition, stock-based compensation cost of approximately $0.8 million and $0.7 million was included in inventory as of March 31, 2008 and December 31, 2007, respectively.

The fair value of our stock options granted to employees and shares purchased by employees under the ESPP for the three months ended March 31, 2008 and 2007 was estimated using the following assumptions:

	Three Months Ended March 31,	
	2008	2007
OPTION SHARES:		
Expected Term (in years)	5.00	5.00
Volatility	0.58	0.73
Expected Dividends	0.00%	0.00%
Risk Free Interest Rates	2.91%	4.64%
Estimated Forfeitures	6.79%	14.30%
Weighted Average Fair Value	$15.17	$ 5.77
ESPP SHARES:		
Expected Term (in years)	1.25	1.25
Volatility	0.51	0.49
Expected Dividends	0.00%	0.00%
Risk Free Interest Rates	2.12%	5.05%
Weighted Average Fair Value	$11.55	$ 3.08

7. Income Taxes

We have no U.S. federal or state income tax provision for any period as we have incurred operating losses in all periods. The income tax benefit for the first quarter of 2008 of $0.3 million relates to research and development tax credits associated with our French subsidiary.

We have substantially concluded all U.S. federal income tax matters for years through December 31, 2002. For federal income tax purposes, the open years are from 1996 through 2007 due to net operating loss carryforwards relating to these years. Substantially all material state, local and foreign income tax matters have been concluded for years through December 31, 2001. For California state income tax purposes, the open years are from 1997 through 2007 due to either research credit carryovers or net operating loss carryforwards.

We anticipate that the total unrecognized tax benefits will not significantly change due to the settlement of audits and the expiration of statute of limitations prior to December 31, 2008.

8. Commitments and Contingencies

In February 2008, we entered into a long-term operating lease obligation for additional facilities of approximately 27,300 square feet in Sunnyvale, California. The lease begins May 1, 2008 and terminates July 31, 2012 for a total lease payment of $2.7 million, which includes an annual increase of approximately 4%. Rent expense for all operating leases for the three months ended March 31, 2008 and 2007 was $0.7 million and $0.6 million, respectively.

In March 2008, we entered into an agreement to purchase $8.9 million of certain material used in production. As of March 31, 2008, the purchase commitment consisted of $2.0 million, $3.2 million and $3.5 million for the remainder of 2008, 2009 and 2010, respectively.

We have certain royalty commitments associated with the shipment and licensing of certain products. Royalty expense is generally based on a dollar amount per unit shipped or a percentage of the underlying revenue.

In the normal course of business, we provide indemnifications of varying scope to customers against claims of intellectual property infringement made by third parties arising from the use of our products. Historically, costs related to indemnification provisions have not been significant and we are unable to estimate the maximum potential impact of these indemnification provisions on our future results of operations.

To the extent permitted under California law, we have agreements whereby we indemnify our directors and officers for certain events or occurrences while the director or officer is, or was serving, at our request in such capacity. The indemnification period covers all pertinent events and occurrences during the director's or officer's lifetime. The maximum potential amount of future payments we could be required to make under these indemnification agreements is not specified in the agreements; however, we have director and officer insurance coverage that reduces our exposure and enables us to recover a portion of any future amounts paid. We believe the estimated fair value of these indemnification agreements in excess of applicable insurance coverage is minimal.

We respond to claims arising in the ordinary course of business. In certain cases, management has accrued estimates of the amounts it expects to pay upon resolution of such matters, and such amounts are included in other accrued liabilities. Should we not be able to secure the terms it expects, these estimates may change and will be recognized in the period in which they are identified. Although the ultimate outcome of such claims is not presently determinable, management believes that the resolution of these matters will not have a material adverse effect on our financial position, results of operations and cash flows.

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

Forward-Looking Statements

This Quarterly Report on Form 10-Q, including this Management's Discussion and Analysis of Financial Condition and Results of Operations, contains forward-looking statements that are based upon current expectations. These statements are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. In some cases, you can identify forward-looking statements by terminology such as "may", "will", "should", "expect", "plan", "anticipate", "believe", "estimate", "intend", "potential" or "continue" or the negative of these terms or other comparable terminology. Forward-looking statements are based upon current expectations that involve risks and uncertainties. Our actual results and the timing of events could differ materially from those anticipated in our forward-looking statements as a result of many factors, including, but not limited to, the following: development and manufacturing problems; the need for additional licenses for new tests and other products and the terms of such licenses; our ability to successfully sell products in the Clinical Molecular Diagnostic market; lengthy sales cycles in certain markets; the performance and market acceptance of our new products; our ability to obtain regulatory approvals and introduce new products into the Clinical Molecular Diagnostic market; the level of testing at existing clinical customer sites; changes in the protocols or level of testing for methicillin resistant staphylococcus aureus *("MRSA") and other healthcare associated infections; the mix of products sold, which can affect gross margins; our reliance on distributors to market, sell and support our products; the occurrence of unforeseen expenditures, asset impairments, acquisitions or other transactions; our ability to integrate the businesses, technologies, operations and personnel of acquired companies; the scope and timing of actual United States Postal Service ("USPS") funding of the Biohazard Detection System ("BDS") in its current configuration; the rate of environmental testing using the BDS conducted by the USPS, which will affect the amount of consumable products sold; our success in increasing our direct sales; the impact of competitive products and pricing; our ability to manage geographically-dispersed operations; our ability to continue to realize manufacturing efficiencies, which are an important factor in improving gross margins; underlying market conditions worldwide; and the other risks set forth under "Risk Factors" and elsewhere in this report. We assume no obligation to update any of the forward-looking statements after the date of this report or to conform these forward-looking statements to actual results.*

OVERVIEW

We are a broad-based molecular diagnostics company that develops, manufactures, and markets fully-integrated systems for testing in the Clinical Molecular Diagnostic, Industrial and Biothreat markets. Our systems enable rapid, sophisticated molecular testing for organisms and genetic-based diseases by automating otherwise complex manual laboratory procedures. Molecular testing involves a number of complicated and time-intensive steps, including sample preparation, DNA amplification and detection. Our easy-to-use systems integrate these steps and analyze complex biological samples in our proprietary test cartridges. We are currently the only company to have obtained Clinical Laboratory Improvement Amendments (CLIA) moderate complexity categorization for an amplified molecular test system and an associated specific infectious disease test on the market in the United States. Our efforts are currently focused on those applications where rapid molecular testing is particularly important, such as identifying infectious diseases and cancer in the Clinical Molecular Diagnostic market; food, agricultural and environmental testing in the Industrial market; and identifying bio-terrorism agents in the Biothreat market.

Our two principal systems are the SmartCycler and GeneXpert systems. The SmartCycler system integrates DNA amplification and detection to allow rapid analysis of a sample. The GeneXpert system integrates sample preparation in addition to DNA amplification and detection. The GeneXpert system is designed for a broad range of user types ranging from reference laboratories and hospital central laboratories to satellite testing locations, such as emergency departments and intensive care units within hospitals, and doctors' offices.

The GeneXpert system represents a paradigm shift in the automation of molecular analysis, producing accurate results in a timely manner with minimal risk of contamination. Our GeneXpert system can provide rapid results with superior test specificity and sensitivity over comparable systems on the market today that are integrated but have open architectures.

We currently have available a relatively broad menu of tests and reagents for use on our respective systems. Our reagents and tests are marketed along with our systems on a worldwide basis.

Sales Channels

Sales for products within our specific markets are conducted through both direct sales and distribution channels worldwide. Clinical Molecular Diagnostic market sales in the United States are handled primarily on a direct basis, while sales in all markets for Europe and our markets in the rest of the world are handled on both a direct and distributor basis. Our marketing programs are managed on a direct basis.

Revenues

Currently, we derive our revenues primarily from the sales of our two systems and associated reagents and disposables in the Clinical Molecular Diagnostic, Industrial, and Biothreat markets, and to a lesser extent from contract and government sponsored research.

Research and Development

The objective of our research and development programs is to develop high-value test applications for the GeneXpert and/or SmartCycler systems for the Clinical Molecular Diagnostic, Biothreat, and Industrial testing market. We focus our research efforts on four main areas: a) systems engineering efforts to extend the multiplexing capabilities of our systems and to develop new low and high throughput systems, b) chemistry research in our Bothell, Washington facility to develop innovative and proprietary methods to design and synthesize oligonucleotide primers, probes, and dyes to optimize the speed, performance and ease-of-use of our assays, c) assay development efforts to design, optimize, and produce specific tests that leverage the systems and chemistry we have developed, and d) target discovery research to identify novel micro RNA targets to be used in the development of future assays. Our development efforts focus primarily on the development of clinical diagnostic products that encompass many of the new technologies that are developed with our research programs. Research and development expenses were approximately $23.9 million for the year ended December 31, 2007 and $9.9 million for the three months ended March 31, 2008. We expect that our research and development expenses in 2008 will increase in line with our product development pipeline, our contract and collaborator revenues.

CRITICAL ACCOUNTING POLICIES, ESTIMATES AND ASSUMPTIONS

Except as discussed below, management believes that there have been no significant changes during the three months ended March 31, 2008 to the items that we disclosed as our critical accounting policies and estimates in Management's Discussion and Analysis of Financial Condition and Results of Operation in our 2007 Annual Report on Form 10-K filed with the Securities and Exchange Commission. For a description of those critical accounting policies, please refer to our 2007 Annual Report on Form 10-K.

Our investments at cost of $25.0 million at March 31, 2008 consisted of auction rate securities. Auction rate securities are securities that are structured with short-term interest rate reset dates of generally less than ninety days but with contractual maturities that can be well in excess of ten years. During the first quarter of 2008, certain auction rate securities failed auction due to sell orders exceeding buy orders. Our auction rate securities primarily consist of investments that are either backed by pools of student loans, which are guaranteed by the Federal Family Educational Loan Program ("FFELP"), or insured. We believe that the credit quality of these securities is high based on these guarantees. We determine the fair market values of our financial instruments based on the fair value hierarchy established in SFAS 157, which requires an entity to maximize the use of observable inputs (Level 1 and Level 2 inputs) and minimize the use of unobservable inputs (Level 3 inputs) when measuring fair value. Given the current failures in the auction markets to provide quoted market prices of the securities, as well as the lack of any correlation of these instruments to other observable market data, we valued these securities using a discounted cash flow methodology with the most significant input categorized as Level 3. Significant inputs that went into the model were the credit quality of the issuer, the percentage and the types of guarantees, the timing and probability of the auction succeeding or the security being called and discount factors. We also considered various factors in determining whether to recognize an other-than-temporary impairment charge in the condensed consolidated statement of operations, including the duration of time and the severity to which the fair value has been less than our amortized cost basis, any adverse changes in the investees' financial condition and our intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in market value. After careful consideration of the various factors involved in the valuation of our auction rate securities, in the first quarter of 2008 we recorded an unrealized loss of $2.1 million, which is included in accumulated other comprehensive loss in the condensed consolidated balance sheet at March 31, 2008. Changes in the assumptions of our model based on the dynamic market conditions could have a significant impact on the valuation of these securities, which may lead us in the future to take an impairment charge for these securities.

RESULTS OF OPERATIONS

Comparison of the Three Months Ended March 31, 2008 and 2007

Revenues

	Three Months Ended March 31,		
	2008	2007	% Change
	(Amounts in thousands)		
Revenues:			
System sales	$ 14,324	$ 6,837	110%
Reagent and disposable sales	27,596	15,230	81%
Total product sales	41,920	22,067	90%
Other revenue	2,913	3,477	(16)%
Total revenues	$ 44,833	$ 25,544	76%

We operate in three market areas: Clinical Molecular Diagnostic, Industrial and Biothreat. The following table illustrates product sales in the three market areas as a percentage of total product sales for three months ended March 31, 2008 and 2007:

	Three Months Ended March 31,	
	2008	2007
	(As a % of total product sales)	
Product sales by market:		
Clinical Molecular Diagnostic	61%	34%
Biothreat	30%	52%
Industrial	9%	14%
Total product sales	100%	100%

The increase in product sales of 90% to $41.9 million for the first quarter of 2008 from $22.1 million for the first quarter of 2007 was driven by increases of 191% in North America, excluding sales to the United States Postal Service, and 150% in Europe. The increase in system sales was primarily driven by a 407% increase in GeneXpert System sales for the Clinical Molecular Diagnostic market for healthcare associated infections. The increase in reagent and disposable sales was primarily due to sales of more than $8 million of our Xpert MRSA disposable tests, as compared to $45,000 for the first quarter of 2007. In addition, anthrax test cartridge sales in the Biothreat market increased 10% due to changes in the seasonality of purchases.

The following table provides a breakdown of our product sales by geographic regions:

	Three Months Ended March 31,	
	2008	2007
	(As a % of total product sales)	
Product Sales by Geographic Regions:		
North America	75%	81%
Europe	24%	18%
Japan and other	1%	1%
Total product sales	100%	100%

The change in product sales by geographic regions for the three months ended March 31, 2008 compared to the same periods in 2007 was primarily due to increases in both system and reagent and disposable sales in the Clinical Molecular Diagnostic market in Europe.

No single country outside of the United States represented more than 10% of our total revenues in any period presented.

Other revenue of $2.9 million in the first quarter of 2008 decreased 16% from the same quarter in 2007 due primarily to the termination of the Centers for Disease Control program in the third quarter of 2007, which had program revenues of $1.1 million in the first quarter of 2007.

Costs and Operating Expenses

	Three Months Ended March 31,		
	2008	2007	% Change
	(Amounts in thousands)		
Costs and operating expenses:			
Cost of product sales	$ 22,986	$ 13,877	66%
Collaboration profit sharing	3,733	3,497	7%
Research and development	9,898	6,922	43%
Sales and marketing	6,941	4,493	54%
General and administrative	4,747	3,935	21%
Total costs and operating expenses	$ 48,305	$ 32,724	48%

Cost of Product Sales

Cost of product sales consists of raw materials, direct labor and stock-based compensation expense, manufacturing overhead, facility costs and warranty costs. Cost of product sales also includes royalties on product sales and amortization of intangible assets related to technology licenses and intangibles acquired in the purchase of Sangtec. As a result of the increased product sales discussed above, cost of product sales increased 66% to $23.0 million for the first quarter of 2008 compared to $13.9 million for the first quarter of 2007. Our product gross margin percentage was 45% for the first quarter of 2008 compared to 37% for the first quarter of 2008. The increase in gross margin percentage is primarily due to a shift in product mix to higher margin products, such as clinical reagents, and increased manufacturing efficiencies resulting from automation of our manufacturing processes and increased volumes.

Collaboration Profit Sharing

Collaboration profit sharing represents the amount that we pay to Applied Biosystems Group under our collaboration agreement to develop reagents for use in the USPS BDS program. Under the agreement, computed gross margin on anthrax cartridge sales are shared equally between the two parties. The collaboration profit sharing expense was $3.7 million and $3.5 million for the first quarter of 2008 and 2007, respectively. The increase in collaboration profit sharing was the result of increased anthrax cartridge sales under the USPS BDS program, and this expense will remain proportional to the sales of anthrax cartridges under the USPS BDS program.

Research and Development Expenses

Research and development expenses consist of salaries and employee-related expenses, which include stock-based compensation, clinical trials, research and development materials, facility costs and depreciation. Research and development expenses increased 43% to $9.9 million for the first quarter of 2008 from $6.9 million for the first quarter of 2007. The increase in research and development expenses of $3.0 million is primarily due to a $1.5 million increase in salaries and employee-related expenses, inclusive of a $0.5 million increase of stock-based compensation, resulting from our operational expansion in Europe and the United States, a $0.5 million increase in clinical trial costs and a $0.5 million increase in supplies used in research activities. We expect that our quarterly research and development expenses will increase during the remainder of 2008 as we increase our assay development, continue clinical trials and incur additional costs associated with other development arrangements but decline as a percentage of total revenues as compared to fiscal 2007.

Sales and Marketing Expenses

Sales and marketing expenses consist primarily of salaries and employee-related expenses, which include commissions and stock-based compensation, travel, facility-related costs and marketing and promotion expenses. Sales and marketing expenses increased 54% to $6.9 million for the first quarter of 2008 from $4.5 million for the first quarter of 2007. The increase of $2.4 million included a $1.5 million increase in salaries and employee-related expenses, inclusive of a $0.5 million increase of stock-based compensation, and a $0.5 million increase in travel-related expenses. These increases reflect the increase in sales and marketing headcount and expanded efforts in the Clinical Molecular Diagnostic market, including Europe. We expect our sales and marketing expenses to increase during the remainder of 2008 as a result of the continuing expansion of our direct sales force in the United

States and the UK and as we expand our efforts in the Clinical Molecular Diagnostic market, with particular emphasis on pursuing the market opportunities for our Xpert MRSA test and other healthcare associated infections products, but remain relatively constant as a percentage of total revenues as compared to fiscal 2007.

General and Administrative Expenses

General and administrative expenses consist primarily of salaries and employee-related expenses, which include stock-based compensation, travel, facility, legal, accounting and other professional fees. General and administrative expenses increased 21% to $4.7 million for the first quarter of 2008 from $3.9 million for the first quarter of 2007. The increase of $0.8 million is primarily due to a $0.4 million increase in salaries and employee-related expenses, inclusive of a $0.2 million increase of stock-based compensation expense, that reflects an increase in headcount. In addition, legal, accounting, and other professional expenses increased $0.3 million in the first quarter of 2008 as compared to the same period of 2007. We expect our general and administrative expenses to increase modestly during the remainder of 2008 but decline as a percentage of total revenues as compared to fiscal 2007.

Other Income (Expense), Net

	Three Months Ended March 31,		
	2008	2007	% Change
	(Amounts in thousands)		
Other income (expense), net:			
Interest income	$ 540	$ 912	(41)%
Interest expense	(1)	(10)	(90)%
Other income (expense), net	743	125	494%
Total other income, net	$ 1,282	$ 1,027	25%

Other income (expense), net consists of interest income, interest expense and other income (expense). For the first quarter of 2008, interest income decreased to $0.5 million from $0.9 million for the first quarter of 2007 primarily due to the use of investment in marketable securities to acquire Sangtec in the first quarter of 2007, as well as lower interest rates, and to fund operations since the first quarter of 2007. The increase in other income (expense), net was primarily from foreign currency gains, reflecting the continuing weakening of the U.S. Dollar since the first quarter of last year.

LIQUIDITY AND CAPITAL RESOURCES

Cash and Cash Flow

As of March 31, 2008, we had $20.0 million in cash and cash equivalents. The total cash, cash equivalents and marketable securities provided for the three months ended March 31, 2008 was $1.0 million, which primarily consisted of $6.7 million provided by financing activities that was partially offset by $1.9 million used for operating activities and $4.4 million for capital expenditures, net of proceeds from fixed asset sales.

Net cash used in operating activities was $1.9 million and $8.8 million for the three months ended March 31, 2008 and 2007, respectively. For the three months ended March 31, 2008, net cash used in operating activities primarily consisted of a $1.9 million net loss, which was offset by $2.9 million of depreciation expense and amortization of intangible assets and $3.3 million of stock based compensation. In addition, the decrease of $6.2 million attributable to changes in operating assets and liabilities primarily consisted of increases in receivables of $5.3 million, inventory of $3.2 million and prepaid expenses of $1.3 million and decreases in accrued compensation of $2.7 million and deferred revenue of $0.3, which were partially offset by an increase in accounts payable and other current liabilities and income taxes payable of $6.8 million.

Net cash provided by investing activities was $1.4 million and $1.0 million for the three months ended March 31, 2008 and 2007, respectively. For the three months ended March 31, 2008, net cash provided by investing activities consisted of $4.8 million in capital expenditures, which was partially offset by $2.6 million marketable securities sold, $0.3 million proceeds from the sale of fixed assets and $0.5 million related to the transfer to unrestricted cash.

Net cash provided by financing activities was $6.7 million and $0.6 million for the three months ended March 31, 2008 and 2007, respectively. For the three months ended March 31, 2008, cash provided by financing activities primarily consisted of $6.7 million in net proceeds from the sale of common stock under our employee equity incentive plans.

At March 31, 2008, we had $22.9 million invested in auction rate securities, all of which have failed to settle at auction since February 2008. We continue to earn interest on the investments that failed to settle at auction at the maximum contractual rate. All of

our auction rate securities continue to carry at least an AAA rating by at least one of the rating agencies. Approximately $20.7 million of principal amount of auction rate securities owned by us are either backed by federal student loans, which are principally guaranteed by the Federal Family Educational Loan Program ("FFELP"), or insured. We currently anticipate that our existing cash resources, exclusive of our holdings in auction rate securities, are sufficient to meet our anticipated working capital needs and fund our business plan. We have the ability and intent to hold these investments until the market recovers. However, there is no assurance as to when the market for auction rate securities will stabilize.

Off-Balance-Sheet Arrangements

As of March 31, 2008, we did not have any off-balance-sheet arrangements, as defined in Item 303(a) (4) (ii) of Regulation S-K promulgated under the Securities Act of 1933.

Financial Condition Outlook

We plan to continue to make expenditures to expand our manufacturing capacity, to support our activities in sales and marketing and research and development, and to support our working capital needs. We anticipate that our existing capital resources will enable us to maintain currently planned operations. This expectation is based on our current and long-term operating plan and may change as a result of many factors, including our future capital requirements and our ability to increase revenues and reduce expenses, which, in many instances, depend on a number of factors outside our control. For example, our future cash use will depend on, among other things, market acceptance of our products, the resources we devote to developing and supporting our products, continued progress of our research and development of potential products, the need to acquire licenses to new technology or to use our technology in new markets, expansion through acquisitions and the availability of other financing.

In the future, we may seek additional funds to support our strategic business needs and may seek to raise such additional funds through private or public sales of securities, strategic relationships, bank debt, lease financing arrangements, or other available means. If additional funds are raised through the issuance of equity or equity-related securities, stockholders may experience additional dilution, or such equity securities may have rights, preferences, or privileges senior to those of the holders of our common stock. If adequate funds are not available or are not available on acceptable terms to meet our business needs, our business may be harmed.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The primary objective of our investment activities is to preserve principal while at the same time maximizing the income we receive from our investments without significantly increasing risk. In addition, we do not enter into financial investments for speculation or trading purposes and are not a party to financial or commodity derivatives. Our investments in interest-bearing assets are subject to interest rate risk. This means that a change in prevailing interest rates may cause the principal amount of the investment to fluctuate. For example, if we hold a security that was issued with a fixed interest rate at the then-prevailing rate and the prevailing interest rate later rises, the principal amount of our investment will probably decline.

Our investments at cost of $25.0 million at March 31, 2008 consisted of auction rate securities. Auction rate securities are securities that are structured with short-term interest rate reset dates of generally less than ninety days, but with contractual maturities that can be well in excess of ten years. During the first quarter of 2008, certain auction rate securities failed auction due to sell orders exceeding buy orders. Our auction rate securities primarily consist of investments that are either backed by pools of student loans, which are principally guaranteed by the Federal Family Educational Loan Program ("FFELP"), or insured. We believe that the credit quality of these securities is high based on these guarantees, and we continue to earn interest on the investments that failed to settle at auction at the maximum contractual rate. We determined the fair market values of our financial instruments based on the fair value hierarchy established in SFAS 157, which requires an entity to maximize the use of observable inputs (Level 1 and Level 2 inputs) and minimize the use of unobservable inputs (Level 3 inputs) when measuring fair value. Given the current failures in the auction markets to provide quoted market prices of the securities, as well as the lack of any correlation of these instruments to other observable market data, we valued these securities using a discounted cash flow methodology with the most significant input categorized as Level 3. Significant inputs that went into the model were the credit quality of the issuer, the percentage and the types of guarantees, the timing and probability of the auction succeeding or the security being called and discount factors. We also considered various factors in determining whether to recognize an other-than-temporary impairment charge in the condensed consolidated statement of operations, including the duration of time and the severity to which the fair value has been less than our amortized cost basis, any adverse changes in the investees' financial condition and our intent and ability to hold the investment for a period of time sufficient to allow for any anticipated recovery in market value. After careful consideration of the various factors involved in the valuation of our auction rate securities, in the first quarter of 2008 we recorded an unrealized loss of $2.1 million, which is included in accumulated other comprehensive loss in the condensed consolidated balance sheet at March 31, 2008. Changes in the assumptions of our model based on the dynamic market conditions could have a significant impact on the valuation of these securities, which may lead us in the future to take an impairment charge for these securities.

We operate primarily in the United States and a majority of our revenue, cost, expense and capital purchasing activities for the first quarter of 2008 and fiscal 2007 were transacted in U.S. Dollars. As a corporation with international as well as domestic operations, we are exposed to changes in foreign exchange rates. These exposures may change over time and could have a material adverse impact on our financial results. For the first quarter of 2008, we recorded gains in foreign currency of $0.7 million, and during the first quarter of 2008 and the fiscal year ended December 31, 2007, we did not utilize foreign currency forward contracts to manage the risk of exchange rate fluctuations. We will continue to monitor and evaluate our internal processes relating to foreign exchange, including the potential use of hedging strategies.

ITEM 4. CONTROLS AND PROCEDURES

EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES

Regulations under the Securities Exchange Act of 1934 require public companies, including our company, to maintain “disclosure controls and procedures”, which are defined to mean a company’s controls and other procedures that are designed to ensure that information required to be disclosed in the 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 the Securities and Exchange Commission’s rules and forms. Our Chief Executive Officer and our Chief Financial Officer, based on their evaluation of our disclosure controls and procedures as of the end of the period covered by of this report, concluded that our disclosure controls and procedures were effective for this purpose.

CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING

Regulations under the Securities Exchange Act of 1934 require public companies, including our company, to evaluate any change in our “internal control over financial reporting”, which is defined as a process to provide reasonable assurance regarding the reliability of financial reporting and preparation of financial statements for external purposes in accordance with accounting principles generally accepted in the United States. In connection with their evaluation of our disclosure controls and procedures as of the end of the period covered by this report, our Chief Executive Officer and Chief Financial Officer did not identify any change in our internal control over financial reporting during the three months ended March 31, 2008, that materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

We are not currently a party to any material legal proceedings.

ITEM 1A. RISK FACTORS

You should carefully consider the risks and uncertainties described below, together with all of the other information included in this Report, in considering our business and prospects. The risks and uncertainties described below are not the only ones facing Cepheid. Additional risks and uncertainties not presently known to us or that we currently deem immaterial also may impair our business operations. The occurrence of any of the following risks could harm our business, financial condition or results of operations.

We may not achieve profitability.

We have incurred operating losses in each period since our inception. We experienced net losses of approximately $26.0 million in 2006, $21.4 million in 2007 and $1.9 million for the first three months of 2008. As of March 31, 2008, we had an accumulated deficit of approximately $156.8 million. Our ability to become profitable will depend on our ability to continue to increase our revenues, which is subject to a number of factors including our ability to continue to successfully penetrate the Clinical Molecular Diagnostic market, our ability to successfully market the GeneXpert system and develop effective GeneXpert tests, continued growth in sales of our Xpert MRSA tests, the extent of our participation in the USPS BDS program and the operating parameters of the USPS BDS program, which will affect the rate of our consumable products sold, the success of our other collaborative programs, our ability to compete effectively against current and future competitors, global economic and political conditions and the impact of Statement of Financial Accounting Standards No. 123 (revised 2004), “Share-Based Payment”. Our ability to become profitable also depends on our expense levels and product gross margin, which are also influenced by a number of factors, including the resources we devote to developing and supporting our products, the continued progress of our research and development of potential products, the ability to gain FDA clearance for our products, our ability to improve manufacturing efficiencies, license fees or royalties we may be required to pay, our ability to integrate acquired businesses and technologies, acquisition-related costs and expenses and the potential need to acquire licenses to new technology or to use our technology in new markets, which could require us to pay unanticipated license fees and royalties in connection with these licenses. Our expansion efforts may prove more expensive than we currently anticipate, and we may not succeed in increasing our revenues to offset higher expenses. These expenses, among other things, may cause our net income and working capital to decrease. If we fail to grow our revenue and manage our expenses and improve our product gross margin, we may never achieve profitability. If we fail to do so, the market price of our common stock will likely decline.

If we cannot successfully commercialize our products, our business could be harmed.

If our tests for use on the SmartCycler and GeneXpert systems do not gain continued market acceptance, we will be unable to generate significant sales, which will prevent us from achieving profitability. While we have received FDA clearance for our Xpert GBS, Xpert EV and Xpert MRSA tests, these products may not continue to achieve commercial success. Many factors may affect the market acceptance and commercial success of our products, including:

- timely development of a menu of tests and reagents;
- the results of clinical trials needed to support any regulatory approvals of our tests;
- our ability to obtain requisite FDA or other regulatory clearances or approvals for our tests under development on a timely basis;
- demand for the tests and reagents we are able to introduce;
- the timing of market entry for various tests for the GeneXpert and the SmartCycler systems;
- our ability to convince our potential customers of the advantages and economic value of our systems and tests over competing technologies and products;
- the breadth of our test menu relative to competitors;
- changes to policies, procedures or what are considered best practices for detecting and preventing healthcare associated infections;

- the extent and success of our marketing and sales efforts; and
- publicity concerning our systems and tests.

In particular, we believe that the success of our business will depend in large part on our ability to continue to increase sales of our Xpert MRSA tests and our ability to introduce additional tests for the Clinical Molecular Diagnostic market. We believe that successfully building our business in the Clinical Molecular Diagnostic market is critical to our long-term goals and success. We have limited ability to forecast future demand for our products in this market. In addition, we have committed substantial funds to licenses that are required for us to enter the Clinical Molecular Diagnostic market. If we cannot successfully penetrate the Clinical Molecular Diagnostic market to exploit these licenses, these investments may not yield significant returns, which could harm our business.

The regulatory approval process is expensive, time-consuming, and uncertain and may prevent us from obtaining required approvals for the commercialization of some of our products.

In the Clinical Molecular Diagnostic market, our products are regulated as medical device products by the FDA and comparable agencies of other countries. In particular, FDA regulations govern activities such as product development, product testing, product labeling, product storage, premarket clearance or approval, manufacturing, advertising, promotion, product sales, reporting of certain product failures and distribution. Some of our products, depending on their intended use, will require premarket approval ("PMA") or 510(k) clearance from the FDA prior to marketing. The 510(k) clearance process usually takes from three to four months from submission but can take longer. The PMA process is much more costly, lengthy, and uncertain and generally takes from six months to one year or longer from submission. Clinical trials are generally required to support both PMA and 510(k) submissions. Certain of our products for use on our SmartCycler and GeneXpert systems, when used for clinical purposes, may require PMA, and all such tests will most likely, at a minimum, require 510(k) clearance. We are planning clinical trials for other proposed products. Clinical trials are expensive and time-consuming. In addition, the commencement or completion of any clinical trials may be delayed or halted for any number of reasons, including product performance, changes in intended use, changes in medical practice and issues with evaluator Institutional Review Boards.

Failure to comply with the applicable requirements can result in, among other things, warning letters, administrative or judicially imposed sanctions such as injunctions, civil penalties, recall or seizure of products, total or partial suspension of production, refusal to grant premarket clearance or PMA for devices, withdrawal of marketing clearances or approvals, or criminal prosecution. With regard to future products for which we seek 510(k) clearance or PMA from the FDA, any failure or material delay to obtain such clearance or approval could harm our business. If the FDA were to disagree with our regulatory assessment and conclude that approval or clearance is necessary to market the products, we could be forced to cease marketing the products and seek approval or clearance. With regard to those future products for which we will seek 510(k) clearance or PMA from the FDA, any failure or material delay to obtain such clearance or approval could harm our business. In addition, it is possible that the current regulatory framework could change or additional regulations could arise at any stage during our product development or marketing, which may adversely affect our ability to obtain or maintain approval of our products and could harm our business.

Our manufacturing facilities located in Sunnyvale, California, Bothell, Washington and Bromma, Sweden, where we assemble and produce the SmartCycler and GeneXpert systems, cartridges and other molecular diagnostic kits and reagents, are subject to periodic regulatory inspections by the FDA and other federal and state regulatory agencies. For example, these facilities are subject to Quality System Regulations ("QSR") of the FDA and are subject to annual inspection and licensing by the State of California and European regulatory agencies. If we fail to maintain these facilities in accordance with the QSR requirements, international quality standards or other regulatory requirements, our manufacturing process could be suspended or terminated, which would prevent us from being able to provide products to our customers in a timely fashion and therefore harm our business.

The U.S. Food and Drug Administration has issued a final interpretation of the regulations governing the sale of Analyte Specific Reagent products which could prevent or delay our sales of these products and harm our business.

In September 2006, the FDA published "Draft Guidance for Industry and FDA Staff: Commercially Distributed Analyte Specific Reagents ("ASRs"): Frequently Asked Questions" clarifying the FDA's interpretation of the regulations governing the sale of ASR products. On September 14, 2007, the FDA published its final guidance that becomes effectively enforced on September 15, 2008. ASRs are a class of products that do not require regulatory clearance or approval but do require compliance with the FDA's Good Manufacturing Practice Regulations. The final guidance contains changes in interpretation of the ASR regulations with regard to which products may be characterized as ASRs that represent a departure from what we believe had been the previous FDA practice and policy, in particular, the final guidance excludes reagent mixtures used to detect multiple targets from the definition of ASRs. The changes in the final ASR guidance may require modifications of some of our ASR products for us to continue selling them, or

may require us to seek FDA clearance in order to sell them. In addition, the final guidance may curtail our interest in developing any new products that would qualify as ASRs.

We rely on licenses of key technology from third parties and may require additional licenses for many of our new product candidates.

We rely on third-party licenses to be able to sell many of our products, and we could lose these third-party licenses for a number of reasons, including, for example, early terminations of such agreements due to breaches or alleged breaches by either party to the agreement. If we are unable to enter into a new agreement for licensed technologies, either on terms that are acceptable to us or at all, we may be unable to sell some of our products or access some geographic or industry markets. We also need to introduce new products and product features in order to market our products to a broader customer base and grow our revenues, and many new products and product features could require us to obtain additional licenses and pay additional license fees and royalties. Furthermore, for some markets, we intend to manufacture reagents and tests for use on our systems. We believe that manufacturing reagents and developing tests for our systems is important to our business and growth prospects but may require additional licenses, which may not be available on commercially reasonable terms or at all. Our ability to develop, manufacture and sell products, and our strategic plans and growth, could be impaired if we are unable to obtain these licenses or if these licenses are terminated or expire and cannot be renewed. We may not be able to obtain or renew licenses for a given product or product feature or for some reagents on commercially reasonable terms, if at all. Furthermore, some of our competitors have rights to technologies and reagents that we do not have which may put us at a competitive disadvantage in certain circumstances and could adversely affect our performance.

We enter into collaborations with third parties that may not result in the development of commercially viable products or the generation of significant future revenues.

In the ordinary course of our business, we enter into collaborative arrangements to develop new products or to pursue new markets. These collaborations may not result in the development of products that achieve commercial success, and these collaborations could be terminated prior to developing any products. Accordingly, we cannot assure you that any of our collaborations will result in the successful development of a commercially viable product or result in significant additional future revenues in the future.

Our participation in the USPS BDS program may not result in predictable revenues in the future.

Our participation in the USPS BDS program involves significant uncertainties related to governmental decision-making and timing of deployment and is highly sensitive to changes in national and international priorities and budgets. Budgetary pressures may result in reduced allocations to government agencies such as the USPS, sometimes without advanced notice. We cannot be certain that actual funding and operating parameters, or product purchases, will occur at currently expected levels or in the currently expected timeframe.

We may face risks associated with acquisitions of companies, products and technologies, and our business could be harmed if we are unable to address these risks.

If we are presented with appropriate opportunities, we intend to acquire or make other investments in complementary companies, products or technologies. We may not realize the anticipated benefit of any acquisition or investment. We will likely face risks, uncertainties and disruptions associated with the integration process, including difficulties in the integration of the operations and services of an acquired company, integration of acquired technology with our products, diversion of our management's attention from other business concerns, the potential loss of key employees or customers of the acquired businesses and impairment charges if future acquisitions are not as successful as we originally anticipate. If we fail to successfully integrate other companies, products or technologies that we acquire, our business could be harmed. Furthermore, we may have to incur debt or issue equity securities to pay for any additional future acquisitions or investments, the issuance of which could be dilutive to our existing shareholders. In addition, our operating results may suffer because of acquisition-related costs or amortization expenses or charges relating to acquired intangible assets.

We expect that our operating results will fluctuate significantly, and any failure to meet financial expectations may result in a decline in our stock price.

We expect that our quarterly operating results will fluctuate in the future as a result of many factors, such as those described elsewhere in this section, many of which are beyond our control. Because our revenue and operating results are difficult to predict, we believe that period-to-period comparisons of our results of operations are not a good indicator of our future performance. Our operating results may be affected by the inability of some of our customers to consummate anticipated purchases of our products, whether due to changes in internal priorities or, in the case of governmental customers, problems with the appropriations process and

variability and timing of orders, changes in procedures or protocols with respect to testing or manufacturing inefficiencies. If revenue declines in a quarter, whether due to a delay in recognizing expected revenue, unexpected costs or otherwise, our results of operations will be harmed because many of our expenses are relatively fixed. In particular, research and development, sales and marketing and general and administrative expenses are not significantly affected by variations in revenue. If our quarterly operating results fail to meet or exceed the expectations of securities analysts or investors, our stock price could drop suddenly and significantly.

If we are unable to manufacture our products in sufficient quantities and in a timely manner, our operating results will be harmed and our ability to generate revenue could be diminished.

Our revenues and other operating results will depend in large part on our ability to manufacture and assemble our products in sufficient quantities and in a timely manner. Any interruptions we experience in the manufacturing or shipping of our products could delay our ability to recognize revenues in a particular quarter. Manufacturing problems can and do arise, and as demand for our products increases, any such problems could have an increasingly significant impact on our operating results. In the past, we have experienced problems and delays in production that have impacted our product yield and caused delays in our ability to ship finished products, and we may experience such delays in the future. We may not be able to react quickly enough to ship products and recognize anticipated revenues for a given period if we experience significant delays in the manufacturing process. In addition, we must maintain sufficient production capacity in order to minimize such delays, which carries fixed costs that we may not be able to offset if orders slow, which would adversely affect our operating margins. If we are unable to manufacture our products consistently and on a timely basis, our revenues from product sales, gross margins and our other operating results will be materially and adversely affected.

If certain single source suppliers fail to deliver key product components in a timely manner, our manufacturing ability would be impaired and our product sales could suffer.

We depend on certain single source suppliers that supply some of the components used in the manufacture of our systems and our disposable reaction tubes and cartridges. If we need alternative sources for key component parts for any reason, these component parts may not be immediately available to us. If alternative suppliers are not immediately available, we will have to identify and qualify alternative suppliers, and production of these components may be delayed. We may not be able to find an adequate alternative supplier in a reasonable time period or on commercially acceptable terms, if at all. Shipments of affected products have been limited or delayed as a result of such problems in the past, and similar problems could occur in the future. Our inability to obtain our key source supplies for the manufacture of our products may require us to delay shipments of products, harm customer relationships or force us to curtail or cease operations.

If certain of our products fail to obtain an adequate level of reimbursement from third-party payers, our ability to sell products in the Clinical Molecular Diagnostic market would be harmed.

Our ability to sell our products in the Clinical Molecular Diagnostic market will depend in part on the extent to which reimbursement for tests using our products will be available from:

- government health administration authorities;
- private health coverage insurers;
- managed care organizations; and
- other organizations.

There are efforts by governmental and third-party payers to contain or reduce the costs of health care through various means. Additionally, third-party payers are increasingly challenging the price of medical products and services. If purchasers or users of our products are not able to obtain adequate reimbursement for the cost of using our products, they may forego or reduce their use. Significant uncertainty exists as to the reimbursement status of newly approved health care products and whether adequate third-party coverage will be available.

If our competitors and potential competitors develop superior products and technologies, our competitive position and results of operations would suffer.

We face intense competition from a number of companies that offer products in our target markets. These competitors include:

- healthcare companies that manufacture laboratory-based tests and analyzers;

- companies developing and marketing sequence detection systems for industrial research products;
- diagnostic and pharmaceutical companies;
- companies developing drug discovery technologies; and
- companies developing or offering biothreat detection technologies.

Several companies provide systems and reagents for DNA amplification or detection. ABI and Roche sell systems integrating DNA amplification and detection (sequence detection systems) to the commercial market. Roche, Abbott Laboratories, Becton, Dickinson and Company, Qiagen, Celera and GenProbe sell sequence detection systems, some with separate robotic batch DNA purification systems and sell reagents to the Clinical Molecular Diagnostic market. Other companies, including Siemens, Third Wave Technologies and bioMerieux, offer molecular tests.

If our products do not perform as expected or the reliability of the technology on which our products are based is questioned, we could experience lost revenue, delayed or reduced market acceptance of our products, increased costs and damage to our reputation.

Our success depends on the market's confidence that we can provide reliable, high-quality molecular test systems. We believe that customers in our target markets are likely to be particularly sensitive to product defects and errors. Our reputation and the public image of our products or technologies may be impaired if our products fail to perform as expected or our products are perceived as difficult to use. Despite testing, defects or errors could occur in our products or technologies. Furthermore, with respect to the BDS program, our products are incorporated into larger systems that are built and delivered by others; we cannot control many aspects of the final system.

In the future, if our products experience a material defect or error, this could result in loss or delay of revenues, delayed market acceptance, damaged reputation, diversion of development resources, legal claims, increased insurance costs or increased service and warranty costs, any of which could harm our business. Any failure in the overall BDS, even if it is unrelated to our products, could harm our business. Even after any underlying concerns or problems are resolved, any widespread concerns regarding our technology or any manufacturing defects or performance errors in our products could result in lost revenue, delayed market acceptance, damaged reputation, increased service and warranty costs, and claims against us.

If product liability lawsuits are successfully brought against us, we may face reduced demand for our product and incur significant liabilities.

We face an inherent risk of exposure to product liability claims if our technologies or systems are alleged to have caused harm or do not perform in accordance with specifications, in part because our products are used for sensitive applications. We cannot be certain that we would be able to successfully defend any product liability lawsuit brought against us. Regardless of merit or eventual outcome, product liability claims may result in:

- decreased demand for our products;
- injury to our reputation;
- costs of related litigation; and
- substantial monetary awards to plaintiffs.

If we become the subject of a successful product liability lawsuit, we could incur substantial liabilities, which could harm our business.

We rely on relationships with collaborative partners and other third parties for development, supply and marketing of certain products and potential products, and such collaborative partners or other third parties could fail to perform sufficiently.

We believe that our success in penetrating our target markets depends in part on our ability to develop and maintain collaborative relationships with other companies. Relying on collaborative relationships is risky to our future success for these products because, among other things:

- our collaborative partners may not devote sufficient resources to the success of our collaboration;
- our collaborative partners may not obtain regulatory approvals necessary to continue the collaborations in a timely manner;

- our collaborative partners may be acquired by another company and decide to terminate our collaborative partnership or become insolvent;
- our collaborative partners may develop technologies or components competitive with our products;
- components developed by collaborators could fail to meet specifications, possibly causing us to lose potential projects and subjecting us to liability;
- disagreements with collaborators could result in the termination of the relationship or litigation;
- collaborators may not have sufficient capital resources;
- collaborators may pursue tests or other products that will not generate significant volume for us, but may consume significant research and development and manufacturing resources; and
- we may not be able to negotiate future collaborative arrangements, or renewals of existing collaborative agreements, on acceptable terms.

Because these and other factors may be beyond our control, the development or commercialization of these products may be delayed or otherwise adversely affected.

If we or any of our collaborative partners terminate a collaborative arrangement, we may be required to devote additional resources to product development and commercialization or we may need to cancel some development programs, which could adversely affect our product pipeline and business.

If our direct selling efforts for our products fail, our business expansion plans could suffer, and our ability to generate revenue will be diminished.

We have a relatively small sales force compared to our competitors. If our direct sales force is not successful, or new additions to our sales team fail to gain traction among our customers, we may not be able to increase market awareness and sales of our products. If we fail to establish our systems in the marketplace, it could have a negative effect on our ability to sell subsequent systems and hinder the planned expansion of our business.

If our distributor relationships are not successful, our ability to market and sell our products would be harmed and our financial performance will be adversely affected.

We depend on relationships with distributors for the marketing and sales of our products in the Industrial and Clinical Molecular Diagnostic markets in various geographic regions, and we have a limited ability to influence their efforts. We expect to continue to rely substantially on our distributor relationships for sales into other markets or geographic regions, which is key to our long-term growth potential. Relying on distributors for our sales and marketing could harm our business for various reasons, including:

- agreements with distributors may terminate prematurely due to disagreements or may result in litigation between the partners;
- we may not be able to renew existing distributor agreements on acceptable terms;
- our distributors may not devote sufficient resources to the sale of products;
- our distributors may be unsuccessful in marketing our products;
- our existing relationships with distributors may preclude us from entering into additional future arrangements with other distributors; and
- we may not be able to negotiate future distributor agreements on acceptable terms.

We may be subject to third-party claims that require additional licenses for our products and we could face costly litigation, which could cause us to pay substantial damages and limit our ability to sell some or all of our products.

Our industry is characterized by a large number of patents, claims of which appear to overlap in many cases. As a result, there is a significant amount of uncertainty regarding the extent of patent protection and infringement. Companies may have pending patent applications, which are typically confidential for the first eighteen months following filing, that cover technologies we incorporate in our products. Accordingly, we may be subjected to substantial damages for past infringement or be required to modify our products or stop selling them if it is ultimately determined that our products infringe a third party's proprietary rights. Moreover, from time to

time, we receive correspondence and other communications from companies that ask us to evaluate the need for a license of patents they hold, and indicating or suggesting that we need a license to their patents in order to offer our products and services or to conduct our business operations. Even if we are successful in defending against claims, we could incur substantial costs in doing so. Any litigation related to claims of patent infringement could consume our resources and lead to significant damages, royalty payments or an injunction on the sale of certain products. Any additional licenses to patented technology could obligate us to pay substantial additional royalties, which could adversely impact our product costs and harm our business.

If we fail to maintain and protect our intellectual property rights, our competitors could use our technology to develop competing products and our business will suffer.

Our competitive success will be affected in part by our continued ability to obtain and maintain patent protection for our inventions, technologies and discoveries, including our intellectual property that includes technologies that we license. Our ability to do so will depend on, among other things, complex legal and factual questions. We have patents related to some of our technology and have licensed some of our technology under patents of others. We cannot assure you that our patents and licenses will successfully preclude others from using our technology. Our pending patent applications may lack priority over applications submitted by third parties or may not result in the issuance of patents. Even if issued, our patents may not be sufficiently broad to provide protection against competitors with similar technologies and may be challenged, invalidated or circumvented.

In addition to patents, we rely on a combination of trade secrets, copyright and trademark laws, nondisclosure agreements, licenses and other contractual provisions and technical measures to maintain and develop our competitive position with respect to intellectual property. Nevertheless, these measures may not be adequate to safeguard the technology underlying our products. For example, employees, consultants and others who participate in the development of our products may breach their agreements with us regarding our intellectual property, and we may not have adequate remedies for the breach. We also may not be able to effectively protect our intellectual property rights in some foreign countries, as many countries do not offer the same level of legal protection for intellectual property as the United States. Furthermore, for a variety of reasons, we may decide not to file for patent, copyright or trademark protection outside of the United States. Our trade secrets could become known through other unforeseen means. Notwithstanding our efforts to protect our intellectual property, our competitors may independently develop similar or alternative technologies or products that are equal or superior to our technology. Our competitors may also develop similar products without infringing on any of our intellectual property rights or design around our proprietary technologies. Furthermore, any efforts to enforce our proprietary rights could result in disputes and legal proceedings that could be costly and divert attention from our business.

The United States Government has certain rights to use and disclose some of the intellectual property that we license and could exclusively license it to a third party if we fail to achieve practical application of the intellectual property.

Aspects of the technology licensed by us under agreements with third party licensors may be subject to certain government rights. Government rights in inventions conceived or reduced to practice under a government-funded program may include a non-exclusive, royalty-free worldwide license to practice or have practiced such inventions for any governmental purpose. In addition, the U.S. government has the right to require us or our licensors (as applicable) to giant licenses which shall be exclusive under any of such inventions to a third party if they determine that: (1) adequate steps have not been taken to commercialize such inventions in a particular field of use; (2) such action is necessary to meet public health or safety needs; or (3) such action is necessary to meet requirements for public use under federal regulations. Further, the government rights include the right to use and disclose, without limitation, technical data relating to licensed technology that was developed in whole or in part at government expense. At least one of our technology license agreements contains a provision recognizing these government rights.

We may need to initiate lawsuits to protect or enforce our patents, which would be expensive and, if we lose, may cause us to lose some, if not all, of our intellectual property rights, and thereby impair our ability to compete.

We rely on patents to protect a large part of our intellectual property. To protect or enforce our patent rights, we may initiate patent litigation against third parties, such as infringement suits or interference proceedings. These lawsuits could be expensive, take significant time and divert management's attention from other business concerns. They would also put our patents at risk of being invalidated or interpreted narrowly, and our patent applications at risk of not issuing. We may also provoke these third parties to assert claims against us. Patent law relating to the scope of claims in the technology fields in which we operate is still evolving and, consequently, patent positions in our industry are generally uncertain. We cannot assure you that we would prevail in any of these suits or that the damages or other remedies awarded, if any, would be commercially valuable. During the course of these suits, there may be public announcements of the results of hearings, motions and other interim proceedings or developments in the litigation. Any public announcements related to these suits could cause our stock price to decline.

Our sales cycle can be lengthy, which can cause variability and unpredictability in our operating results.

The sales cycles for our systems products can be lengthy, which makes it more difficult for us to accurately forecast revenues in a given period, and may cause revenues and operating results to vary significantly from period to period. For example, sales of our products within the Industrial market and those involving our corporate accounts within the Clinical Diagnostic market often involve purchasing decisions by large public and private institutions, and any purchases can require many levels of pre-approval. In addition, many of these sales depend on these institutions receiving research grants from various federal agencies, which grants vary considerably from year to year in both amount and timing due to the political process. As a result, we may expend considerable resources on unsuccessful sales efforts or we may not be able to complete transactions on the schedule anticipated.

Our international operations subject us to additional risks and costs.

Our international operations have expanded recently. These operations are subject to a number of difficulties and special costs, including:

- compliance with multiple, conflicting and changing governmental laws and regulations;
- laws and business practices favoring local competitors;
- potential for exchange and currency risks;
- potential difficulty in collecting accounts receivable;
- import and export restrictions and tariffs;
- difficulties staffing and managing foreign operations;
- difficulties and expense in enforcing intellectual property rights;
- business risks, including fluctuations in demand for our products and the cost and effort to conduct international operations and travel abroad to promote international distribution, and global economic conditions;
- multiple conflicting tax laws and regulations; and
- political and economic instability.

We intend to expand our international sales and marketing activities, including through our subsidiary in France, and enter into relationships with additional international distribution partners. We may not be able to attract international distribution partners that will be able to market our products effectively.

Our international operations could also increase our exposure to international laws and regulations. If we cannot comply with foreign laws and regulations, which are often complex and subject to variation and unexpected changes, we could incur unexpected costs and potential litigation. For example, the governments of foreign countries might attempt to regulate our products and services or levy sales or other taxes relating to our activities. In addition, foreign countries may impose tariffs, duties, price controls or other restrictions on foreign currencies or trade barriers, any of which could make it more difficult for us to conduct our business.

The nature of some of our products may also subject us to export control regulation by the US Department of State and the Department of Commerce. Violations of these regulations can result in monetary penalties and denial of export privileges.

Our sales to customers outside the United States are subject to government export regulations that require us to obtain licenses to export such products internationally. In particular, we are required to obtain a new license for each purchase order of our biothreat products that are exported outside the United States. Delays or denial of the grant of any required license, or changes to the regulations that make such delays or denials more likely or frequent, could make it difficult to make sales to foreign customers and could adversely affect our revenue. In addition, we could be subject to fines and penalties for violation of these export regulations if we were found in violation. Such violation could result in penalties, including prohibiting us from exporting our products to one or more countries, and could materially and adversely affect our business.

If we fail to retain key members of our staff, our ability to conduct and expand our business would be impaired.

We are highly dependent on the principal members of our management and scientific staff. The loss of services of any of these persons could seriously harm our product development and commercialization efforts. In addition, we require skilled personnel in areas such as microbiology, clinical and sales, marketing and finance. Attracting, retaining and training personnel with the requisite

skills remains challenging, and, as general economic conditions improve, is becoming increasingly competitive, particularly in the Silicon Valley area of California where our main office is located. If at any point we are unable to hire, train and retain a sufficient number of qualified employees to match our growth, our ability to conduct and expand our business could be seriously reduced.

If we become subject to claims relating to improper handling, storage or disposal of hazardous materials, we could incur significant cost and time to comply.

Our research and development processes involve the controlled storage, use and disposal of hazardous materials, including biological hazardous materials. We are subject to foreign, federal, state and local regulations governing the use, manufacture, storage, handling and disposal of materials and waste products. We may incur significant costs complying with both existing and future environmental laws and regulations. In particular, we are subject to regulation by the Occupational Safety and Health Administration ("OSHA") and the Environmental Protection Agency ("EPA"), and to regulation under the Toxic Substances Control Act and the Resource Conservation and Recovery Act in the United States. OSHA or the EPA may adopt regulations that may affect our research and development programs. We are unable to predict whether any agency will adopt any regulations that would have a material adverse effect on our operations.

The risk of accidental contamination or injury from hazardous materials cannot be eliminated completely. In the event of an accident, we could be held liable for any damages that result, and any liability could exceed the limits or fall outside the coverage of our workers' compensation insurance. We may not be able to maintain insurance on acceptable terms, if at all.

If a catastrophe strikes our manufacturing facilities, we may be unable to manufacture our products for a substantial amount of time and we would experience lost revenue.

Our manufacturing facilities are located in Sunnyvale, California, Bromma, Sweden, and Bothell, Washington. Although we have business interruption insurance, our facilities and some pieces of manufacturing equipment are difficult to replace and could require substantial replacement lead-time. Various types of disasters, including earthquakes, fires, floods and acts of terrorism, may affect our manufacturing facilities. Earthquakes are of particular significance since our primary manufacturing facilities in California are located in an earthquake-prone area. In the event our existing manufacturing facilities or equipment is affected by man-made or natural disasters, we may be unable to manufacture products for sale or meet customer demands or sales projections. If our manufacturing operations were curtailed or ceased, it would seriously harm our business.

Funds associated with certain of our auction rate securities may not be accessible for in excess of 12 months, and our auction rate securities may experience an other than temporary decline in value, which would adversely affect our income.

Our investments of $25.0 million at March 31, 2008 consisted of auction rate securities. Auction rate securities are securities that are structured with short-term interest rate reset dates of generally less than ninety days, but with contractual maturities that can be well in excess of ten years. During the first quarter of 2008, certain auction rate securities failed to settle at auction. Our auction rate securities primarily consist of investments that are either backed by pools of student loans, which are principally guaranteed by the Federal Family Educational Loan Program ("FFELP"), or insured. We believe that the credit quality of these securities is high based on these guarantees. Based on an analysis of other-than-temporary impairment factors, we recorded a temporary impairment within other accumulated comprehensive loss of approximately $2.1 million at March 31, 2008 related to these auction rate securities. The funds associated with failed auctions will not be accessible until a successful auction occurs, a buyer is found outside of the auction process, and the underlying securities mature, are refinanced or are recalled by the issuer. Given the recent disruptions in the credit markets and the fact that the liquidity for these types of securities remains uncertain, we have classified all of our auction rate securities as long-term assets in our condensed consolidated balance sheet as our ability to liquidate such securities in the next 12 months is uncertain. While we presently do not intend to liquidate these investments, in the event that we did liquidate these investments prior to their scheduled maturities and there were no changes in market interest rates, we could be required to recognize a realized loss on those investments when we liquidate. Furthermore, if this situation were to persist despite our ability to hold such investments until maturity, we may be required to record an impairment charge at a future date, which would adversely affect our reported results of operations in such period. Additionally, if we were to require additional cash to fund our operations or to for other corporate purposes, we may not have access to the funds invested in these auction rate securities.

We might require additional capital to support business growth, and such capital might not be available.

We may need to engage in additional equity or debt financing to support business growth and respond to business challenges, which include the need to develop new products or enhance existing products, conduct clinical trials, enhance our operating infrastructure and acquire complementary businesses and technologies. Equity and debt financing, however, might not be available when needed or, if available, might not be available on terms satisfactory to us. In addition, to the extent that additional capital is raised through the sale of equity or convertible debt securities, the issuance of these securities could result in dilution to our shareholders. In addition, these securities may be sold at a discount from the market price of our common stock and may include

rights, preferences or privileges senior to those of our common stock. If we are unable to obtain adequate financing or financing on terms satisfactory to us, our ability to continue to support our business growth and to respond to business challenges could be significantly limited.

Compliance with regulations governing public company corporate governance and reporting is complex and expensive.

Many laws and regulations, notably those adopted in connection with the Sarbanes-Oxley Act of 2002 by the SEC and the NASDAQ Global Market, impose obligations on public companies, such as ours, which have increased the scope, complexity, and cost of corporate governance, reporting, and disclosure practices. Our implementation of these reforms and enhanced new disclosures has required and will continue to require substantial management time and oversight and requires us to incur significant additional accounting and legal costs.

Our business could be harmed by adverse economic conditions in our target markets or reduced spending in our industry.

Our business depends on the overall demand in our industry. Some of the markets we serve are emerging, and the purchase of our products can be discretionary. Weak economic conditions in our target markets, or a reduction in spending in our industry even if economic conditions improve, would likely adversely impact our business, operating results and financial condition in a number of ways, including lower prices for our products and reduced unit sales.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

On July 31, 2007 and January 31, 2008, we sold an aggregate of 174,922 shares of our common stock to certain of our employees pursuant to our 2000 Employee Stock Purchase Plan. We believe this issuance was exempt from registration under the Securities Act of 1933 (the "Securities Act") in reliance on Section 4(2) of the Securities Act as a transaction by an issuer not involving any public offering. The sale of these securities was made without general solicitation or advertising and resulted in proceeds to us of approximately $1.3 million. We filed a Form S-8 with the Securities and Exchange Commission in connection with the sale of certain of these securities on March 28, 2008.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

Not Applicable

ITEM 4. SUBMISSION OF MATTERS TO VOTE OF SECURITY HOLDERS

Not Applicable

ITEM 5. OTHER INFORMATION

Not Applicable

ITEM 6. EXHIBITS

(a) Exhibits

Exhibit Number	Exhibit Description	Incorporated by Reference			Filing Date	Filed Herewith
		Form	File No.	Exhibit		
10.1	Office Lease dated February 28, 2008, between BRCP Caribbean Portfolio, LLC, and Cepheid.					X
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*					X

32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*	X

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* This certification accompanying this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized, in the City of Sunnyvale, State of California on this 7th day of May 2008.

CEPHEID
(Registrant)

/S/ JOHN L. BISHOP
John L. Bishop
Chief Executive Officer and Director
(Principal Executive Officer)

/S/ ANDREW D. MILLER
Andrew D. Miller
Senior Vice President, Chief Financial Officer
(Principal Financial and Accounting Officer)

Exhibit Index

Exhibit Number	Exhibit Description
10.1	Office Lease dated February 28, 2008, between BRCP Caribbean Portfolio, LLC, and Cepheid.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.*

* This certification accompanying this report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.

EXHIBIT 10.1

OFFICE LEASE

BY AND BETWEEN

BRCP CARIBBEAN PORTFOLIO, LLC,
a Delaware limited liability company,

as Landlord,

and

CEPHEID,
a California corporation,

as Tenant

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LEASE

1. Basic Provisions ("**Basic Provisions**").

1.1 Parties. THIS OFFICE LEASE ("**Lease**"), dated February 28, 2008, is made by and between **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company** ("**Landlord**"), and **CEPHEID, a California corporation** ("**Tenant**").

1.2 Premises. The area consisting of approximately **27,271** rentable square feet as outlined on Exhibit A attached hereto ("**Premises**"), which is a part of the building ("**Building**") located at 1327 Chesapeake Terrace, Sunnyvale ("**City**"), California ("**State**"). The Building, together with the Cotillion Areas (defined in Section 4.1), the land upon which they are located and all other buildings and improvements thereon, and the property located at 1310-1314 and 1320-1324 Chesapeake Terrace (the "**Parcel**"), are herein collectively a part of the project commonly known as Caribbean Corporate Center and located at 1310-1327 Chesapeake Terrace, Sunnyvale, California (the "**Project**").

1.3 Term. Fifty-one (51) months ("**Term**") scheduled to commence May 1, 2008 ("**Commencement Date**") and end July 31, 2012 ("Expiration Date"), subject to Section 3.1.

1.4 Base Rent. The following is the schedule of monthly Base Rent (defined in Section 5.1) payable under this Lease:

Period	Monthly Rate Per Square Foot	Monthly Base Rent
5/1/08 — 7/31/09	$ 1.95	$53,178.45*
8/1/09 — 7/31/10	$ 2.03	$55,360.13
8/1/10 — 7/31/11	$ 2.11	$57,541.81
8/1/1 I — 7/31/12	$ 2.19	$59,723.49

*Base Rent for the first three (3) full calendar months of the initial Term is subject to abatement pursuant to Section 5.6 of this Lease.

Base Rent in the amount of $53,178.45 for the fourth calendar month of the Term and Tenant's Share of estimated Operating Expenses in the amount of $9,544.85 for the first calendar month of the Term (subject to adjustment as provided in Section 5.4) are payable upon execution of this Lease (collectively, the "Initial Rent Payment").

1.5 Tenant's Share of Operating Expenses (defined in Section 5.4). ("**Tenant's Share**"):

(a) Project: 10.70%

(b) Parcel: 25.10%

(c) Building: 50.20%

Tenant's Share is subject to adjustment pursuant to Section 5.4(a) of this Lease.

1.6 Security Deposit. $69,268.34 ("Security Deposit").

1.7 Permitted Use. The Premises shall be used solely for general office use and research and development for biotechnology company ("Permitted Use").

1.8 Guarantor. As of the date of this Lease there is no Guarantor.

1.9 Number of Parking Spaces Allocated to Tenant. Landlord shall provide Tenant with 3.5 unreserved parking spaces per 1,000 rentable square feet of the Premises, subject to the terms of this Lease.

1.10 Exhibits. Attached hereto are the following Exhibits, all of which constitute a part of this Lease:

Exhibit A: Outline and Location of the Premises
Exhibit B: Commencement Date Certificate Exhibit C: Improvement Agreement
Exhibit C-1: Tenant's Plans
Exhibit D: Rules and Regulations
Exhibit E: Additional Provisions
Exhibit F: Hazardous Substances Questionnaire

1.11 Brokers. Colliers International, representing Landlord and NAI BT Commercial, representing Tenant.

1.12 Access. Notwithstanding anything contained herein to the contrary, Tenant shall have access to the Premises 24 hours a day, 7 days a week, subject to the terms of this Lease and such security or monitoring systems as Landlord may reasonably impose.

2. Premises. Landlord leases to Tenant, and Tenant leases from Landlord, the Premises on all of the terms and conditions set forth in this Lease. The parties stipulate for all purposes hereunder that the Premises contain the number of rentable square feet set forth in Section 1.2.

3. Term.

3.1 Determination of Commencement Date, Expiration Date and Term. The Commencement Date, Expiration Date and Term of this Lease shall be as specified in Section 1.3, unless this Lease is sooner terminated in accordance with the provisions of this Lease, and except as provided in Section 3.2. This Lease shall be a binding contractual obligation effective upon execution hereof by Landlord and Tenant notwithstanding the later commencement of the Term. If the Commencement Date occurs on a date other than the first day of a calendar month, there shall be added to the number of years and months of the Term specified in Section 1.3, the number of days comprising the remainder of the calendar month following the Commencement Date.

3.2 Delay in Possession. If for any reason Landlord cannot deliver possession of the Premises to Tenant on the scheduled Commencement Date specified in Section 1.3, Landlord shall not be subject to any liability therefor, nor shall Landlord be in default hereunder nor shall such failure affect the validity of this Lease, and Tenant agrees to accept possession of the Premises at such time as Landlord is able to deliver the same, which date shall then be deemed the Commencement Date and the Expiration Date will be the last day of the Term based on the actual Commencement Date; provided that Tenant shall not be liable for any Rent for any period prior to the Commencement Date except as otherwise provided. Upon Landlord's request, Tenant shall execute and return to Landlord, within 5 days after receipt thereof by Tenant, a Commencement Date Certificate in the form of **Exhibit B**, but Tenant's failure or refusal to do so shall not negate Tenant's acceptance of the Premises or affect determination of the Commencement Date.

3.3 Acceptance of Premises. Tenant acknowledges that Tenant has inspected and accepts the Premises in their present condition, "AS IS" (WITH ALL FAULTS), and as suitable for the Permitted Use and for Tenant's intended operations in the Premises. Tenant further acknowledges that no representations as to the condition or repair of the Premises nor promises to alter, remodel or improve the Premises have been made by Landlord or any agents of Landlord except as expressly set forth in this Lease. Notwithstanding anything to the contrary set forth herein, except to the extent caused by Tenant or any Tenant Party (as defined in Section 4.2), the base Building electrical, heating, ventilation and air conditioning, mechanical and plumbing systems servicing the Premises shall be in good and working order as of the date Landlord delivers possession of the Premises to Tenant. If the foregoing are not in good and working order as provided above, Landlord shall be responsible for repairing or restoring same at its cost and expense promptly, provided that Tenant has delivered written notice thereof to Landlord not later than 60 days following the date Landlord delivers possession of the Premises to Tenant. Notwithstanding the foregoing,

Tenant, and not Landlord, shall be responsible, at its cost, for any repairs and for the correction of any defects that arise out of or in connection with the specific nature of Tenant's business, the acts or omissions of Tenant or any Tenant Party, any repairs, alterations, additions or improvements performed by or on behalf of Tenant, including the Initial Alterations described in **Exhibit C**, and any design or configuration of the Premises created by or for Tenant which specifically results in the need for such repair to the base Building systems servicing the Premises.

3.4 Early Possession. Subject to the terms of this Section 3.4, provided that this Lease has been fully executed and delivered by the parties hereto and Tenant has delivered to Landlord the Security Deposit, the Initial Rent Payment and certificates evidencing Tenant's insurance as required by the terms of this Lease, Landlord grants Tenant the right to enter the Premises, at Tenant's sole risk, solely for the purpose of performing the Initial Alterations described in Exhibit C hereto and for installing telecommunications and data cabling, equipment, furnishings and other personalty. If Tenant takes possession of the Premises before the Commencement Date, such possession shall be subject to the terms and conditions of this Lease, however, except for the cost of utilities and any services requested by Tenant (e.g. freight elevator usage), Tenant shall not be required to pay any Base Rent or Tenant's Share of Operating Expenses for any days of possession before the Commencement Date during which Tenant is in possession of the Premises for the sole purpose of performing the Initial Alterations and installing telecommunications and data cabling, furniture, equipment or other personal property. Notwithstanding the foregoing, if Tenant takes possession of the Premises before the Commencement Date for any purpose other than as expressly provided in this Section 3.4, such possession shall be subject to the terms and conditions of this Lease and Tenant shall pay all Rent, and any other charges payable hereunder to Landlord for each day of possession before the Commencement Date. Said early possession shall not advance the Expiration Date.

4. Use.

4.1 Permitted Use. Tenant shall use the Premises only for the Permitted Use specified in Section 1.7 and for no other use or purpose, subject to the provisions of Section 1.7, in a manner consistent with the standards of a first-class office project. So long as Tenant is occupying the Premises, Tenant shall have the nonexclusive right to use, in common with other parties occupying the Building or Project, the Common Areas of the Building and Project, subject to the terms of this Lease and the Rules and Regulations (defined in Section 4.4). "**Common Areas**" are all areas and facilities outside the Premises and within the boundary lines of the Project that are designated by Landlord from time to time for the general nonexclusive use of tenants of the Building or Project; provided that Tenant shall not have any rights to the roof, exterior walls, utility raceways, air space or to any other buildings in the Project except as expressly provided in this Lease. Landlord reserves the right, without notice or liability to Tenant, and without the same constituting an actual or constructive eviction, to alter or modify the Common Areas from time to time, including additions thereto or deletions therefrom, the location and configuration thereof, and the amenities and facilities which Landlord may determine to provide from time to time. In the exercise of the above rights, and except in emergency situations as determined by Landlord, Landlord shall exercise reasonable efforts to minimize interference with the operation of Tenant's business in the Premises and access to the Premises.

4.2 Restrictions on Use. Tenant shall not permit any odors, smoke, dust, gas, substances, noise or vibrations to emanate from the Premises or from any portion of the Common Areas as a result of the use thereof by Tenant or any of Tenant's employees, agents, representatives, customers, visitors, invitees, licensees, contractors, assignees or subtenants (each a, "**Tenant Party**"), nor take any action or permit any action to be taken by any Tenant Party which would constitute a nuisance or would unreasonably disturb, or obstruct or endanger any other tenants or occupants of the Building or Project, or unreasonably interfere with their use of their respective premises or the Common Areas. Storage outside the Premises of materials, vehicles or any other items is prohibited. Tenant shall not use or allow the Premises to be used for any immoral, improper or unlawful purpose, nor shall Tenant commit or suffer the commission of any waste in, on or about the Premises. Tenant shall not allow any sale by auction upon the Premises, or place any loads upon the floors, walls or ceilings which could endanger the structure, or place any harmful substances in the drainage system of the Building or Project. No waste, materials or refuse shall be dumped upon or permitted to remain outside the Premises except in trash containers placed inside exterior enclosures designated for that purpose by Landlord. Landlord shall not be responsible to Tenant for the noncompliance by any other tenant or occupant of the Building or Project with any rules or regulations or any other terms or provisions of such tenant's or occupant's lease or other contract.

4.3 Compliance with Laws. Tenant shall at its sole cost and expense comply, and cause each Tenant Party to comply, with all existing and future applicable municipal, state, federal and other governmental statutes, rules, requirements, regulations, laws and ordinances, including zoning ordinances and the Americans With Disabilities Act ("**ADA**"), and covenants, easements and restrictions of record (including pertaining to industrial hygiene and environmental conditions), governing and relating to the use or occupancy of the Premises, to Tenant's or Tenant Party's use of the Common Areas, or to the use, storage, generation or disposal of Hazardous Substances (defined in Section 32 below) (collectively, "**Laws**"). Notwithstanding the foregoing, Landlord, at its sole cost and expense (except to the extent properly included in Expenses, shall be responsible for correcting any violations of applicable Laws with respect to the Common Areas of the Building or Project that are "triggered" by the Initial Alterations described on **Exhibit C-1** hereto, provided that Landlord's obligation shall not include the installation of new or additional mechanical, electrical, plumbing or fire/life safety systems, unless such improvement is required on a Building-wide basis by applicable Law and without reference to the specific nature of Tenant's use of and business in the Premises (other than general office use) or any Alterations (including the Initial Alterations) performed by or on behalf of Tenant. Notwithstanding the foregoing, Landlord shall have the right to contest any alleged violation in good faith, including, without limitation, the right to apply for and obtain a waiver or deferment of compliance, the right to assert any and all defenses allowed by Law and the right to appeal any decisions, judgments or rulings to the fullest extent permitted by Law. Landlord, after the exhaustion of any and all rights to appeal or contest, will make all repairs, additions, alterations or improvements necessary to comply with the terms of any final order or judgment Notwithstanding the foregoing, Tenant, not Landlord, shall be responsible for the correction of any violations that arise out of or in connection with any claims brought under any provision of the Americans with Disabilities Act other than Title III, the specific nature of Tenant's use of or business in the Premises (other than general office use), the acts or omissions of Tenant or any Tenant Party or any repairs, alterations, additions or improvements performed by or on behalf of Tenant (other than the Initial Alterations described in **Exhibit C-1**), and any changes in Law after the Commencement Date. Tenant shall immediately notify Landlord in writing of any notice of a violation or a potential or alleged violation of any Laws that relates to the Premises or the Project, or of any inquiry, investigation, enforcement or other action that is instituted or threatened by any governmental or regulatory agency against Tenant or any other occupant of the Premises, or any claim that is instituted or threatened by any third party that relates to the Premises or the Project. Within 5 days after written request by Landlord, Tenant shall provide Landlord reasonable evidence of Tenant's compliance with any Laws. Tenant shall at its sole cost and expense obtain any and all licenses or permits necessary for Tenant's specific use of the Premises. Tenant shall at its sole cost and expense promptly comply with the requirements of any board of fire underwriters or other similar body now or hereafter constituted. Tenant shall not do or permit anything to be done or bring or keep anything in, on, under or about the Project which will in any way increase the rate of any insurance upon the Premises, Building or Project or upon any contents therein or cause a cancellation of said insurance or otherwise affect said insurance in any manner.

4.4 Rules and Regulations. Tenant shall comply and cause each Tenant Party to comply with the Rules and Regulations attached hereto as **Exhibit D** and any other reasonable rules and regulations and any reasonable modifications or additions thereto which Landlord may from time to time prescribe upon written notice to Tenant (the "**Rules and Regulations**"). The Rules and Regulations shall be generally applicable, and generally applied in the same manner, to all tenants of the Building and Project.

5. Rent.

5.1 Base Rent. Tenant shall pay to Landlord throughout the Term the base rent ("**Base Rent**") as specified in Section 1.4, payable in monthly installments in advance commencing on the Commencement Date and continuing on or before the first day of each calendar month thereafter (except as otherwise provided herein); provided that the amount specified in Section 1.4 as the Initial Rent Payment shall be paid by Tenant upon Tenant's execution of this Lease. The Base Rent payable by Tenant hereunder is subject to adjustment as provided elsewhere in this Lease, as applicable.

5.2 Additional Rent. All monies other than Base Rent required to be paid by Tenant hereunder, including, but not limited to, Tenant's Share of Operating Expenses, shall be considered additional rent ("**Additional Rent**"). "**Rent**" shall mean Base Rent and Additional Rent.

5.3 Payment. Rent shall be payable in lawful money of the United States, without deduction or offset whatsoever and without notice or demand, except as expressly provided herein, at the address specified in Section 1.11 or to such other place as Landlord may designate in writing from time to time.

5.4 Operating Expenses.

(a) In addition to Base Rent, Tenant shall pay as Additional Rent, Tenant's Share, as specified in Section 1.5, of Operating Expenses of the Building, Parcel and/or Project (as applicable), in the manner set forth below. Landlord and Tenant acknowledge that if the number of buildings which constitute the Project increases or decreases, or if physical changes or additions or deletions are made to the Premises, Building, Parcel or Project, including the Common Areas, or the configuration of any thereof, Landlord may at its discretion reasonably adjust Tenant's Share of the Building, Parcel or Project to reflect the change, provided that Landlord agrees to make such adjustment in a nondiscriminatory fashion among leases affecting the Building. Landlord's determination of Tenant's Share of the Building, the Parcel and of the Project, and whether any Operating Expenses are attributable to the Building or Project, shall be conclusive so long as it is reasonably and consistently applied. "**Operating Expenses**" shall mean all expenses and costs of every kind and nature which Landlord shall pay or become obligated to pay, because of or in connection with the ownership, management, maintenance, repair, replacement (subject to any required amortization set forth below) or operation of the Building, Parcel or Project and its supporting amenities and facilities, all as determined by Landlord using sound accounting principles reasonably selected by Landlord and consistently applied, including, but not limited to, the following:

(1) Real Property Taxes. All real property taxes and assessments, possessory interest taxes, sales taxes, personal property taxes, business or license taxes or fees, gross receipts taxes, license or use fees, excises, transit charges, and other impositions of any kind (including fees "in-lieu" or in substitution of any such tax or assessment) which are now or hereafter assessed, levied, charged or imposed by any public authority upon the Building, Parcel or Project, its operations or the Rent (or any portion or component thereof, or the ownership, operation, or transfer thereof). Operating Expenses shall not include inheritance or estate taxes imposed upon or assessed against the interest of any person in the Project or any portion thereof, or taxes computed upon the basis of the net income of any owners of any interest in the Project or any portion thereof If it shall not be lawful for Tenant to reimburse Landlord for any such Real Property Taxes, the monthly rental payable to Landlord under this Lease shall be revised to net Landlord the same net rental after imposition of any such taxes by Landlord as would have been payable to Landlord prior to the payment of any such taxes. Notwithstanding anything else herein to the contrary, if any assessment (other than real property taxes) included in Operating Expenses for any calendar year during the Term can be paid by Landlord in installments, such assessment shall be paid (or, at Landlord's option, shall be included in Operating Expenses on an amortized basis as if it were paid) in the maximum number of installments permitted by Law.

(2) Landlord Insurance. All insurance premiums and costs, including, but not limited to, any deductible amounts, premiums and other costs of insurance incurred by Landlord with respect to the Project or any portion thereof, including for the insurance coverage set forth in Section 6 herein. Notwithstanding the foregoing, Tenant's Share of insurance deductibles payable pursuant to this Section shall not exceed $50,000.00 in the aggregate for any one event during any calendar year of the Term; provided, however, that the foregoing limitation on Tenant's obligation to pay Tenant's Share of insurance deductibles hereunder during the Term shall not apply to any event which results from the acts or omissions of Tenant or any Tenant Party.

(3) Common Area Maintenance.

(i) Repairs, replacements and general maintenance of and for the Building and Project and the Common Areas and amenities and facilities of and comprising the Building and Project, including, but not limited to, the roof, elevators, mechanical rooms, alarm systems, pest extermination, landscaped areas, parking and service areas, driveways, sidewalks, truck staging areas, rail spur areas, fire sprinkler systems, sanitary and storm sewer lines, utility services, heating/ventilation/air conditioning systems, electrical, mechanical or other systems, telephone equipment and wiring servicing, plumbing, lighting, and any other items or areas which affect the operation or appearance of the Building or Project. Repairs, replacements and general maintenance shall include the cost of any improvements made to or assets acquired for the Project or Building, such costs or allocable

portions thereof to be amortized over the useful life of such improvements as reasonably determined by Landlord, together with interest on the unamortized balance at the prime rate charged by Wells Fargo Bank (or its successor) plus 3%, but in no event more than the maximum rate permitted by law, plus reasonable financing charges.

(ii) Payment under or for any easement, license, permit, operating agreement, declaration, restrictive covenant, common area maintenance agreement or similar instrument relating to the Building or Project.

(iii) All expenses and rental related to services and costs of supplies, materials and equipment, including, without limitation, security, fire and other alarm systems, janitorial services, window cleaning, elevator maintenance, Building exterior maintenance, landscaping and expenses related to the administration, management and operation of the Project, including without limitation salaries, wages and benefits, management office rent, and fees for management and asset allocation, whether by Landlord or an independent contractor.

(iv) The cost of supplying any services and utilities except to the extent paid directly by tenants of the Building or Project.

(v) Legal expenses and the cost of audits by certified public accountants; provided, however, that Operating Expenses shall not include the cost of negotiating leases, collecting rents, evicting tenants nor shall it include costs incurred in legal proceedings with or against any tenant or to enforce the provisions of any lease.

(vi) A sum payable to Landlord for administration and overhead in an amount equal to ten percent (10%) of the Operating Expenses for the applicable year.

Operating Expenses shall not include (A) the cost of providing tenant improvements or other specific costs incurred for the account of specific tenants of the Building or Project, including Tenant, (B) the initial construction cost of the Building, (C) debt service on any mortgage or deed of trust recorded with respect to the Project other than pursuant to Section 5.4(a)(3)(i) above (0) expenses for the replacement of any item covered under warranty, unless Landlord has not received payment under such warranty and it would not be fiscally prudent to pursue legal action to collect on such warranty, (E) the cost or expense of any services or benefits provided generally to other tenants in the Building and not provided or available to Tenant, (F) reserves not spent by Landlord by the end of the calendar year for which Operating Expenses are paid, (G) fines or penalties incurred as a result of violation by Landlord of any applicable laws, (H) costs incurred by Landlord in connection with the correction of defects in design and original construction of the Building, (1) any expenses for which Landlord has received actual reimbursement (other than through Operating Expenses), or (J) any cost or expense related to removal, cleaning, abatement or remediation of Hazardous Substances in or about the Building or Project, including, without limitation, Hazardous Substances in the ground water or soil, except to the extent such removal, cleaning, abatement or remediation is related to the general repair and maintenance of the Building or Project. The above enumeration of services and facilities shall not be deemed to impose an obligation on Landlord to make available or provide such services or facilities except to the extent if any that Landlord has specifically agreed elsewhere in this Lease to make the same available or provide the same. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that it shall be responsible for providing adequate security for its use of the Premises, the Building and the Project and that Landlord shall have no obligation or liability with respect thereto.

(b) During the last month of each fiscal year during the Term, or as soon thereafter as practicable, Landlord shall give Tenant written notice of Landlord's estimated Operating Expenses ("**Estimated Operating Expenses**") for the ensuing fiscal year. Tenant shall pay Tenant's Share of the Estimated Operating Expenses in monthly installments in advance with installments of Base Rent for the fiscal year to which the Estimated Operating Expenses apply. If at any time during the course of the fiscal year, Landlord determines that Operating Expenses are projected to vary from the then Estimated Operating Expenses by more than 5%, Landlord may, by written notice to Tenant, revise the Estimated Operating Expenses for the balance of such fiscal year, and Tenant's monthly installments for the remainder of such year shall be adjusted so that by the end of such fiscal year

Tenant has paid to Landlord Tenant's Share of the revised Estimated Operating Expenses for such year, such revised installment amounts to be Additional Rent for all purposes hereunder.

(c) "**Operating Expense Adjustment**" means the difference between Estimated Operating Expenses and actual Operating Expenses for any fiscal year determined as hereinafter provided. Within 120 days after the end of each fiscal year, or as soon thereafter as practicable, Landlord shall deliver to Tenant a statement of actual Operating Expenses for the fiscal year just ended, accompanied by a computation of any Operating Expense Adjustment. If such statement shows that Tenant's payment based upon Estimated Operating Expenses is less than Tenant's Share of Operating Expenses, then Tenant shall pay to Landlord the difference within 30 days after receipt of such statement. If such statement shows that Tenant's payments of Estimated Operating Expenses exceed Tenant's Share of Operating Expenses, then (provided that Tenant is not in default under this Lease) Landlord shall credit Tenant the amount of such overpayment against Tenant's Share of Operating Expenses next becoming due, or at Landlord's election or if this Lease has terminated, pay Tenant the difference within such 30 day period. The provisions of this Section 5.4 shall survive the expiration or sooner termination of this Lease. Landlord's failure to provide any notices or statements within the time periods specified above shall in no way excuse Tenant from its obligation to pay Tenant's Share of Operating Expenses.

(d) If the Building is not at least 95% occupied during any calendar year or if Landlord is not supplying services to at least 95% of the total rentable square footage of the Building at any time during a calendar year, Operating Expenses shall, at Landlord's option, be determined as if the Building had been 95% occupied and Landlord had been supplying services to 95% of the rentable square footage of the Building during that calendar year. Notwithstanding the foregoing, Landlord may calculate the extrapolation of Operating Expenses under this Section based on 100% occupancy and service so long as such percentage is used consistently for each year of the Term. The extrapolation of Operating Expenses under this Section shall be performed in accordance with the methodology specified by the Building Owners and Managers Association.

5.5 Tenant Audit. Tenant, within 60 days after receiving Landlord's statement of Operating Expenses, may give Landlord written notice ("**Review Notice**") that Tenant intends to review Landlord's records of the Operating Expenses for that calendar year to which the statement applies. Within a reasonable time after receipt of the Review Notice, Landlord shall make all pertinent records available for inspection that are reasonably necessary for Tenant to conduct its review. If any records are maintained at a location other than the management office for the Building, Tenant may either inspect the records at such other location or pay for the reasonable cost of copying and shipping the records. If Tenant retains an agent to review Landlord's records, the agent must be with a CPA firm licensed to do business in the state or commonwealth where the Project is located. In no event shall such CPA firm be paid on a contingency fee basis. Tenant shall be solely responsible for all costs, expenses and fees incurred for the audit. However, notwithstanding the foregoing, if Landlord and Tenant determine that Operating Expenses for the year in question were less than stated by 5% or more, Landlord, within 30 days after its receipt of paid invoices therefor from Tenant, shall reimburse Tenant for the reasonable amounts paid by Tenant to third parties in connection with such review by Tenant, in an amount not to exceed $2,500.00. Within 30 days after the records are made available to Tenant, Tenant shall have the right to give Landlord written notice (an "**Objection Notice**") stating in reasonable detail any objection to Landlord's statement of Operating Expenses for that year. If Tenant fails to give Landlord an Objection Notice within the 90 day period or fails to provide Landlord with a Review Notice within the 60 day period described above, Tenant shall be deemed to have approved Landlord's statement of Operating Expenses and shall be barred from raising any claims regarding Operating Expenses for that year. The records obtained by Tenant shall be treated as confidential. If Landlord and Tenant determine that Operating Expenses for the calendar year are less than reported and provided that Tenant is not then in default beyond any applicable notice and cure period, Landlord shall provide Tenant with a credit against the next installment(s) of Rent in the amount of the overpayment by Tenant, or, in the event this Lease has terminated, pay Tenant the difference. Likewise, if Landlord and Tenant determine that Operating Expenses for the calendar year are greater than reported, Tenant shall pay Landlord the amount of any underpayment within 30 days. In no event shall Tenant be permitted to examine Landlord's records or to dispute any statement of Operating Expenses unless Tenant has paid and continues to pay all Rent when due.

5.6 Base Rent Abatement. Notwithstanding anything in this Lease to the contrary, so long as Tenant is not in default beyond any applicable cure period under this Lease, Tenant shall be entitled to an abatement of Base Rent with respect to the Premises, as originally described in this Lease, in the amount of $53,178.45 per month for

the first three (3) full calendar months of the Term (the "**Abated Base Rent Period**"). The maximum total amount of Base Rent abated with respect to the Premises in accordance with the foregoing shall equal $159,535.35 (the "**Abated Base Rent**"). If Tenant defaults under this Lease at any time during the Term and fails to cure such default within any applicable cure period under this Lease, then all unamortized Abated Base Rent (i.e. based upon the amortization of the Abated Base Rent in equal monthly amounts, without interest, during the period commencing on the Commencement Date and ending on the original Expiration Date) shall immediately become due and payable. Only Base Rent shall be abated during the Abated Base Rent Period, and Tenant's Share of Operating Expenses and all other Rent and other costs and charges specified in this Lease shall remain as due and payable pursuant to the provisions of this Lease.

6. Insurance and Indemnification.

6.1 Landlord's Insurance. All insurance maintained by Landlord shall be for the sole benefit and under the control of Landlord. Landlord agrees to maintain property insurance insuring the Building against damage or destruction due to risk including fire, vandalism, and malicious mischief in an amount not less than the replacement cost thereof, in form and with deductibles and endorsements as selected by Landlord. At its election, Landlord may instead (but shall have no obligation to) obtain "All Risk" coverage and liability insurance, and may also obtain earthquake, pollution and/or flood insurance, and loss of rents coverage, in each case in amounts selected from time to time by Landlord. Landlord shall not be obligated to insure, and shall have no responsibility whatsoever for any damage to, any furniture, machinery, goods, inventory or supplies, or other personal property or fixtures which Tenant may keep or maintain in the Premises, or any Alterations (defined in Section 8.1) within the Premises.

6.2 Tenant's Insurance. Tenant shall procure at Tenant's sole cost and expense and keep in effect from the date of this Lease and at all times during the Term the following:

(a) Property and Business Interruption Insurance. Insurance on all personal property and fixtures of Tenant and all Alterations made by or for Tenant to the Premises, on an "All Risk" basis, insuring such property for the full replacement value of such property, and business interruption insurance with a limit of liability representing loss of at least 6 months of income and continuing expense.

(b) Liability Insurance. Commercial General Liability insurance covering bodily injury (including death) and property damage liability occurring in or about the Premises or arising out of the use and occupancy of any part of the Premises or the Project, or any areas adjacent thereto, and the business operated by Tenant or by any other occupant of the Premises. Such insurance shall include liquor liability (if alcoholic beverages are used at any time at the Premises or Project by Tenant or any Tenant Party) and contractual liability coverage insuring all of Tenant's indemnity obligations under this Lease. Such coverage shall have a minimum combined single limit of liability of at least $2,000,000, and a minimum general aggregate limit of at least $3,000,000. All such policies shall be endorsed to add Landlord and any party holding an interest to which this Lease may be subordinated as an additional insured, and shall provide that such coverage shall be "primary" and non-contributing with any insurance maintained by Landlord. All such insurance shall provide for the severability of interests of insureds, and shall be written on an "occurrence" basis.

(c) Workers' Compensation and Employers' Liability Insurance. Workers' Compensation insurance as required by any Applicable Requirement, and Employers' Liability insurance in amounts not less than $1,000,000 each accident for bodily injury by accident; $1,000,000 policy limit for bodily injury by disease; and $1,000,000 each employee for bodily injury by disease.

(d) Commercial Auto Liability Insurance. Commercial auto liability insurance with a combined limit of not less than $1,000,000 for bodily injury and property damage for each accident. Such insurance shall cover liability relating to any auto (including owned, hired and non-owned autos).

(e) Alterations Requirements. In the event Tenant shall desire to perform any Alterations, Tenant shall deliver or cause Tenant's contractor to deliver to Landlord, prior to commencing such Alterations (i) evidence satisfactory to Landlord that Tenant carries "course of construction" insurance covering construction of such Alterations in an amount and form reasonably approved by Landlord, and (ii) with respect to any Alterations

which cost, in the aggregate, $100,000.00 or more, a lien and completion bond or other reasonable security in form and amount (and issued by an issuer) reasonably satisfactory to Landlord.

(f) General Insurance Requirements. All coverages described in this Section 6.2 shall be endorsed to (i) provide Landlord with 30 days' prior notice of cancellation or change in terms (other than any de minimus changes) and 10 days' prior notice for any cancellation for the non-payment of premiums; and (ii) waive all rights of subrogation by the insurance carrier against Landlord. If at any time during the Term the amount or coverage of insurance which Tenant is required to carry under this Section 6.2 is, in Landlord's reasonable judgment, materially less than the amount or type of insurance coverage typically carried by owners or tenants of properties located in the general area in which the Premises are located which are similar to and operated for similar purposes as the Premises or if Tenant's use of the Premises should change with or without Landlord's consent, Landlord shall have the right to require Tenant to increase the amount or change the types of insurance coverage required under this Section 6.2. All insurance policies required to be carried by Tenant under this Lease shall be written by companies rated A-VIII or better in "Best's Insurance Guide" and authorized to do business in the State. In any event deductible amounts under all insurance policies required to be carried by Tenant under this Lease shall not exceed $25,000 per occurrence. Tenant shall deliver to Landlord on or before the Commencement Date, and thereafter at least 10 days before the expiration dates of the expired policies, certified copies of Tenant's insurance policies, or a certificate evidencing the same issued by the insurer thereunder; and, if Tenant shall fail to procure such insurance, or to deliver such policies or certificates, Landlord may, at Landlord's option and in addition to Landlord's other remedies in the event of a default by Tenant hereunder, procure the same for the account of Tenant, and the cost thereof (with interest thereon at the Default Rate, as defined in Section 21.4) shall be paid to Landlord as Additional Rent.

6.3 Indemnification. Tenant shall indemnify, protect, defend by counsel reasonably acceptable to Landlord, and hold Landlord, and its directors, shareholders, partners, lenders, members, managers, contractors, affiliates and employees (collectively, "**Landlord Entities**") harmless from and against any and all claims, liabilities, suits, losses, loss of rents, liens, damages, penalties, costs or expenses, including reasonable attorneys' and consultants' fees and court costs, demands, causes of action, or judgments incurred by or asserted against Landlord or any Landlord Entities and, directly or indirectly relating to any Loss (defined in Section 6.4) arising out of or asserted in connection with the use or occupancy of the Premises by Tenant or any Tenant Party, including, without limitation: (a) claims of injury to or death of persons or damage to property or business loss occurring in or resulting from the use or occupancy of the Premises, Building or Project, including the Common Areas, by Tenant or any Tenant Party, or from activities or failures to act of Tenant or any Tenant Party; (b) claims arising from work or labor performed, or for materials or supplies furnished to or at the request of Tenant in connection with performance of any work done for the account of Tenant within the Premises or Project; (c) claims arising from any breach or default on the part of Tenant in the performance of any covenant contained in this Lease, including, without limitation, failure to comply with any Laws; and (d) claims arising from the negligence or intentional acts or omissions of Tenant or any Tenant Party. The foregoing indemnity by Tenant shall not be applicable to claims to the extent arising from the active negligence or willful misconduct of Landlord. The provisions of this Section 6 shall survive the expiration or earlier termination of this Lease. Tenant's indemnity obligation hereunder shall inure solely to the benefit of Landlord, the Landlord Entities, any Holder and any of such parties' respective successors and assigns.

6.4 Waiver of Subrogation. Notwithstanding anything to the contrary set forth in this Lease (including Section 6.3 above), Landlord and Tenant each waives any claim, loss or cost it might have against the other for damage to or theft, destruction, loss of use of any property, business or other loss (a "Loss"), to the extent the same is insured against (or is required to be insured against under the terms hereof) under any property damage insurance policy covering the Building, the Premises, Landlord's or Tenant's fixtures, personal property, leasehold improvements, business or any contents thereof, regardless of whether the negligence of the other party caused such Loss.

6.5 Exemption of Landlord Entities from Liability. Landlord and the Landlord Entities shall not be liable to Tenant and Tenant hereby waives all claims against Landlord or any Landlord Entities for injury or death to any person or damage to any property or business or any other Loss in or about the Premises, Building or Project by or from any cause whatsoever (other than to the extent of Landlord's or any Landlord Entity's active negligence or willful misconduct) and, without limiting the generality of the foregoing, whether caused by the condition of the

Premises, Building or Project, water leakage of any character from the roof, walls, basement or other portion of the Premises, Building or Project, any defect, leak or backing up in or of any equipment or pipes, wind or weather, or by gas, fire, oil or electricity in, on or about the Premises, Building or Project, acts of God or of third parties, or any matter outside of the reasonable control of Landlord.

7. Repairs and Maintenance.

7.1 Landlord's Obligation. Subject to the provisions of Section 4 (Use), Section 7.2 (Tenant's Obligations), Section 18 (Condemnation) and Section 19 (Damage or Destruction), Landlord shall maintain in good repair and operating condition, reasonable wear and tear excepted, (a) structural elements of the Building; (h) mechanical, electrical, plumbing and fire/life safety systems serving the Building in general; (c) Common Areas; (d) roof of the Building; and (e) exterior windows of the Building. Any damage caused by or repairs necessitated by any negligence or act of Tenant or any Tenant Party may be repaired by Landlord at Landlord's option and Tenant's expense. Landlord's liability with respect to any defects, repairs, or maintenance for which Landlord is responsible under any of the provisions of this Lease shall be limited to the cost of such repairs or maintenance, and there shall be no abatement of Rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of repairs, alterations or improvements in or to any portion of the Premises, the Building or the Common Areas or to fixtures, appurtenances or equipment in the Building or the Common Areas, except as provided in Section 19. Tenant hereby waives any and all rights under and benefits of subsection 1 of Section 1932, and Sections 1941 and 1942 of the California Civil Code, or any similar or successor Laws now or hereinafter in effect. Landlord shall use commercially reasonable efforts to complete any repairs that are Landlord's express obligation hereunder within a commercially reasonable period of time.

7.2 Tenant's Obligations. Tenant shall periodically inspect the Premises to identify any conditions that are dangerous or in need of maintenance or repair and shall promptly provide Landlord with notice of any such conditions. Tenant shall, at its sole cost and expense, promptly perform all maintenance and repairs to the Premises that are not Landlord's express responsibility under Section 7.1, and shall keep the Premises, including without limitation, all glass, windows, doors, door locks, signs, walls, including demising walls, and wall finishes, floors and floor covering, heating, ventilating and air conditioning systems, ceiling insulation, hardware, dock bumpers, plumbing work and fixtures, downspouts, entries, skylights, smoke hatches, roof vents, electrical and lighting systems, and fire sprinklers in or about the Premises, in good condition and repair, reasonable wear and tear excepted. Tenant's expense also perform regular removal of trash and debris. Tenant shall, at Tenant's own expense, enter into regularly scheduled preventative maintenance/service contracts with maintenance contractors for servicing all hot water, heating and air conditioning systems, elevators and related equipment within or serving the Premises. The maintenance contractor and the contract must be reasonably approved by Landlord. The service contract must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective and a copy thereof delivered to Landlord within thirty (30) days after the date of this Lease. Landlord may, upon notice to Tenant, enter into such a service contract on behalf of Tenant or perform the work and in either case charge Tenant the cost thereof along with a reasonable amount for Landlord's overhead If Tenant fails to make any repairs to the Premises for more than 15 days after notice from Landlord (although notice shall not be required in an emergency), Landlord may make the repairs, and Tenant shall pay the reasonable cost of the repairs, together with an administrative charge in an amount equal to 5% of the cost of the repairs.

8. Alterations.

8.1 Landlord's Consent.

(a) Tenant shall not make, or allow to be made, any alterations, physical additions, improvements or partitions, or attach or install or allow to be attached or installed any fixtures or equipment, including, without limitation, electronic, phone and data cabling and related wiring and equipment, in, about or to the Premises (collectively, "**Alterations**") without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed with respect to proposed Alterations which: (I) comply with all Laws; (2) are, in Landlord's reasonable opinion, compatible with the Building and the Project and its mechanical, plumbing, electrical, heating/ventilation/air conditioning systems, and will not cause the Building or Project or such systems to be required to be modified to comply with any Laws (including, without limitation, the ADA); and (3) will not interfere with the use and occupancy of any other portion of the Building or Project by any

other tenant or occupant. Specifically, but without limiting the generality of the foregoing, Landlord shall have the right of written consent for all plans and specifications for the proposed Alterations, construction means and methods, all appropriate permits and licenses, any contractor or subcontractor to be employed on the work of Alterations, and the time for performance of such work, and may impose reasonable rules and regulations for contractors and subcontractors performing such work. Tenant shall also supply to Landlord any documents and information reasonably requested by Landlord in connection with Landlord's consideration of a request for approval hereunder. Tenant shall cause all Alterations to be accomplished in a first-class, good and workmanlike manner, and to comply with all Laws and Section 22 hereof. Tenant shall at Tenant's sole expense, perform any additional work required under Laws, whether to the Premises or Building, due to the Alterations hereunder. No review or consent by Landlord of or to any proposed Alteration or additional work shall constitute a waiver of Tenant's obligations under this Section 8. Tenant shall reimburse Landlord for all reasonable costs which Landlord may incur in connection with granting approval to Tenant for any such Alterations, including any costs or expenses which Landlord may incur in electing to have outside architects and engineers review said plans and specifications, and shall pay Landlord an administration fee of 5% of the cost of the Alterations as Additional Rent hereunder.

(b) All Alterations shall remain the property of Tenant until the expiration or earlier termination of this Lease, at which time they shall be and become the property of Landlord; provided, however, that Landlord may, at Landlord's option, require that Tenant, at Tenant's expense, remove any or all Alterations made by or on behalf of Tenant and restore the Premises by the expiration or earlier termination of this Lease, to their condition existing prior to the construction of any such Alterations. All such removals and restoration shall be accomplished in a first-class and good and workmanlike manner and Tenant shall repair any resulting damage to the Premises or Project. If Tenant fails to remove such Alterations or Tenant's trade fixtures or furniture or other personal property, Landlord may keep and use them or remove any of them and cause them to be stored or sold in accordance with applicable law, at Tenant's sole expense.

(c) Tenant shall pay prior to delinquency any taxes, fees or charges imposed upon, levied with respect to or assessed against its fixtures or personal property, or the value of any Alterations within the Premises, or any increase in any of the foregoing based on such Alterations. To the extent that any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

(d) Notwithstanding anything to the contrary contained herein, so long as Tenant's written request for consent for a proposed Alteration contains the following statement in large, bold and capped font "**PURSUANT TO SECTION 8 OF THE LEASE, IF LANDLORD CONSENTS TO THE SUBJECT ALTERATION, LANDLORD SHALL NOTIFY TENANT IN WRITING WHETHER OR NOT LANDLORD WILL REQUIRE SUCH ALTERATION TO BE REMOVED AT THE EXPIRATION OR EARLIER TERMINATION OF THE LEASE**.", at the time Landlord gives its consent for any Alteration, if it so does, Tenant shall also be notified whether or not Landlord will require that such Alteration be removed upon the expiration or earlier termination of this Lease. Notwithstanding anything to the contrary contained in this Lease, at the expiration or earlier termination of this Lease and otherwise in accordance with Section 31 hereof, Tenant shall be required to remove all Alterations made to the Premises except for any such alterations or improvements which Landlord expressly indicates or is deemed to have indicated shall not be required to be removed from the Premises by Tenant. If Tenant's written notice strictly complies with the foregoing and if Landlord fails to so notify Tenant whether Tenant shall be required to remove the subject Alteration at the expiration or earlier termination of this Lease, it shall be assumed that Landlord shall require the removal of the subject Alteration.

8.2 Recorded Notices. Tenant shall give Landlord 10 days' prior written notice of the expected commencement date of any construction to permit Landlord to post and record a notice of non-responsibility as provided in Section 22. Upon substantial completion of construction, if the law so provides, Tenant shall cause a timely notice of completion to be recorded in the office of the recorder of the county in which the Building is located.

9. Signs. Except as expressly provided in **Exhibit E** attached hereto, Tenant shall not place, install, affix or paint any signs whatsoever or any window decor which is visible in or from public view or corridors, in or on the Common Areas, the exterior of the Premises or the Building without Landlord's prior written approval. Any installation of signs on or about the Premises or Project shall be subject to any Laws and to the Rules and Regulations any other requirements imposed by Landlord. Tenant shall remove all such signs by the expiration or

any earlier termination of this Lease, and Tenant shall repair any injury or defacement including without limitation discoloration caused by such installation or removal.

10. Inspection/Posting Notices. After reasonable notice, except in emergencies where no such notice shall be required, Landlord and Landlord's agents and representatives, shall have the right to enter the Premises to inspect the same, to clean, to perform such work as may be permitted or required hereunder, to make repairs, improvements or alterations to the Premises, Building or Project, to other tenant spaces therein, to deal with emergencies, to post such notices as may be permitted or required by law to prevent the perfection of liens against Landlord's interest in the Building or Project, to exhibit the Premises to present or prospective tenants, purchasers, or lenders, to conduct Landlord's environmental monitoring and insurance program, to inspect the condition of the Premises and verify compliance by Tenant with this Lease and all Laws or for any other purpose as Landlord may deem necessary or desirable; provided, however, that Landlord shall use commercially reasonable efforts not to unreasonably interfere with Tenant's business operations. Tenant shall not be entitled to any abatement of Rent by reason of the exercise of any such right of entry. Except as expressly provided herein, Tenant waives any claim for damages for any injury or inconvenience to or interference with Tenant's or any Tenant Party's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. Landlord shall at all times have and retain a key (or electronic access device) with which to unlock all of the doors in, upon and about the Premises, excluding Tenant's vaults and safes or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem necessary or proper to open said doors in an emergency, in order to obtain entry to any portion of the Premises, and any entry to the Premises or portions thereof obtained by Landlord by any of said means, or otherwise, shall not be construed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portions thereof.

11. Services and Utilities.

11.1 Services and Utilities Provided. Tenant shall (where practicable) contract for and pay directly when due, for all water, gas, heat, air conditioning, light, power, telephone, sewer, sprinkler charges, cleaning, waste disposal and other utilities and services used on or from the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto, and maintenance charges for utilities and shall furnish all electric light bulbs, ballasts and tubes. If any such services are not separately billed or metered to Tenant, Tenant shall pay within 5 days of Landlord's demand an equitable proportion, as determined in good faith by Landlord, of all charges billed or metered with other premises. The charge shall be at the rates charged for such services by the local public utility. Tenant shall be responsible for providing janitorial service for the Premises at its sole cost and expense, and Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide janitorial service to the Premises. The janitorial services shall be performed by Tenant's employees or a bonded janitorial contractor, which contractor (if applicable) shall be reasonably approved by Landlord. Tenant shall comply with all rules and regulations which Landlord may reasonably establish for the proper functioning and protection of any common systems of the Building. Landlord's failure to furnish, or any interruption, diminishment or termination of, services due to the application of Laws, the failure of any equipment, the performance of repairs, improvements or alterations, utility interruptions or the occurrence of an event of force majeure described in Section 30, shall not render Landlord liable to Tenant, constitute a constructive eviction of Tenant, give rise to an abatement of Rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement. Landlord shall use, commercially reasonable efforts to remedy any interruption in the furnishing of services and utilities within a commercially reasonable period of time, subject to force majeure.

11.2 Excess Usage. Wherever heat-generating machines or equipment are used by Tenant in the Premises which affect the temperature otherwise maintained by the air conditioning system or Tenant allows occupancy of the Premises by more persons than the heating and air conditioning system is designed to accommodate, in either event whether with or without Landlord's approval, Landlord reserves the right to install supplementary heating and/or air conditioning units in or for the benefit of the Premises and the cost thereof, including the cost of installation and the cost of operations and maintenance, shall be paid by Tenant to Landlord within 5 days of Landlord's demand.

12. Subordination. Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be and is hereby declared to be subject and subordinate at all times to: (a) all ground leases or underlying leases which may now exist or hereafter be executed affecting the Premises

and/or the land upon which the Premises and Project are situated, or both; and (b) any mortgage or deed of trust which may now exist or be placed upon the Building, the Project and/or the land upon which the Premises or the Project are situated, or said ground leases or underlying leases, or Landlord's interest or estate in any of said items which is specified as security (each, a "**Security Instrument**"). Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or underlying leases or any such liens to this Lease. If any ground lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination, attorn to and become the Tenant of the successor in interest to landlord provided that Tenant shall not be disturbed in its possession under this Lease by such successor in interest so long as Tenant is not in default under this Lease. Within ten (10) days after request by Landlord, Tenant shall execute and deliver any additional documents evidencing Tenant's attornment or the subordination of this Lease with respect to any such ground leases or underlying leases or any such mortgage or deed of trust, in the form requested by Landlord or by any ground landlord, mortgagee, or beneficiary under a deed of trust (each, a "**Holder**"), subject to such nondisturbance requirement. If requested in writing by Tenant, Landlord shall use commercially reasonable efforts to obtain a subordination, nondisturbance and attornment agreement for the benefit of Tenant reflecting the foregoing from any ground landlord, mortgagee or beneficiary, at Tenant's expense, subject to such other terms and conditions as the ground landlord, mortgagee or beneficiary may require.

13. Financial Statements. At the request of Landlord from time to time, Tenant shall provide to Landlord, within 10 days after Landlord's request, Tenant's and any guarantor's current financial statements or other information discussing financial worth of Tenant and any guarantor, which Landlord shall use solely for purposes of this Lease and solely in connection with the ownership, management, financing and disposition of the Project. Upon written request by Tenant, Landlord shall enter into Landlord's standard form of confidentiality agreement covering any confidential information that is disclosed by Tenant.

14. Estoppel Certificates. Tenant agrees from time to time, within 10 business days after request of Landlord, to deliver to Landlord, or Landlord's designee, an estoppel certificate stating that this Lease is in full force and effect, that this Lease has not been modified (or stating all modifications, written or oral, to this Lease), the date to which Rent has been paid, the Term of this Lease, that there are no current defaults by Landlord or Tenant under this Lease (or specifying any such defaults), that the leasehold estate granted by this Lease is the sole interest of Tenant in the Premises and/or the land on which the Premises are situated, and such other matters pertaining to this Lease as may be reasonably requested by Landlord or any present or prospective lender or purchaser of the Building or Project or any interest therein. Tenant agrees that if Tenant fails to execute and deliver such certificate within such 10 business day period, Landlord may execute and deliver such certificate on Tenant's behalf and that such certificate shall be binding on Tenant. Landlord and Tenant intend that any statement delivered pursuant to this Section may be relied upon by any present or prospective lender or purchaser of the Building or Project or any interest therein.

15. Security Deposit. Tenant agrees to deposit with Landlord upon execution of this Lease, a security deposit as stated in the Basic Lease Information (the "Security Deposit"), which sum shall be held and owned by Landlord, without obligation to pay interest, as security for the performance of Tenant's covenants and obligations under this Lease. The Security Deposit is not an advance rental deposit or a measure of damages incurred by Landlord in case of Tenant's default. Upon the occurrence of any Event of Default by Tenant, Landlord may from time to time, without prejudice to any other remedy provided herein or by law, use such fund as a credit to the extent necessary to credit against any arrears of Rent or other payments due to Landlord hereunder, and any other damage, injury, expense or liability caused by such event of default, and Tenant shall pay to Landlord, on demand, the amount so applied in order to restore the Security Deposit to its original amount. Although the Security Deposit shall be deemed the property of Landlord, any remaining balance of such deposit shall be returned by Landlord to Tenant at such time after termination of this Lease that all of Tenant's obligations under this Lease have been fulfilled, reduced by such amounts as may be required by Landlord to remedy defaults on the part of Tenant in the payment of Rent or other obligations of Tenant under this Lease, to repair damage to the Premises, Building or Project caused by Tenant or any Tenant's Parties and to clean the Premises. Landlord is hereby granted a security interest in the Security Deposit in accordance with applicable provisions of the California Commercial Code. Landlord may use and commingle the Security Deposit with other funds of Landlord. Tenant hereby waives the provisions of Section 1950.7 of the California Civil Code, and all other provisions of any Regulations, now or hereinafter in force, which

restricts the amount or types of claim that a landlord may make upon a security deposit or imposes upon a landlord (or its successors) any obligation with respect to the handling or return of security deposits.

16. Limitation of Liability. The obligations and liability of Landlord to Tenant under the terms of this Lease are not personal obligations of Landlord or any Landlord Entities, and Tenant agrees to look solely to Landlord's interest in the Building for the recovery of any amount from Landlord, and shall not look to other assets of Landlord nor seek recourse against the assets of any Landlord Entities. Any lien obtained to enforce any such judgment and any levy of execution thereon shall be subject and subordinate to any lien, mortgage or deed of trust on the Building. Under no circumstances shall Tenant have the right to offset against or recoup Rent or other payments due and to become due to Landlord hereunder except as expressly provided in this Lease, which Rent and other payments shall be absolutely due and payable hereunder in accordance with the terms hereof In no case shall Landlord be liable to Tenant for any lost profits, damage to business, or any form of special, indirect or consequential damage on account of any negligence of Landlord or breach of this Lease or otherwise, notwithstanding anything to the contrary contained in this Lease.

17. Assignment and Subletting.

17.1 Landlord's Consent Required.

(a) Tenant shall not assign, transfer or pledge this Lease or sublet the Premises or any part or interest thereof, or grant any license or concession or permit the use or occupancy of the Premises or any part thereof by anyone other than Tenant, or suffer or permit any such assignment, transfer, pledge, license, concession, subleasing or occupancy (each, a "**Transfer**"), in each case whether directly or indirectly, voluntarily or by operation of law, without Landlord's prior written consent in each instance, except as expressly provided herein. At least 20 business days prior to the anticipated effective date of a proposed Transfer, Tenant shall give Landlord written notice together with all information reasonably requested by Landlord to address Landlord's decision criteria specified hereinafter, including, without limitation, a written description of all terms and conditions of the proposed Transfer, of all consideration therefor, copies of the proposed documentation effecting such Transfer, and any information requested by Landlord relating to the proposed transferee, its proposed use of the Premises (including, without limitation, any proposed use of Hazardous Substances), and credit information (collectively, the "**Transfer Notice**"). Landlord shall notify Tenant in writing, within 10 business days after receipt of the Transfer Notice, that Landlord elects either: (i) to terminate this Lease as to the space so affected as of the date such transfer is proposed to be effective (or if no date is proposed, within 60 days after Landlord's receipt of the Transfer Notice); or (ii) to consent to the proposed Transfer, subject, however, to Landlord's prior written consent of the proposed assignee or subtenant and of any related documents or agreements associated with the proposed Transfer as provided herein. Notwithstanding the foregoing, Landlord shall only have the option to terminate this Lease in accordance with clause (i) above in the event of any proposed assignment of this Lease (other than a Permitted Transfer pursuant to Section 17.5 below) or in the event that the proposed Transfer is a sublease that would result in 50% or more of the rentable square footage of the Premises being subject to the Transfer. If Landlord should fail to notify Tenant in writing of such election within said period, Landlord shall be deemed to have waived option (i) above, but written consent by Landlord shall still be required. If Landlord does not exercise option (i) above, Landlord's consent to a proposed Transfer shall not be unreasonably withheld. Consent to any Transfer shall not constitute consent to any subsequent Transfer. Notwithstanding the above, Tenant, within 5 days after receipt of Landlord's notice of intent to terminate, may withdraw its request for consent to the Transfer. In that event, Landlord's election to terminate the Lease shall be null and void and of no force and effect.

(b) Without limiting the other instances in which it may be reasonable for Landlord to withhold Landlord's consent to a Transfer, it shall be reasonable for Landlord to withhold Landlord's consent in the following instances, as determined by Landlord in good faith: (i) if the proposed assignee does not agree to execute and deliver to Landlord Landlord's standard form assumption agreement, whereby the proposed assignee agrees to be bound by and assume the obligations of Tenant under this Lease in the case of an assignment, or consent agreement in the case of a sublease, or any guarantor of this Lease does not consent to the proposed Transfer, in each case in form and substance satisfactory to Landlord; (ii) the use of the Premises by the proposed assignee or subtenant would not be a Permitted Use or would violate any exclusivity or other arrangement which Landlord has with any other tenant or occupant or any Applicable Requirement or would increase the occupancy or parking density of the Building or Project, or would otherwise result in an undesirable tenant mix for the Building or Project;

(iii) the proposed assignee or subtenant is not of sound financial condition; (iv) the proposed assignee or subtenant is a governmental agency; (v) the proposed assignee or subtenant does not have a good reputation as a tenant of property or a good business reputation; (vi) the proposed assignee or subtenant, or any affiliate thereof, is a person with whom Landlord is negotiating to lease space in the Project or is a present tenant of the Project; (vii) the assignment or subletting would entail any Alterations which would lessen the value of the leasehold improvements in the Premises or use of any Hazardous Substances or other noxious use or use which may disturb other tenants of the Project; or (viii) there is then an uncured Event of Default by Tenant under this Lease, or Tenant has defaulted under this Lease on 3 or more occasions during any 12 month period preceding the date that Tenant requests consent. Failure by or refusal of Landlord to consent to a proposed assignee or subtenant shall not cause a termination of this Lease. In the event of any claim by Tenant that Landlord has breached its obligations under this Section 17.1, Tenant's remedies shall be limited to recovery of its out-of-pocket damages and injunctive relief. Upon a termination under Section 17.1(a)(i), Landlord may lease the Premises to any party, including parties with whom Tenant has negotiated an assignment or sublease, without incurring any liability to Tenant. At the option of Landlord, a surrender and termination of this Lease shall operate as an assignment to Landlord of some or all subleases or subtenancies. Landlord shall exercise this option by giving notice of that assignment to such subtenants on or before the effective date of the surrender and termination. In connection with each request for consent to a Transfer, Tenant shall pay to Landlord $1,200 for approving such request, as well as all out-of-pocket costs incurred by Landlord or any Holder in approving such request and effecting such Transfer, including, without limitation, reasonable attorneys' fees. Any Transfer which conflicts with the provisions hereof shall constitute an Event of Default hereunder and shall be void.

17.2 Bonus Rent. Subject to Section 17.1, and notwithstanding any Landlord consent to the proposed Transfer, any Rent or other consideration realized by Tenant (or any affiliate thereof) for the Transfer in excess of the Rent payable hereunder (with respect to the space affected by the Transfer), after deducting any reasonable brokerage commissions, legal fees and leasehold improvement costs (amortized on a straight-line basis over the remaining Term or, in the case of a sublease, over the term of the sublease incurred by Tenant), provided that the sums so deducted shall not exceed one month's Base Rent payable hereunder, shall be divided and paid immediately upon receipt thereof 50% to Landlord and 50% to Tenant. In any subletting or assignment undertaken by Tenant, Tenant shall diligently seek to obtain the maximum rental amount available in the marketplace for comparable space available for primary leasing.

17.3 Change in Control. A transfer by sale, assignment, bequest, inheritance, operation of law or other disposition of shares or other ownership interests (including such a transfer to or by a receiver or trustee in federal or state bankruptcy, insolvency or other proceedings, but excluding a transfer of shares in a corporation whose stock is publicly traded) resulting in a change in control or voting control, or a change in 50% or more in the aggregate in any 12 month period of the beneficial ownership interests, or a transfer of all or substantially all of the assets of Tenant, shall constitute a Transfer for purposes of this Lease.

17.4 No Release of Liability. No Transfer by Tenant, permitted or otherwise, shall relieve Tenant of any obligation under this Lease or any guarantor of this Lease of any liability under its guaranty or alter the primary liability of the Tenant named herein for the payment of Rent or for the performance of the other obligations of Tenant under this Lease, but rather Tenant and its transferee shall be jointly and severally liable for all obligations under this Lease allocable to the space subject to such Transfer. Landlord may collect rent or other amounts or any portion thereof from any assignee, subtenant, or other occupant of the Premises, permitted or otherwise, and apply the net rent collected to the Rent payable hereunder, but no such collection shall be deemed to be a waiver of this Section 17, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of the obligations of Tenant under this Lease or of any guarantor of this Lease of any liability under its guaranty.

17.5 Permitted Transfer. Notwithstanding anything to the contrary set forth herein, so long as Tenant is not entering into the Permitted Transfer (as defined below) for the purpose of avoiding or otherwise circumventing the remaining terms of this Section 17, Tenant may assign its entire interest under this Lease, without the consent of Landlord, to (a) an affiliate, subsidiary, or parent of Tenant, or a corporation, partnership or other legal entity wholly owned by Tenant (collectively, an "Affiliated Party"), or (b) a successor to Tenant by purchase, merger, consolidation or reorganization, provided that all of the following conditions are satisfied (each such transfer a "Permitted Transfer" and any such assignee or sublessee of a Permitted Transfer, a "Permitted Transferee"): (i)

Tenant is not in default under this Lease beyond any applicable notice and cure period; (ii) the Permitted Use does not allow the Premises to be used for retail purposes; (iii) Tenant shall give Landlord written notice at least 30 days prior to the effective date of the proposed Permitted Transfer; (iv) with respect to a proposed Permitted Transfer to an Affiliated Party, Tenant continues to have a net worth equal to or greater than Tenant's net worth at the date of this Lease; (v) with respect to a purchase, merger, consolidation or reorganization or any Permitted Transfer which results in Tenant ceasing to exist as a separate legal entity, (A) Tenant's successor shall own all or substantially all of the assets of Tenant, and (B) Tenant's successor shall have a net worth which is at least equal to the greater of Tenant's net worth at the date of this Lease or Tenant's net worth as of the day prior to the proposed purchase, merger, consolidation or reorganization; and (vi) with respect to a purchase, merger, consolidation or reorganization or any Permitted Transfer which results in change of control of Tenant whereby Tenant continues to exist as a separate legal entity, immediately following the completion of such Transfer, Tenant shall have a net worth which is at least equal to the greater of Tenant's net worth at the date of this Lease or Tenant's net worth as of the day prior to the proposed purchase, merger, consolidation or reorganization; provided that in the event Tenant does not satisfy such net worth requirement, such change in control shall be deemed to satisfy such net worth requirement if in conjunction with such Transfer, an Affiliated Party whose net worth (as evidenced by current financial statements satisfactory to Landlord and certified by an independent certified public accountant, prepared in accordance with generally accepted accounting principles that are consistently applied, taking into account all expected obligations of such Affiliated Party and all of its other contingent and noncontingent obligations) satisfies the foregoing net worth requirement, executes and delivers to Landlord a full guaranty of all of Tenant's obligations under this Lease, which guaranty shall be on Landlord's then-standard form of lease guaranty, and otherwise in form and substance satisfactory to Landlord. Tenant's notice to Landlord shall include information and documentation showing that each of the above conditions has been satisfied. If requested by Landlord, Tenant's successor shall sign a commercially reasonable form of assumption agreement. As used herein, (1) "parent" shall mean a company which owns a majority of Tenant's voting equity; (2) "subsidiary" shall mean an entity wholly owned by Tenant or at least 51% of whose voting equity is owned by Tenant; and (3) "affiliate" shall mean an entity controlled, controlling or under common control with Tenant.

18. Condemnation. Either party may terminate this Lease if any material part of the Premises is taken or condemned for any public or quasi public use under Law, by eminent domain or private purchase in lieu thereof (a "**Taking**"). Landlord shall also have the right to terminate this Lease if there is a Taking of any portion of the Building or Property which would have a material adverse effect on Landlord's ability to profitably operate the remainder of the Building. The terminating party shall provide written notice of termination to the other party within 45 days after it first receives notice of the Taking. The termination shall be effective on the date the physical taking occurs. If this Lease is not terminated, Base Rent and Tenant's Share shall be appropriately adjusted to account for any reduction in the square footage of the Building or Premises. All compensation awarded for a Taking shall be the property of Landlord. The right to receive compensation or proceeds is expressly waived by Tenant, however, Tenant may file a separate claim for Tenant's Property and Tenant's reasonable relocation expenses, provided the filing of the claim does not diminish the amount of Landlord's award. If only a part of the Premises is subject to a Taking and this Lease is not terminated, Landlord, with reasonable diligence, will restore the remaining portion of the Premises as nearly as practicable to the condition immediately prior to the Taking. Tenant hereby waives any and all rights it might otherwise have pursuant to Section 1265.130 of the California Code of Civil Procedure, or any similar or successor Laws

19. Damage or Destruction.

19.1 Notices. If the Premises or Building should be damaged or destroyed by fire or other casualty (collectively, "**Casualty**"), Tenant shall give immediate written notice thereof to Landlord. Within 90 days after Landlord's receipt of such notice, Landlord shall notify Tenant whether in Landlord's estimation material restoration of the Premises can reasonably be completed within 200 days from the date of such notice and receipt of required permits for such restoration. Landlord's determination shall be binding on Tenant.

19.2 Within 200 Days. If the Premises or Building should be damaged by Casualty to such extent that material restoration can in Landlord's estimation be reasonably completed within such 200 day period, this Lease shall not terminate. Provided that sufficient insurance proceeds are received by Landlord to fully repair the damage, Landlord shall proceed to rebuild and repair the Premises. If the Premises are untenantable in whole or in part

following such damage, the Rent payable hereunder during the period in which they are untenantable shall be abated proportionately to the extent of rental abatement insurance proceeds received by Landlord.

19.3 Greater Than 200 Days. If the Premises or Building should be damaged by Casualty to such extent that material restoration cannot in Landlord's estimation be reasonably completed within such 200 day period, then Landlord shall have the option of either: (I) terminating this Lease effective upon the date of the occurrence of such damage, in which event the Rent shall be abated during the unexpired portion of this Lease; or (2) electing to rebuild or repair the Premises. Landlord shall notify Tenant of its election within 30 days after Landlord's receipt of notice of the damage or destruction. If a material portion of the Premises is damaged by Casualty to such extent that material restoration cannot in Landlord's estimation be reasonably completed within such 200 day period, Tenant shall have the option of terminating this Lease by so notifying Landlord within 30 days after Tenant's receipt of Landlord's notice to such effect.

19.4 Tenant's Fault. Notwithstanding anything herein to the contrary, if the Premises or any other portion of the Building are damaged by Casualty resulting from the negligence or willful misconduct of Tenant or any Tenant Party, Tenant shall not have any right to terminate this Lease, Rent shall not be abated or diminished during the repair of such damage and Tenant shall be liable to Landlord for the cost and expense of the repair and restoration of the Building caused thereby to the extent such cost and expense is not covered by insurance proceeds received by Landlord.

19.5 Insurance Proceeds. Notwithstanding anything herein to the contrary, if the cost of restoration of the Premises or Building is not fully covered by insurance proceeds or payments from tenants received by Landlord or if the Holder of any Security Instrument requires that the insurance proceeds be applied to the indebtedness secured thereby, then in either case Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within 30 days after the date of notice to Landlord that the damage or destruction is not fully covered by insurance or such requirement is made by any such Holder, as the case may be, whereupon this Lease shall terminate_

19.6 Waiver. This Section 19 shall be Tenant's sole and exclusive remedy in the event of damage or destruction to the Premises or the Building. As a material inducement to Landlord entering into this Lease, Tenant hereby waives any rights it may have under Sections 1932, 1933(4), 1941 or 1942 of the Civil Code of California with respect to any destruction of the Premises, Landlord's obligation for tenantability of the Premises and Tenant's right to make repairs and deduct the expenses of such repairs, or under any similar law, statute or ordinance now or hereafter in effect.

19.7 Tenant's Personal Property. In the event of any damage or destruction of the Premises or the Building, under no circumstances shall Landlord be liable for or be required to repair any injury or damage to, or to rebuild or make any repairs to or replacements of, Tenant's or any Tenant Party's furniture, equipment, fixtures or other personal property or any Alterations made to the Premises by Tenant or paid for by Tenant.

20. Holding Over. If Tenant fails to surrender all or any part of the Premises at the termination of this Lease, occupancy of the Premises after termination shall be that of a tenancy at sufferance. Tenant's occupancy shall be subject to all the terms and provisions of this Lease, and Tenant shall pay an amount (on a per month basis without reduction for partial months during the holdover) equal to 150% of the sum of the Base'Rent and Additional Rent due for the period immediately preceding the holdover. No holdover by Tenant or payment by Tenant after the termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise. If Landlord is unable to deliver possession of the Premises to a new tenant or to perform improvements for a new tenant as a result of Tenant's holdover and Tenant fails to vacate the Premises within 15 days after notice from Landlord, Tenant shall be liable for all damages that Landlord suffers from the holdover.

21. Default.

21.1 Events of Default. The occurrence of any of the following events shall constitute an "Event of

Default" on the part of Tenant:

(a) Abandonment or vacation of the Premises.

(b) Failure to pay any installment of Rent or any other amount due and payable hereunder upon the date within 3 days following written notice that payment is overdue.

(c) Failure to deliver any certificate, document, or instrument described in Sections 6, 12 or 14 within 3 days after written notice from Landlord that Tenant has failed to deliver the same within time periods required thereunder, or any holdover beyond the expiration or termination of this Lease unless expressly consented to in writing by Landlord.

(d) Failure to perform any obligation, agreement or covenant under this Lease (other than those matters specified in any other subparagraph of this Section 21), such failure continuing for 20 days after written notice of such failure (except where a shorter period of time is specified in this Lease in which case such shorter period shall apply); provided, however, if Tenant's failure to perform cannot reasonably be cured within such 20-day period, Tenant shall be allowed additional time (not to exceed 60 days) as is reasonably necessary to cure the failure so long as: (1) Tenant commences to cure the failure within such 20-day period, and (2) Tenant diligently pursues a course of action that will cure the failure and bring Tenant back into compliance with this Lease. Notwithstanding the foregoing or anything to the contrary contained herein, if Landlord provides Tenant with notice of Tenant's failure to comply with any particular obligation, agreement or covenant under this Lease on 3 occasions during any 12 month period, Tenant's subsequent violation of such term, provision or covenant shall, at Landlord's option, be an incurable Event of Default by Tenant.

(e) The occurrence of any of the following: (i) a general assignment by Tenant for the benefit of creditors; (ii) the filing of any voluntary petition in bankruptcy by Tenant or any general partner of Tenant, or the filing of an involuntary petition by Tenant's creditors which involuntary petition remains undischarged for a period of 60 days; (iii) the employment of a receiver to take possession of substantially all of Tenant's assets or the Premises, if such appointment remains undismissed or undischarged for a period of 60 days after the order therefore; (iv) the attachment, execution or other judicial seizure of all or substantially all of Tenant's assets or Tenant's leasehold of the Premises, if such attachment or other seizure remains undismissed or undischarged for a period of 60 days after the levy thereof; or (v) the admission by Tenant in writing of its inability to pay its debts as they become due.

(f) The default of any guarantor under any guaranty of this Lease, the attempted repudiation or revocation of any such guaranty, or the participation by any such guarantor in any other event described in this Section 21 (as if this Section 21 referred to such guarantor in place of Tenant).

(g) Any release or use of any Hazardous Substance in violation of any Laws or this Lease by reason of the acts or omissions of Tenant or any Tenant Party.

(h) Any other event, act or omission which any other provision of this Lease identifies as an Event of Default.

21.2 Remedies.

(a) Termination. In the event of the occurrence of any Event of Default, Landlord shall have the right to give a written termination notice to Tenant, and on the date specified in such notice, Tenant's right to possession shall terminate, and this Lease shall terminate unless on or before such date all Rent in arrears and all costs and expenses incurred by or on behalf of Landlord hereunder shall have been paid by Tenant and all other events of default of this Lease by Tenant at the time existing shall have been fully remedied to the satisfaction of Landlord. At any time after such termination, Landlord may recover possession of the Premises or any part thereof and expel and remove therefrom Tenant and any other person occupying the same, including any subtenant or subtenants notwithstanding Landlord's consent to any sublease, by any lawful means, and again repossess and enjoy the Premises without prejudice to any of the remedies that Landlord may have under this Lease, or at law or equity

by any reason of Tenant's default or of such termination. Landlord hereby reserves the right, but shall not have the obligation, to recognize the continued possession of any subtenant. The delivery or surrender to Landlord by or on behalf of Tenant of keys, entry codes, or other means to bypass security at the Premises shall not terminate this Lease.

(b) Continuation After Default. Even though an event of default may have occurred, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession under Section 21.1(a) hereof. Landlord shall have the remedy described in California Civil Code Section 1951.4 ("Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations"), or any successor code section. Accordingly, if Landlord does not elect to terminate this Lease on account of any event of default by Tenant, Landlord may enforce all of Landlord's rights and remedies under this Lease, including the right to recover Rent as it becomes due. Acts of maintenance, preservation or efforts to lease the Premises or the appointment of a receiver under application of Landlord to protect Landlord's interest under this Lease or other entry by Landlord upon the Premises shall not constitute an election to terminate Tenant's right to possession.

21.3 Damages After Default. Should Landlord terminate this Lease pursuant to the provisions of Section 21.1(a) hereof, Landlord shall have the rights and remedies of a Landlord provided by Section 1951.2 of the Civil Code of the State of California, or any successor code sections. Upon such termination, in addition to any other rights and remedies to which Landlord may be entitled under applicable law or at equity, Landlord shall be entitled to recover from Tenant: (a) the worth at the time of award of the unpaid Rent and other amounts which had been earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid Rent and other amounts that would have been earned after the date of termination until the time of award exceeds the amount of such Rent loss that Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid Rent and other amounts for the balance of the Term after the time of award exceeds the amount of such Rent loss that the Tenant proves could be reasonably avoided; and (d) any other amount and court costs necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which, in the ordinary course of things, would be likely to result therefrom. The "worth at the time of award" as used in clauses (a) and (b) above shall be computed at the Default Rate (defined below). The "worth at the time of award" as used in clause (c) above shall be computed by discounting such amount at the Federal Discount Rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%). If this Lease provides for any periods during the Term during which Tenant is not required to pay Base Rent or if Tenant otherwise receives a Rent concession, then upon the occurrence of an event of default, Tenant shall owe to Landlord the full amount of such Base Rent or value of such Rent concession, plus interest at the Applicable Interest Rate, calculated from the date that such Base Rent or Rent concession would have been payable.

21.4 Late Charge. In addition to its other remedies, Landlord shall have the right without notice or demand to add to the amount of any payment required to be made by Tenant hereunder, and which is not paid and received by Landlord when due (provided that Tenant shall be entitled to a grace period of 5 days for the first 2 late payments of Rent in any given calendar year), an amount equal to 5% of the delinquent amount, or $150.00, whichever amount is greater, for each month or portion thereof that the delinquency remains outstanding to compensate Landlord for the loss of the use of the amount not paid and the administrative costs caused by the delinquency, the parties agreeing that Landlord's damage by virtue of such delinquencies would be extremely difficult and impracticable to compute and the amount stated herein represents a reasonable estimate thereof. Any waiver by Landlord of any late charges or failure to claim the same shall not constitute a waiver of other late charges or any other remedies available to Landlord. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No waiver by Landlord of any breach hereof shall be effective unless such waiver is in writing and signed by Landlord.

21.5 Interest. Interest shall accrue on all sums not paid within 10 days after the date due hereunder at the lesser of 10% per annum or the maximum interest rate allowed by law ("Default Rate").

21.6 Replacement of Statutory Notice Requirements. When this Lease requires service of a notice, that notice shall replace rather than supplement any equivalent or similar statutory notice, including any notice required

by California Code of Civil Procedure Section 1161 or any similar or successor statute. When a statute requires service of a notice in a particular manner, service of that notice (or a similar notice required by this Lease) in the manner required by this Paragraph 26 shall replace and satisfy the statutory service-of-notice procedures, including those required by California Code of Civil Procedure Section 1162 or any similar or successor statute.

21.7 Waiver. TENANT HEREBY WAIVES ANY AND ALL RIGHTS CONFERRED BY SECTION 3275 OF THE CIVIL CODE OF CALIFORNIA AND BY SECTIONS 1174 (c) AND 1179 OF THE CODE OF CIVIL PROCEDURE OF CALIFORNIA AND ANY AND ALL OTHER LAWS AND RULES OF LAW FROM TIME TO TIME IN EFFECT DURING THE LEASE TERM PROVIDING THAT TENANT SHALL HAVE ANY RIGHT TO REDEEM, REINSTATE OR RESTORE THIS LEASE FOLLOWING ITS TERMINATION BY REASON OF TENANT'S BREACH. TENANT ALSO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR RELATING TO THIS LEASE.

21.8 Remedies Cumulative. All of Landlord's rights, privileges and elections or remedies are cumulative and not alternative, to the extent permitted by law and except as otherwise provided herein. This Section 21 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

22. Liens. Tenant shall not permit mechanics' or other liens to be placed upon the Property, Premises or Tenant's leasehold interest in connection with any work or service done or purportedly done by or for the benefit of Tenant or its transferees. Tenant shall give Landlord notice at least 15 days prior to the commencement of any work in the Premises to afford Landlord the opportunity, where applicable, to post and record notices of non-responsibility. Tenant, within 10 days of notice from Landlord, shall fully discharge any lien by settlement, by bonding or by insuring over the lien in the manner prescribed by the applicable lien Law. If Tenant fails to do so, Landlord may bond, insure over or otherwise discharge the lien. Tenant shall reimburse Landlord for any amount paid by Landlord, including, without limitation, reasonable attorneys' fees.

23. Relocation. [Intentionally Omitted]

24. Transfers By Landlord. In the event of a sale or conveyance by Landlord of the Building or a foreclosure by any creditor of Landlord, the same shall operate to release Landlord from any liability for any of the covenants or duties, express or implied, contained in this Lease, to the extent required to be performed after the passing of title to Landlord's successor-in-interest. In such event, Tenant agrees to look solely to the successor-in-interest of Landlord under this Lease with respect to the performance of the covenants and duties of "Landlord" to be performed after the passing of title to Landlord's successor-in-interest. This Lease shall not be affected by any such sale, conveyance or foreclosure, and Tenant agrees to attorn to the successor-in-interest. Landlord's successor(s)-in-interest shall not have liability to Tenant with respect to the failure to perform any of the obligations of "Landlord," to the extent required to be performed prior to the date such successor(s)-in-interest became the owner of the Building.

25. Right of Landlord to Perform Tenant's Covenants. If Tenant shall fail to perform any obligations of Tenant hereunder, including under Section 7.2 hereof, and such failure shall continue for 15 days after notice thereof by Landlord, in addition to the other rights and remedies of Landlord, Landlord may make any such payment and perform any such act on Tenant's part. In the case of an emergency, no prior notification by Landlord shall be required. Landlord may take such actions without any obligation and without releasing Tenant from any of Tenant's obligations. All sums so paid by Landlord and all incidental costs incurred by Landlord and interest thereon at the Default Rate, from the date of payment by Landlord, shall be paid to Landlord within 10 days after demand as Additional Rent.

26. Waiver. If either Landlord or Tenant waives the performance of any term, covenant or condition contained in this Lease, such waiver shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, or constitute a course of dealing contrary to the express terms of this Lease. The acceptance of Rent by Landlord shall not constitute a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time Landlord accepted such Rent. Failure by Landlord to enforce any of the terms, covenants or conditions of this Lease for any length of time shall not be deemed to waive or decrease the right of Landlord to insist thereafter upon strict

performance by Tenant. Waiver by Landlord of any term, covenant or condition contained in this Lease may only be made by a written document signed by Landlord, based upon full knowledge of the circumstances.

27. Notices. All notices which may or are required to be given by either party to the other hereunder shall be in writing and either personally delivered, sent by nationally recognized commercial overnight courier that provides evidence of delivery, United States mail, certified or registered, postage prepaid or sent by facsimile with confirmed receipt, and in each case addressed to the party to be notified at the notice address for such party set forth below such party's signature or to such other place as the party to be notified may from time to time designate in writing or, if to Tenant, at the Premises. Notices shall be deemed served upon receipt or refusal to accept delivery.

28. Attorneys' Fees. Tenant shall pay to Landlord, upon demand, Landlord's reasonable attorneys' fees and court costs, whether incurred by Landlord in enforcing this Lease or due to a default by Tenant, and whether or not any legal action is commenced. In any action which Landlord or Tenant brings to enforce its respective rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party including reasonable attorneys' fees, to be fixed by the court, and said costs and attorneys' fees and court costs shall be a part of the judgment in said action.

29. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of Landlord, its successors and assigns, and shall be binding upon and inure to the benefit of Tenant, its successors and, to the extent assignment is approved by Landlord as required hereunder, Tenant's assigns.

30. Force Majeure. If performance by a party of any portion of this Lease is made impossible by any prevention, delay, or stoppage caused by strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes for those items, government actions, civil commotions, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay, or stoppage is excused. Tenant's obligation to pay Rent, however, is not excused by this Section 30.

31. Surrender of Premises. Tenant shall, upon expiration or sooner termination of this Lease, surrender the Premises to Landlord broom clean, and in good order, condition and repair, ordinary wear and tear and damage which Landlord is obligated to repair hereunder excepted. Tenant shall, at Tenant's sole cost, remove upon termination of this Lease, any and all of Tenant's furniture, furnishings, movable partitions of less than full height from floor to ceiling and other trade fixtures and personal property (collectively, "Personalty"). Personalty not so removed shall be deemed abandoned by Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale, but Tenant shall remain responsible for the cost of removal and disposal of such Personalty, as well as any damage caused by such removal. At or before the time of surrender, Tenant shall comply with the terms of Section 8 hereof with respect to Alterations to the Premises and all other matters addressed in such Section. If the Premises are not so surrendered at the expiration or sooner termination of this Lease, the provisions of Section 20 hereof shall apply. All keys to the Premises or any part thereof shall be surrendered to Landlord upon expiration or sooner termination of the Term. Tenant shall give written notice to Landlord at least 30 days prior to vacating the Premises and shall meet with Landlord for a joint inspection of the Premises at the time of vacating, but nothing contained herein shall be construed as an extension of the Term or as a consent by Landlord to any holding over by Tenant. In the event of Tenant's failure to give such notice or participate in such joint inspection, Landlord's inspection at or after Tenant's vacating the Premises shall conclusively be deemed correct for purposes of determining Tenant's responsibility for repairs and restoration. Any delay caused by Tenant's failure to carry out its obligations under this Section 31 beyond the term hereof, shall constitute unlawful and illegal possession of Premises under Section 20 hereof.

32. Hazardous Substances.

32.1 General Restriction. Except as expressly provided in Section 32.2 below, Tenant shall not, and shall not direct, suffer or permit any Tenant Party to at any time handle, use, manufacture, store or dispose ("Handle") of in or about the Premises, the Building or the Project any (collectively "Hazardous Substances") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of

environmentally Hazardous Substances, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"), nor shall Tenant suffer or permit any Hazardous Substances to be used in any manner not fully in compliance with all Environmental Laws, in the Premises, the Building, the Project and appurtenant land or allow the environment to become contaminated with any Hazardous Substances. Notwithstanding the foregoing, Tenant may Handle products containing small quantities of Hazardous Substances (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for the use of the Premises for general office purposes; provided that Tenant shall always Handle any such Hazardous Substances in a safe and lawful manner and never allow such Hazardous Substances to contaminate the Premises, Building, Project and appurtenant land or the environment.

32.2 Required Disclosures. Prior to Tenant (and at least 5 days prior to any assignee or any subtenant of Tenant) taking possession of any part of the Premises, and on each anniversary of the Commencement Date (each such date is hereinafter referred to as a "Disclosure Date"), until and including the first Disclosure Date occurring after the expiration or sooner termination of this Lease, Tenant shall disclose to Landlord in writing the names and amounts of all Hazardous Substances, or any combination thereof, which were Handled on, in, under or about the Premises or Project for the 12 month period prior to such Disclosure Date, or which Tenant intends to Handle on, under or about the Premises during the 12 month period following the Disclosure Date by executing and delivering to Landlord a "Hazardous Substances Questionnaire", in the form attached hereto as Exhibit F (as updated and modified by Landlord, from time to time). Tenant's disclosure obligations under this Section 32.2 shall include a requirement that, to the extent any information contained in a Hazardous Substances Questionnaire previously delivered by Tenant shall become inaccurate in any material respect, Tenant shall promptly deliver to Landlord a new updated Hazardous Substances Questionnaire.

32.3 Additional Obligations. If any Hazardous Substances shall be released into the environment comprising or surrounding the Project in connection with the acts, omissions or operations of Tenant or any Tenant Party, Tenant shall at its sole expense promptly prepare a remediation plan therefor consistent with applicable Environmental Laws and recommended industry practices (and approved by Landlord and all governmental agencies having jurisdiction) to fully remediate such release, and thereafter shall prosecute the remediation plan so approved to completion with all reasonable diligence and to the satisfaction of Landlord and applicable governmental agencies. If any Hazardous Substances are Handled in, under, on or about the Premises during the Term, or if Landlord determines in good faith that any release of any Hazardous Substance or violation of Hazardous Substances Regulations may have occurred in, on, under or about the Premises during the Term, for which Tenant is responsible under this Lease, Landlord may require Tenant to at Tenant's sole expense, (i) retain a qualified environmental consultant reasonably satisfactory to Landlord to conduct a reasonable investigation (an "Environmental Assessment") of a nature and scope reasonably approved in writing in advance by Landlord with respect to the existence of any Hazardous Substances in, on, under or about the Premises and providing a review of all Hazardous Substances activities of Tenant and any Tenant Party, and (ii) provide to Landlord a reasonably detailed, written report, prepared in accordance with the institutional real estate standards, of the Environmental Assessment. Notwithstanding anything to the contrary set forth herein, Tenant shall not be liable for any cost or expense related to removal, cleaning, abatement or remediation of Hazardous Substances existing in the Premises or the Building prior to the date Landlord tenders possession of the Premises to Tenant, including, without limitation, Hazardous Substances in the ground water or soil, except to the extent arising from any act or omission by Tenant or any Tenant Party or any Hazardous Substances disturbed, distributed or exacerbated by Tenant or any Tenant Party. For purposes of this Article 32, Tenant, not Landlord, shall have the burden to prove with reasonable and unequivocal documentation that such Hazardous Substances were in fact preexisting in the Premises or the Building, as applicable, prior to the date Landlord delivered possession of the Premises to Tenant.

32.4 Indemnity. Tenant shall protect, defend, indemnify and hold Landlord and each and all of the Landlord Entities harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred to the extent arising out of any actual or asserted failure of Tenant to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Premises of any Hazardous Substances by Tenant or any Tenant Party (even though permissible under all applicable Environmental Laws or the provisions of this Lease), or by reason of any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 32. Tenant's indemnity hereunder shall include, without limitation, damages for personal or bodily injury, property damage, damage to the environment or natural resources occurring on or off

the Premises, losses attributable to diminution in value or adverse effects on marketability, the cost of any investigation, monitoring, government oversight, repair, removal, remediation, restoration, abatement, and disposal, and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following the expiration or earlier termination of this Lease. Neither the consent by Landlord to the use, generation, storage, release or disposal of Hazardous Substances nor the strict compliance by Tenant with all laws pertaining to Hazardous Substances shall excuse Tenant from Tenant's obligation of indemnification pursuant to this Section 32.4. Tenant's obligations pursuant to the foregoing indemnity shall survive the expiration or earlier termination of this Lease.

33. Parking. Tenant shall have the right to the nonexclusive use of the number of parking passes specified in Section 1.9 for the parking of such number of motor vehicles in the parking facilities of the Project designated by Landlord; such rights are not transferable without Landlord's approval. The use of such parking facilities shall be subject to such rules and regulations as are adopted by Landlord from time to time for the use of such facilities. Tenant acknowledges and agrees that, to the fullest extent permitted by law, Landlord shall not be responsible for any loss or damage to Tenant or Tenant's property (including, without limitation, any loss or damage to any Tenant Party's automobile or the contents thereof due to theft, vandalism or accident) arising from or related to use of the parking facilities, whether or not such loss or damage results from Landlord's or any Landlord Entities negligence.

34. Miscellaneous.

34.1 Authority. Each party represents and warrants that it has full right and authority to enter into this Lease and to perform all of its obligations hereunder and that all persons signing this Lease on its behalf are authorized to do.

34.2 Time. Time is of the essence regarding this Lease and all of its provisions.

34.3 Choice of Law. This Lease shall in all respects be governed by the laws of the State.

34.4 Entire Agreement. This Lease, together with its Exhibits, addenda and attachments and the Basic Provisions, contains all the agreements of the parties hereto and supersedes any previous negotiations. There have been no representations made by the Landlord or understandings made between the parties other than those set forth in this Lease and its Exhibits, addenda and attachments and the Basic Provisions.

34.5 Modification. This Lease may not be modified except by a written instrument signed by the parties hereto.

34.6 Severability. If, for any reason whatsoever, any of the provisions hereof shall be unenforceable or ineffective, all of the other provisions shall be and remain in full force and effect.

34.7 No Recordation. Tenant shall not record this Lease or a short form memorandum hereof.

34.8 Examination of Lease. Submission of this Lease to Tenant does not constitute an option or offer to lease and this Lease is not effective otherwise until execution and delivery by both Landlord and Tenant.

34.9 Accord and Satisfaction. No payment by Tenant of a lesser amount than the total Rent due nor any endorsement on any check or letter accompanying any check or payment of Rent shall be deemed an accord and satisfaction of full payment of Rent, and Landlord may accept such payment without prejudice to Landlord's right to recover the balance of such Rent or to pursue other remedies.

34.10 Easements. Landlord may grant easements on the Project and dedicate for public use portions of the Project without Tenant's consent; provided that no such grant or dedication shall materially interfere with Tenant's Permitted Use of the Premises.

34.11 Drafting and Determination Presumption. The parties acknowledge that this Lease has been agreed to by both the parties, that both Landlord and Tenant have consulted with attorneys with respect to the terms of this Lease and that no presumption shall be created against Landlord because Landlord drafted this Lease.

34.12 Exhibits. The Exhibits, addenda and attachments attached hereto are hereby incorporated herein by this reference and made a part of this Lease as though fully set forth herein. Capitalized terms used in the Exhibits, addenda and attachments hereto, but not otherwise defined therein, shall have the same meanings as set forth in this Lease.

34.13 No Light, Air or View Easement. Any diminution or shutting off of light, air or view by any structure which may be erected on lands adjacent to or in the vicinity of the Building shall in no way affect this Lease or impose any liability on Landlord.

34.14 No Third Party Benefit. This Lease is a contract between Landlord and Tenant and nothing herein is intended to create any third party benefit.

34.15 Quiet Enjoyment. Upon payment by Tenant of the Rent, and upon the observance and performance of all of the other covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the term hereby demised without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under Landlord, subject, nevertheless, to all of the other terms and conditions of this Lease. Landlord shall not be liable for any hindrance, interruption, interference or disturbance by other tenants or third persons, nor shall Tenant be released from any obligations under this Lease because of such hindrance, interruption, interference or disturbance.

34.16 Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed an original.

34.17 Multiple Parties. If more than one person or entity is named herein as Tenant, such multiple parties shall have joint and several responsibility to comply with the terms of this Lease.

34.18 Prorations. Any Rent or other amounts payable to Landlord by Tenant hereunder for any fractional month of the Term shall be prorated based on the actual number of days in such month. As used herein, the term "fiscal year" shall mean the calendar year or such other fiscal year as Landlord may deem appropriate.

34.19 Broker. Landlord has delivered a copy of this Lease to Tenant for Tenant's review only and the delivery of it does not constitute an offer to Tenant or an option. Tenant represents that it has dealt directly with and only with Broker as a broker in connection with this Lease. Tenant shall indemnify and hold Landlord and the Landlord Entities harmless from all claims of any other brokers claiming to have represented Tenant in connection with this Lease. Landlord shall indemnify and hold Tenant and any Tenant Party harmless from all claims of any brokers claiming to have represented Landlord in connection with this Lease.

35. Jury Trial Waiver. EACH PARTY HERETO (WHICH INCLUDES ANY ASSIGNEE, SUCCESSOR, HEIR OR PERSONAL REPRESENTATIVE OF A PARTY) SHALL NOT SEEK A JURY TRIAL, HEREBY WAIVES TRIAL BY JURY. AND HEREBY FURTHER WAIVES ANY OBJECTION TO VENUE IN THE COUNTY IN WHICH THE BUILDING IS LOCATED, AND AGREES AND CONSENTS TO PERSONAL JURISDICTION OF THE COURTS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IN ANY ACTION OR PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and the year set forth above.

Landlord:

BRCP CARIBBEAN PORTFOLIO, LLC,
a Delaware limited liability company

By: BRCP Realty L.P. I, a Delaware limited partnership, Its: Sole Member

By: BRCP Gen-Par, LLC, a Delaware limited liability company, Its: General Partner

By: /s/ Eli Khoun
Name: Eli Khoun
Its: Managing Director

Tenant:

CEPHEID,
a California corporation

By: /s/ Humberto Reyes
Name: Humberto Reyes
Its: EVP, Operations

By: _____
Name: _____
Its: _____

FEIN: 77-0441625

Landlord's Address:

BRCP Caribbean Portfolio, LLC
c/o Broadreach Capital Partners, LLC
248 Homer Avenue
Palo Alto, California 94301

Tenant's Address:

Cepheid
1327 Chesapeake Ten-ace
Sunnyvale, California 94089
Attention: _____

EXHIBIT A

OUTLINE AND LOCATION OF PREMISES

The Premises consist of the rentable square footage of space specified in the Basic Provisions and has the address specified in the Basic Provisions. The Premises are contained in the Building and are part of a Project specified in the Basic Provisions. The cross-hatched area below depicts the Premises.

EXHIBIT B

COMMENCEMENT DATE CERTIFICATE

Landlord: **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company**

Tenant: **CEPHEID, a California corporation**

Lease Date: **January 25, 2008**

Premises: **1327 Chesapeake Terrace**
Sunnyvale, California 94089

1. Tenant hereby accepts the premises as being in the condition required under the Lease.
2. The Commencement Date of the Lease is _____, 2008.
3. The Expiration Date of the Lease is _____,_____.

Landlord:

BRCP CARIBBEAN PORTFOLIO, LLC,
a Delaware limited liability company

By: BRCP Realty L.P. I, a Delaware limited partnership,
Its: Sole Member

By: BRCP Gen-Par, LLC, a Delaware limited liability company,
Its: General Partner

By: _____
Name:
Its: Managing Director

Tenant:

CEPHEID,
a California corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

FEIN: _____

EXHIBIT C

IMPROVEMENT AGREEMENT

This Exhibit is attached to and made a part of the Lease by and between **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company** ("**Landlord**") and **CEPHEID, a California corporation** ("**Tenant**") for space in the Building located at 1327 Chesapeake Terrace, Sunnyvale, California 94089. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease.

1. Tenant, following the delivery of the Premises by Landlord and the full and final execution and delivery of the Lease to which this **Exhibit C** is attached and all prepaid rental, the Security Deposit and insurance certificates required under the Lease, shall have the right to perform alterations and improvements in the Premises and generally described on **Exhibit C-I** to the Lease (the "**Initial Alterations**"). Notwithstanding the foregoing, Tenant and its contractors shall not have the right to perform Initial Alterations in the Premises unless and until Tenant has complied with all of the terms and conditions of Section 8 of the Lease, including, without limitation, approval by Landlord of the final plans for the Initial Alterations and the contractors to be retained by Tenant to perform such Initial Alterations. Tenant shall be responsible for all elements of the design of Tenant's plans (including, without limitation, compliance with law, functionality of design, the structural integrity of the design, the configuration of the premises and the placement of Tenant's furniture, appliances and equipment), and Landlord's approval of Tenant's plans shall in no event relieve Tenant of the responsibility for such design. Landlord's approval of the contractors to perform the Initial Alterations shall not be unreasonably withheld, conditioned or delayed. The parties agree that Landlord's approval of the general contractor to perform the Initial Alterations shall not be considered to be unreasonably withheld if any such general contractor (a) does not have trade references reasonably acceptable to Landlord, (b) does not maintain insurance as required pursuant to the terms of the Lease, (c) does not have the ability to be bonded for the work in an amount of no less than 150% of the total estimated cost of the Initial Alterations, (d) does not provide current financial statements reasonably acceptable to Landlord, or (e) is not licensed as a contractor in the state/municipality in which the Premises is located. Tenant acknowledges the foregoing is not intended to be an exclusive list of the reasons why Landlord may reasonably withhold its consent to a general contractor.

2. Provided Tenant is not in default, Landlord agrees to contribute the sum of **$327,252.00** (i.e., $12.00 per rentable square foot of the Premises) (the "**Allowance**") toward the cost of performing the Initial Alterations in preparation of Tenant's occupancy of the Premises. The Allowance may only be used for hard costs in connection with the Initial Alterations. Notwithstanding the foregoing, Tenant may use up to $**109,084.00** (i.e., $4.00 per rentable square foot of the Premises) of the Allowance for the cost of preparing design and construction documents and mechanical and electrical plans and permitting costs for the Initial Alterations. The Allowance shall be paid to Tenant or, at Landlord's option, to the order of the general contractor that performed the Initial Alterations, within 30 days following receipt by Landlord of (a) receipted bills covering all labor and materials expended and used in the Initial Alterations; (b) a sworn contractor's affidavit from the general contractor and a request to disburse from Tenant containing an approval by Tenant of the work done; (c) full and final waivers of lien; (d) as-built plans of the Initial Alterations; and (e) the certification of Tenant and its architect that the Initial Alterations have been installed in a good and workmanlike manner in accordance with the approved plans, and in accordance with applicable laws, codes and ordinances. The Allowance shall be disbursed in the amount reflected on the receipted bills meeting the requirements above. Notwithstanding anything herein to the contrary, Landlord shall not be obligated to disburse any portion of the Allowance during the continuance of an Event of Default under the Lease, and Landlord's obligation to disburse shall only resume when and if such default is cured.

3. In no event shall the Allowance be used for the purchase of equipment, furniture or other items of personal property of Tenant. If Tenant does not submit a request for payment of the entire Allowance to Landlord in accordance with the provisions contained in this **Exhibit C** by August 31, 2008, any unused amount shall accrue to the sole benefit of Landlord, it being understood that Tenant shall not be entitled to any credit, abatement or other concession in connection therewith. Tenant shall be responsible for all applicable state sales or use taxes, if any, payable in connection with the Initial Alterations and/or Allowance. Landlord shall be entitled to deduct from the

Allowance a construction management fee for Landlord's oversight of the Initial Alterations in an amount equal to 3% of the total cost of the Initial Alterations.

4. Tenant agrees to accept the Premises in its "as-is" condition and configuration, it being agreed that Landlord shall not be required to perform any work or, except as provided above with respect to the Allowance, incur any costs in connection with the construction or demolition of any improvements in the Premises.

5. This **Exhibit C** shall not be deemed applicable to any additional space added to the Premises at any time or from time to time, whether by any options under the Lease or otherwise, or to any portion of the original Premises or any additions to the Premises in the event of a renewal or extension of the original Term of the Lease, whether by any options under the Lease or otherwise, unless expressly so provided in the Lease or any amendment or supplement to the Lease.

EXHIBIT C-I

DESCRIPTION OF INITIAL ALTERATIONS

1

EXHIBIT D

RULES AND REGULATIONS

This Exhibit is attached to and made a part of the Lease by and between **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company** ("**Landlord**") and **CEPHEID, a California corporation** ("**Tenant**") for space in the Building located at 1327 Chesapeake Terrace, Sunnyvale, California 94089. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease.

1. No placard, banner, picture, advertisement, name, notice or other sign shall be inscribed, displayed, or printed or affixed on the Building or Project or to any part thereof, or which is visible from the outside of the Premises, the Building or the common areas without the prior written consent of Landlord, and Landlord shall have the right to remove any such sign not so approved by Landlord, at the expense of Tenant. All approved signs or lettering on doors shall be printed, affixed or inscribed at the expense of Tenant by a person approved by Landlord, and shall be removed by Tenant at the time of Tenant's vacancy of the Premises at Tenant's expense.

2. Tenant shall not place anything or allow anything to be placed near the glass of any window, door, partition or wall which may appear unsightly from outside the premises. All window coverings installed by Tenant and visible from the outside of the Building require the prior written consent of Landlord.

3. If a directory is provided at the Building for general use by tenants, it is provided exclusively for the display of the name and location of tenants only and Landlord reserves the right to exclude any other names therefrom.

4. The sidewalks, passages, exits, entrances and stairways in and around the Building and Project shall not be obstructed by Tenant or used by it for any purpose other than for ingress to and egress from the Premises. The sidewalks, passages, exits, entrances, stairways and roof 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 or interests of the Building or the Project and its tenants, provided that nothing herein contained shall be construed to prevent such access to persons whom Tenant normally deals in the ordinary course of Tenant's business unless such persons are engaged in illegal or immoral activities. Landlord further reserves the right to exclude or expel from the Building or Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs, or who shall in any manner do any act in violation of any of the rules and regulations of the Building.

5. No person shall go on the roof without Landlord's permission. Tenant shall not install any antenna, satellite dish, loudspeaker or any other device on the exterior of the Premises or Building without Landlord's prior written consent. Tenant shall not interfere with broadcasting or reception from or in the Building, the Project or elsewhere.

6. The toilets and urinals shall not be used for any purpose other than those for which they were constructed, and no rubbish, newspapers or other substances of any kind shall be thrown into them. Waste and excessive or unusual use of water shall not be allowed. Tenant shall be responsible for any breakage, stoppage or damage resulting from the violation of this rule by Tenant or any Tenant Party.

7. Tenant shall not overload the floor of the Premises or mark, drive nails, screw or drill into the partitions, woodwork or plaster, or in any way deface the Premises, the Building or the common areas or any part thereof. Machines or equipment belonging to Tenant which cause noise or vibration that may be transmitted outside of the Premises, to such a degree as to be objectionable to Landlord or other tenants, shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate noise or vibration. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, the Building, the Project or the common areas, or permit or suffer the Premises, the Building, the Project or the common areas to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building

or Project, including by reason of noise, odors, smoke, dust, gas, substances and/or vibrations emanating from the Premises, or interfere in any way with other tenants or those having business in the Building or the Project.

8. Tenant shall not store or permit the storage or placement of food, goods, merchandise, pallets, drums or other materials or equipment of any sort outside of the Premises nor in or around the Building or common areas. No displays or sales of merchandise shall be allowed outside of the Premises. No sale by auction shall be allowed. Tenant shall not operate or permit to be operated a coin or token operated vending machine or similar device (including, without limitation, telephones, lockers, toilets, scales, amusement devices and machines for sale of beverages, foods, candy, cigarettes and other goods), except for machines for the exclusive use of Tenant's employees, and then only if the operation does not violate the lease or any other tenant in the Building or the Project.

9. Tenant shall not use or keep in the Premises, the Building, the Project or the common areas, or place in any drainage system, any kerosene, gasoline or inflammable or combustible fluid or material or other harmful substance, or use any method of heating or air conditioning other than that supplied by Landlord except in strict compliance with the requirements set forth in this Lease.

10. Tenant shall not permit any vehicles to be washed on any portion of the Premises or Project or in the

common areas, nor shall Tenant permit mechanical work or maintenance of vehicles to be performed on any portion of the Premises or Project or in the coin] non areas.

11. Tenant shall not permit any animals or birds, including, but not limited to household pets, to be brought or kept in or about the Premises, the Building, the Project or any of the common areas.

12. Landlord will direct electricians as to the manner and location in which telephone and telegraph wires are to be introduced. No boring or cutting for wires will be allowed without the prior written consent of Landlord. The location of telephones, call boxes and other office equipment affixed to the Premises or the Building shall be subject to the prior written approval of Landlord.

13. Tenant shall not alter any lock or access device or install any new locks or bolts or access device without the prior written consent of Landlord. If Landlord shall give such consent, Tenant shall furnish Landlord with a key or other means of access therefor. Tenant agrees to not make any duplicate keys (including electronic access devices) without the prior written consent of Landlord. Tenant upon Tenant's vacancy of the Premises shall deliver to Landlord all keys or other devices for the Premises or any portion thereof in Tenant's or any Tenant Party's possession.

14. Tenant shall not disturb, solicit or canvass any occupant of the Building or the Project. Canvassing, soliciting and peddling are prohibited in the Building and Project and Tenant shall cooperate to prevent the same.

15. Without the prior written consent of Landlord, Tenant shall not use the name of the Building or Project in connection with or in promoting or advertising the business of Tenant except as Tenant's address. Landlord reserves the right to change the name and address of the Building or the Project.

16. Tenant shall not permit any contractor or other person making any Alterations within the Premises to use the hallways, lobby or corridors as storage or work areas without the prior written consent of Landlord. Tenant shall be liable for and shall pay the expense of any additional cleaning or other maintenance required to be performed by Landlord as a result of the transportation or storage or materials or work performed within the Building by or for Tenant.

17. Tenant and its employees shall be entitled to use the number of parking spaces specified in Section 1.9 of this Lease on a non-exclusive basis for the parking of a like number of motor vehicles only as mutually agreed upon between Tenant and Landlord and subject to such parking charges and additional rules and regulations as may be reasonably imposed from time to time by Landlord. Tenant's visitors and invitees may be required to use parking spaces designated from time to time by Landlord for "Visitors". Tenant shall park vehicles only in those general parking areas designated from time to time by Landlord, except for loading and unloading. During periods of loading and unloading, Tenant shall not unreasonably interfere with traffic flow within the Project and loading and unloading areas of other tenants. Tenant agrees that vehicles of Tenant or any Tenant Party shall not park in driveways nor occupy parking spaces or other areas reserved for any such use as Visitors, Delivery, Loading or

other tenants, shall be parked between designated parking lines only and shall not occupy two parking spaces with one car. Landlord or its agents shall have the right to cause to be removed any car of Tenant or any Tenant Party that may be parked in unauthorized areas, and Tenant agrees to save and hold harmless Landlord and the Landlord Entities from any and all claims, losses, damages and demands asserted or arising in respect to or in connection with the removal of any such vehicle. Neither Tenant nor any Tenant Party shall park campers, trucks, truck tractors, trailers or fifth wheels in any of the parking areas of the Project. No vehicles shall be parked in any of the parking areas of the Project after the conclusion of normal daily business activity, or overnight or over weekends. Tenant will from time to time, upon request of Landlord, supply Landlord with a list of license plate numbers of vehicles owned or operated by its employees and agents.

18. Tenant is responsible for purchasing and installing any security system required by the City in which the Building is located or desired or deemed necessary by Tenant. The cost of purchasing and installing and installation of such a system is the sole cost and expense of Tenant, and Tenant acknowledges and agrees that Landlord has no obligation to provide any security services or system.

19. Landlord is not responsible for the violation of any rules or regulations contained herein by any other tenant.

EXHIBIT E

ADDITIONAL PROVISIONS

This Exhibit is attached to and made a part of the Lease by and between **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company** ("**Landlord**") and **CEPHEID, a California corporation** ("**Tenant**") for space in the Building located at 1327 Chesapeake Terrace, Sunnyvale, California 94089. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease.

1. Option to Renew.

(a) Tenant shall, provided the Lease is in full force and effect and Tenant is not in default under any of the other terms and conditions of the Lease beyond any applicable cure period at the time of notification or commencement, have 1 option to renew (the "Renewal Option") the Lease for a term of 3 years (the "Renewal Term"), for the portion of the Premises being leased by Tenant as of the date the Renewal Term is to commence, on the same terms and conditions set forth in the Lease, except as modified by the terms, covenants and conditions as set forth below:

(b) If Tenant elects to exercise the Renewal Option, then Tenant shall provide Landlord with written notice no earlier than the date which is 365 days prior to the expiration of the Term of the Lease but no later than the date which is 270 days prior to the expiration of the Term of the Lease. If Tenant fails to provide such notice, Tenant shall have no further or additional right to extend or renew the Term of the Lease.

(c) The Base Rent for the first year of the Renewal Term (the "**Initial Renewal Term Base Rent**") shall be equal to the greater of (a) the Base Rent in effect during the last month of the initial Term (the "**MINIMUM RENEWAL BASE RENT**"), and (b) the Prevailing Market (defined below) rate per rentable square foot for the Premises. Landlord shall advise Tenant of the Initial Renewal Term Base Rent no later than 30 days after receipt of Tenant's written request therefor. Said request shall be made no earlier than 30 days prior to the first date on which Tenant may exercise its Renewal Option under this Section. Said notification of the Initial Renewal Term Base Rent may include a provision for its escalation to provide for a change in fair market rental between the time of notification and the commencement of the Renewal Term. The Initial Renewal Term Base Rent as so determined shall be subject to annual adjustments in accordance with increases assumed in the determination of the Prevailing Market rate.

(d) Within 15 days after the date on which Landlord advises Tenant of the Renewal Initial Term Base Rent rate for the Renewal Term, Tenant shall either (i) give Landlord final binding written notice ("**Binding Notice**") of Tenant's exercise of its Renewal Option, or (ii) if Tenant disagrees with Landlord's determination, provide Landlord with written notice of rejection (the "**Rejection Notice**"). If Tenant fails to provide Landlord with either a Binding Notice or Rejection Notice within such 15 day period, Tenant's Renewal Option shall be null and void and of no further force and effect. If Tenant provides Landlord with a Binding Notice, Landlord and Tenant shall enter into the Renewal Amendment (as defined below) upon the terms and conditions set forth herein. If Tenant provides Landlord with a Rejection Notice, Landlord and Tenant shall work together in good faith to agree upon the Prevailing Market rate for the Premises during the Renewal Term. Upon agreement, Landlord and Tenant shall enter into the Renewal Amendment in accordance with the terms and conditions hereof. Notwithstanding the foregoing, if Landlord and Tenant fail to agree upon the Prevailing Market rate within 30 days after the date Tenant provides Landlord with the Rejection Notice, Tenant, by written notice to Landlord (the "**Arbitration Notice**") within 5 days after the expiration of such 30 day period, shall have the right to have the Prevailing Market rate determined in accordance with the arbitration procedures described in Section (e) below. If Landlord and Tenant fail to agree upon the Prevailing Market rate within the 30 day period described and Tenant fails to timely exercise its right to arbitrate, Tenant's Renewal Option shall be deemed to be null and void and of no further force and effect.

(e) Arbitration Procedure.

(i) If Tenant provides Landlord with an Arbitration Notice, Landlord and Tenant, within 5 days after the date of the Arbitration Notice, shall each simultaneously submit to the other, in a sealed envelope, its good faith estimate of the Prevailing Market rate for the Premises during the Renewal Term (collectively referred to as the "**Estimates**"). If the higher of such Estimates is not more than 105% of the lower of such Estimates, then Prevailing Market rate shall be the average of the two Estimates. If the Prevailing Market rate is not resolved by the exchange of Estimates, then, within 7 days after the exchange of Estimates, Landlord and Tenant shall each select an appraiser to determine which of the two Estimates most closely reflects the Prevailing Market rate for the Premises during the Renewal Term. Each appraiser so selected shall be certified as an MAI appraiser or as an ASA appraiser and shall have had at least 5 years experience within the previous 10 years as a real estate appraiser working in Sunnyvale, California, with working knowledge of current rental rates and practices. For purposes hereof, an "MAI" appraiser means an individual who holds an MAI designation conferred by, and is an independent member of, the American Institute of Real Estate Appraisers (or its successor organization, or in the event there is no successor organization, the organization and designation most similar), and an "ASA" appraiser means an individual who holds the Senior Member designation conferred by, and is an independent member of, the American Society of Appraisers (or its successor organization, or, in the event there is no successor organization, the organization and designation most similar).

(ii) Upon selection, Landlord's and Tenant's appraisers shall work together in good faith to agree upon which of the two Estimates most closely reflects the Prevailing Market rate for the Premises. The Estimate chosen by such appraisers shall be binding on both Landlord and Tenant as the Base Rent rate for the Premises during the Renewal Term, subject to the terms of Section (e)(iv) below regarding the Minimum Renewal Base Rent, as defined therein. If either Landlord or Tenant fails to appoint an appraiser within the 7 day period referred to above, the appraiser appointed by the other party shall be the sole appraiser for the purposes hereof. If the two appraisers cannot agree upon which of the two Estimates most closely reflects the Prevailing Market within 20 days after their appointment, then, within 10 days after the expiration of such 20 day period, the two appraisers shall select a third appraiser meeting the aforementioned criteria. Once the third appraiser (i.e. arbitrator) has been selected as provided for above, then, as soon thereafter as practicable but in any case within 14 days, the arbitrator shall make his determination of which of the two Estimates most closely reflects the Prevailing Market rate and such Estimate shall be binding on both Landlord and Tenant as the Base Rent rate for the Premises, subject to the terms of Section (e)(iv) below regarding the Minimum Renewal Base Rent. If the arbitrator believes that expert advice would materially assist him, he may retain one or more qualified persons to provide such expert advice. The parties shall share equally in the costs of the arbitrator and of any experts retained by the arbitrator. Any fees of any appraiser, counsel or experts engaged directly by Landlord or Tenant, however, shall be borne by the party retaining such appraiser, counsel or expert.

(iii) If the Prevailing Market rate has not been determined by the commencement date of the Renewal Term, Tenant shall pay Base Rent upon the terms and conditions in effect during the last month of the First Renewal Term for the Premises, until such time as the Prevailing Market rate has been determined. Upon such determination, the Base Rent for the Premises shall be retroactively adjusted to the commencement of the Renewal Term for the Premises. If such adjustment results in an underpayment of Base Rent by Tenant, Tenant shall pay Landlord the amount of such underpayment within 30 days after the determination thereof. If such adjustment results in an overpayment of Base Rent by Tenant, Landlord shall credit such overpayment against the next installment of Base Rent due under the Lease and, to the extent necessary, any subsequent installments, until the entire amount of such overpayment has been credited against Base Rent.

(iv) Notwithstanding anything to the contrary contained herein, the parties agree that in no event shall the Initial Renewal Term Base Rent shall not be less than the Minimum Renewal Base Rent regardless of any determination of Prevailing Market rate made by the appraisers or arbitrator, as described above.

(f) This Renewal Option is not transferable; the parties hereto acknowledge and agree that they intend that the aforesaid option to renew the Lease shall be "personal" to Tenant as set forth above and that in no event will any assignee or sublessee have any rights to exercise the aforesaid option to renew. If Tenant is entitled to and properly exercises the Second Renewal Option, Landlord shall prepare an amendment (the "Renewal Amendment") to reflect changes in the Base Rent, Term, Expiration Date, Security Deposit and other appropriate terms. The Renewal Amendment shall be sent to Tenant within a reasonable time after receipt of the Binding Notice or any later determination of the Prevailing Market rate in accordance with subparagraph (e) above, as applicable, and Tenant

shall execute and return the Renewal Amendment to Landlord within 15 days after Tenant's receipt of same, but, upon final determination of the Prevailing Market rate applicable during such Renewal Term as described herein, an otherwise valid exercise of the Renewal Option shall be fully effective whether or not the related Renewal Amendment is executed.

(g) If the Renewal Option is exercised or if Tenant fails to validly exercise the Renewal Option, Tenant shall have no further right to extend the term of the Lease.

(h) For purposes of this Renewal Option, "Prevailing Market" shall mean the arms length fair market annual rental rate per rentable square foot under renewal leases and amendments entered into on or about the date on which the Prevailing Market is being determined hereunder for space comparable to the Premises in the Building and buildings comparable to the Building in the same rental market in the Sunnyvale, California area as of the date the Renewal Term is to commence, taking into account the specific provisions of this Lease which will remain constant. The determination of Prevailing Market shall take into account any material economic differences between the terms of this Lease and any comparison lease or amendment, such as rent abatements, construction costs and other concessions and the manner, if any, in which the landlord under any such lease is reimbursed for operating expenses and taxes. The determination of Prevailing Market shall also take into consideration any reasonably anticipated changes in the Prevailing Market rate from the time such Prevailing Market rate is being determined and the time such Prevailing Market rate will become effective under this Lease.

(i) Notwithstanding anything herein to the contrary, Tenant's Renewal Option is subject and subordinate to the expansion rights (whether such rights are designated as a right of first offer, right of first refusal, expansion option or otherwise) of any tenant of the Building existing on the date hereof.

2. Monument Sign.

(a) So long as (a) Tenant is not in default under the terms of the Lease; (b) Tenant is in occupancy of not less than 50% of the rentable square footage of the Premises as originally described in the Lease; and (c) Tenant has not assigned the Lease or sublet any part of the Premises, Tenant shall have the right to have its name listed on the shared monument sign for the Building (the "Monument Sign"), subject to the terms of this Section 2. The design, size and color of Tenant's signage with Tenant's name to be included on the Monument Sign, and the manner in which it is attached to the Monument Sign, shall comply with all applicable Laws and shall be subject to the approval of Landlord, any applicable owners' association requirements and any applicable governmental authorities. Landlord reserves the right to withhold consent to any sign that, in the sole judgment of Landlord, is not harmonious with the design standards of the Building and Monument Sign. Landlord shall have the right to require that all names on the Monument Sign be of the same size and style. Tenant must obtain Landlord's written consent to any proposed signage and lettering prior to its fabrication and installation. Tenant's right to place its name on the Monument Sign, and the location of Tenant's name on the Monument Sign, shall be subject to the existing rights of existing tenants in the Building, and the location of Tenant's name on the Monument Sign shall be further subject to Landlord's reasonable approval. To obtain Landlord's consent, Tenant shall submit design drawings to Landlord showing the type and sizes of all lettering; the colors, finishes and types of materials used; and (if applicable and Landlord consents in its sole discretion) any provisions for illumination. Although the Monument Sign will be maintained by Landlord, Tenant shall pay its proportionate share of the cost of any maintenance and repair associated with the Monument Sign. In the event that additional names are listed on the Monument Sign, all future costs of maintenance and repair shall be prorated between Tenant and the other parties that are listed on such Monument Sign.

(b) Tenant's name on the Monument Sign shall be designed, constructed, installed, insured, maintained, repaired and removed from the Monument Sign all at Tenant's sole risk, cost and expense. Tenant, at its cost, shall be responsible for the maintenance, repair or replacement of Tenant's signage on the Monument Sign, which shall be maintained in a manner reasonably satisfactory to Landlord.

(c) Upon the expiration or earlier termination of the Lease, or if during the Term (and any extensions thereof) (a) Tenant is in default under the terms of the Lease after the expiration of applicable cure periods; (b) Tenant leases and occupies less than 50% of the rentable square footage of the Premises as originally described in the Lease; or (c) Tenant assigns the Lease, then Tenant's rights granted herein will terminate and Landlord may

remove Tenant's name from the Monument Sign at Tenant's sole cost and expense and restore the Monument Sign to the condition it was in prior to installation of Tenant's signage thereon, ordinary wear and tear excepted. The cost of such removal and restoration shall be payable as additional rent within 5 days of Landlord's demand. Landlord may, at anytime during the Term (or any extension thereof), upon 5 days prior written notice to Tenant, relocate the position of Tenant's name on the Monument Sign. The cost of such relocation of Tenant's name shall be at the cost and expense of Landlord.

(d) The rights provided in this Section shall be non-transferable unless otherwise agreed by Landlord in writing in its sole discretion.

3. Entry Signage. Tenant shall be entitled to one non-illuminated identification sign to be located on the Building directly adjacent to the main entrance to the Premises (the "**Entry Signage**"). The exact location of the Entry Signage shall be subject to all applicable Laws and Landlord's prior written approval. Such right to Entry Signage is personal to Tenant and is subject to the following terms and conditions: (a) Tenant shall submit plans and drawings for the Entry Signage to Landlord, and to the extent required pursuant to any applicable Law, to any applicable governmental authority prior to installation; (b) Tenant shall, at Tenant's sole cost and expense, design, construct and install the Entry Signage; (c) the Entry Signage shall be subject to Landlord's prior written approval, which Landlord shall have the right to withhold in its reasonable discretion; and (d) Tenant shall maintain the Entry Signage in good condition and repair, and all costs of maintenance and repair shall be borne by Tenant. Maintenance shall include, without limitation, cleaning at reasonable intervals. Upon the expiration or earlier termination of the Lease, Tenant shall remove, at Tenant's sole cost, the Entry Signage, repair any damage to the Building caused by such removal and restore the Building to the condition which existed prior to the installation of the Entry Signage. If Tenant fails to remove the Entry Signage and repair the Building in accordance with the terms of the Lease, Landlord shall cause the Entry Signage to be removed from the Building and the Building to be repaired and restored to the condition which existed prior to the installation of the Entry Signage (including, if necessary, the replacement of any precast concrete panels), all at the sole cost and expense of Tenant and otherwise in accordance with the Lease, without further notice from Landlord notwithstanding anything to the contrary contained in the Lease. Tenant shall pay all costs and expenses for such removal and restoration upon demand. The rights provided in this Section 3 shall be nontransferable unless otherwise agreed by Landlord in writing in its sole discretion.

EXHIBIT F

HAZARDOUS SUBSTANCES QUESTIONNAIRE

This Exhibit is attached to and made a part of the Lease by and between **BRCP CARIBBEAN PORTFOLIO, LLC, a Delaware limited liability company** ("**Landlord**") and CEPHEID, a California corporation ("**Tenant**") for space in the Building located at 1327 Chesapeake Terrace, Sunnyvale, California 94089. Capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease.

This questionnaire is designed to solicit information regarding Tenant's proposed use, generation, treatment, storage, transfer or disposal of hazardous or toxic materials, substances or wastes. If this Questionnaire is attached to or provided in connection with a lease, the reference herein to any such items shall include all items defined as "Hazardous Materials," "Hazardous Substances," "Hazardous Wastes," "Toxic Materials," "Toxic Substances, "Toxic Wastes," or such similar definitions contained in the lease. Please complete the questionnaire and return it to Landlord for evaluation. If your use of materials or substances, or generation of wastes is considered to be significant, further information may be requested regarding your plans for hazardous and toxic materials management. Your cooperation in this matter is appreciated. If you have any questions, do not hesitate to call us for assistance.

1. PROPOSED TENANT

Name (Corporation, Individual, Corporate or Individual DBA, or Public Agency): _____

Standard Industrial Classification Code (SIC): _____

Street Address: _____

City, State, Zip Code: _____

Contact Person & Title: _____

Telephone Number: ( ) _____ Facsimile: _____

Number: ( ) _____

2. LOCATION AND ADDRESS OF PROPOSED LEASE

Street Address: _____

City, State, Zip Code: _____

Bordering Streets:

Streets to which Premises has Access:

3. DESCRIPTION OF PREMISES

Floor Area:

Number of Parking Spaces:

Date of Original Construction: _____

Past Uses of Premises: _____

Dates and Descriptions of Significant Additions, Alterations or Improvements: _____

Proposed Additions, Alterations or Improvements, if any: _____

4. DESCRIPTION OF PROPOSED PREMISES USE

Describe proposed use and operation of Premises including (i) services to be performed, (ii) nature and types of manufacturing or assembly processes, if any, and (iii) the materials or products to be stored at the Premises.

_____

_____

_____

Will the operation of your business at the Premises involve the use, generation, treatment, storage, transfer or disposal of hazardous wastes or materials? Do they now? Yes ___ No ___ If the answer is "yes," or if your SIC code number is between 2000 to 4000, please complete Section V.

5. PERMIT DISCLOSURE

Does or will the operation of any facet of your business at the Premises require any permits, licenses or plan approvals from any of the following agencies?

U.S. Environmental Protection Agency	Yes _____	No _____
City or County Sanitation District	Yes _____	No _____
State Department of Health Services	Yes _____	No _____
U.S. Nuclear Regulatory Commission	Yes _____	No _____
Air Quality Management District	Yes _____	No _____
Bureau of Alcohol, Firearms and Tobacco	Yes _____	No _____
City or County Fire Department	Yes _____	No _____
Regional Water Quality Control Board	Yes _____	No _____
Other Governmental Agencies (if yes, identify: _____)	Yes _____	No _____

If the answer to any of the above is "yes," please indicate permit or license numbers, issuing agency and expiration date or renewal date, if applicable.

If your answer to any of the above is "yes," please complete Sections VI and VII.

6. HAZARDOUS SUBSTANCES DISCLOSURE

Will any hazardous or toxic materials or substances be stored on the Premises? Yes ___ No ___ If the answer is "yes," please describe the materials or substances to be stored, the quantities thereof and the proposed method of storage of the same (i.e., drums, aboveground or underground storage tanks, cylinders, other), and whether the material is a Solid (S), Liquid (L) or Gas (G):

Material/ Substance	Quantity to be Stored on Premises	Storage Method	Amount to be Stored on a Monthly Basis	Maximum Period of Premises Storage

Attach additional sheets if necessary.

Is any modification of the Premises improvements required or planned to mitigate the release of toxic or hazardous materials, substance or wastes into the environment? Yes ___ No ___ If the answer is "yes," please describe the proposed Premises modifications:

7. HAZARDOUS WASTE DISCLOSURE

Will any hazardous waste, including recyclable waste, be generated by the operation of your business at the Premises? Yes ___ No If the answer is "yes," please list the hazardous waste which is expected to be generated (or potentially will be generated) at the Premises, its hazard class and volume/frequency of generation on a monthly basis.

Waste Name	Hazard Class	Volume/Month	Maximum Period Premises Storage

Attach additional sheets if necessary.

If the answer is "yes," please also indicate if any such wastes are to be stored within the Premises and the proposed method of storage (i.e., drums, aboveground or underground storage tanks, cylinders, other).

Waste Name	Storage Method

Attach additional sheets if necessary.

If the answer is "yes," please also describe the method(s) of disposal for each waste. Indicate where disposal will take place including the methods, equipment and companies to be used to transport the waste:

Is any treatment or processing of hazardous wastes to be conducted at the Premises? Yes ___ No If ___ the answer is "yes," please describe proposed treatment/processing methods:

Which' agencies are responsible for monitoring and evaluating compliance with respect to the storage and disposal of hazardous materials or wastes at or from the Premises? (Please list all agencies):

Have there been any agency enforcement actions regarding Tenant (or any affiliate thereof), or any existing Tenant's (or any affiliate's) facilities, or any past, pending or outstanding administrative orders or consent decrees with respect to Tenant or any affiliate thereof? Yes ___ No ___ If the answer is "yes," have there been any continuing compliance obligations imposed on Tenant or its affiliates as a result of the decrees or orders? Yes No If the answer is "yes," please describe:

Has Tenant or any of its affiliates been the recipient of requests for information, notice and demand letters, cleanup and abatement orders, or cease and desist orders or other administrative inquiries? Yes __ No ___
If the answer is "yes," please describe:

Are there any pending citizen lawsuits, or have any notices of violations been provided to Tenant or its affiliates or with respect to any existing facilities pursuant to the citizens suit provisions of any statute? Yes ___ No ___ If the answer is "yes," please describe:

Have there been any previous lawsuits against the company regarding environmental concerns? Yes ___ No ___ If the answer is "yes," please describe how these lawsuits were resolved:

Has an environmental audit ever been conducted at any of your company's existing facilities? Yes ___ No ___ If the answer is "yes," please describe:

Does your company carry environmental impairment insurance? Yes ___ No ___ If the answer is "yes," what is the name of the carrier and what are the effective periods and monetary limits of such coverage?

8. EQUIPMENT LOCATED OR TO RE LOCATED AT THE PREMISES

Is (or will there be) any electrical transformer or other equipment containing polychlorinated biphenyls located at the Premises? Yes ___ No ___ If the answer is "yes," please specify the size, number and location (or proposed location):

Is (or will there be) any tank for storage of a petroleum product located at the Premises? Yes ___ No ___ If the answer is "yes," please specify capacity and contents of tank; permits, licenses and/or approvals received or to be received therefor and any spill prevention control or conformance plan to be taken in connection therewith:

9. ONGOING ACTIVITIES (APPLICABLE TO TENANTS IN POSSESSION)

Has any hazardous material, substance or waste spilled, leaked, discharged, leached, escaped or otherwise been released into the environment at the Premises? Yes No If the answer is "yes," please describe including (i) the date and duration of each such release, (ii) the material, substance or waste released, (iii) the extent of the spread of such release into or onto the air, soil and/or water, (iv) any action to clean up the release, (v) any reports or notifications made of filed with any federal, state, or local agency, or any quasi- governmental agency (please provide copies of such reports or notifications) and (vi) describe any legal, administrative or other action taken by any of the foregoing agencies or by any other person as a result of the release:

This Hazardous Substances Questionnaire is certified as being true and accurate and has been completed by the party whose signature appears below on behalf of Tenant as of the date set forth below.

DATED: _____

Signature _____
Print Name _____
Title _____

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and the year set forth above.

Landlord:

BRCP CARIBBEAN PORTFOLIO, LLC,
a Delaware limited liability company

By: BRCP Realty L.P. I, a Delaware limited partnership,
Its: Sole Member

By: BRCP Gen-Par, LLC, a Delaware limited liability company,
Its: General Partner

By: _____
Name: _____
Its: Managing Director

Landlord's Address:

BRCP Caribbean Portfolio, LLC
c/o Broadreach Capital Partners, LLC
248 Homer Avenue
Palo Alto, California 94301

Tenant:

CEPHEID,
a California corporation

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

FEIN: _____

Tenant's Address:

Cepheid
1327 Chesapeake Ten-ace
Sunnyvale, California 94089
Attention: _____

HAZARDOUS MATERIALS DISCLOSURE CERTIFICATE

Your cooperation in this matter is appreciated. Initially, the information provided by you in this Hazardous Materials Disclosure Certificate is necessary for the Landlord (identified below) to evaluate and finalize a lease agreement with your tenant. After a lease agreement is signed by you and the Landlord (the "Lease Agreement"), on an annual basis in accordance with the provisions of Section 29 of the signed certificate. The information contained in the initial Hazardous Materials Disclosure Certificate and each annual certificate provided by you thereafter will be maintained in confidentiality by Landlord subject to release and disclosure as required by (i) any lenders and owners and their respective environmental consultants, (ii) any prospective purchaser(s) of all or any portion of the property on which the Premises are located, (iii) Landlord to defend itself or its lenders, partners or representatives against any claim or demand, and (iv) any laws, rules, regulations, orders, decrees, or ordinances, including, without limitation, court orders or subpoenas. Any and all capitalized terms used herein, which are not otherwise defined herein, shall have the same meaning ascribed to such term in the signed Lease Agreement. Any questions regarding this certificate should be directed to, and when completed, the certificate should be delivered to:

Landlord: BRCP Caribbean Portfolio, LLC

c/o Colliers International Asset Management, Inc.
One Almaden Boulevard, Suite 300
San Jose, CA 95113
Attn: Cheryl Garcia
Phone: (408) 282-4041
Fax: (408) 282-4046

Name of Tenant: Cepheid

Date of Hazmat Certificate Completion: 4/17/2008

Contact Person, Title and Telephone Number(s): Stephen Dahl, Director, Facilities

Contact Person for Hazardous Waste Materials Management and Manifests and Telephone Number(s): Same as above

---

Address of Premises: 1327 Chesapeake Terrace, Sunnyvale, 94089

Length of Initial Term: 51 mos

1. GENERAL INFORMATION:

   Describe the initial proposed operations to take place in, on, or about the Premises, including, without limitation, principal products processed, manufactured or assembled services and activities to be provided or otherwise conducted. Existing tenants should describe any proposed changes to on-going operations.

   Offices, general administration for a medical device company

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2. USE, STORAGE AND DISPOSAL OF HAZARDOUS MATERIALS

2.1 Will any Hazardous Materials be used, generated, stored or disposed of in, on or about the Premises? Existing tenants should describe any Hazardous Materials which continue to be used, generated, stored or disposed of in, On or about the Premises.

Wastes	Yes ☐	No ☑
Chemical Products	Yes ☐	No ☑
Other	Yes ☐	No ☑

If Yes is marked, please explain: _____

2.2 If Yes is marked in Section 2.1, attach a list of Hazardous Materials to be used, generated, stored or disposed of in, on or about the Premises, including the applicable hazard class and an estimate of the quantities of such Hazardous Materials at any given time; estimated annual throughput; the proposed location(s) and method of storage

6.2 Do you propose to operate any of the following types of equipment, or any other equipment requiring an air emissions permit? Existing tenants should specify any such equipment being operated in, on or about the Premises.

No Spray booth(s)	No	Incinerator(s)
No Dip tank(s)	No	Other (Please describe)
No Drying oven(s)	No	No Equipment Requiring Air Permits

If yes, please describe:

7. HAZARDOUS MATERIALS DISCLOSURES

7.1 Has your company prepared or will it be required to prepare a Hazardous, Materials management plan ("Management Plan") pursuant to Fire Department or other governmental or regulatory agencies' requirements? Existing tenants should indicate whether or not a Management Plan is required and has been prepared.

Yes ☐ No ☑

If yes, attach a copy of the Management Plan. Existing tenants should attach a copy of any required updates to the Management Plan.

7.2 Are any of the Hazardous Materials, and in particular chemicals, proposed to be used in your operations in, on or about the Premises regulated under Proposition 65? Existing tenants should indicate whether or not there are any new Hazardous Materials being no used which are regulated under Proposition 65.

Yes ☐ No ☑

If yes, please explain:

8. ENFORCEMENT ACTIONS AND COMPLAINTS

8.1 With respect to Hazardous Materials or Environmental Laws, has your company ever been subject to any agency enforcement actions, administrative orders, or consent decrees or has your company received requests for information, notice or demand letters, or any other inquiries regarding its operations? Existing tenants should indicate whether or not any such actions, orders or decrees have been, or are in the process of being, undertaken or if any such requests have been received.

Yes ☐ No ☑

If yes, describe the actions, orders or decrees and any continuing compliance obligations imposed as a result of these actions, orders or decrees and also describe any requests, notices or demands, and attach a copy of all such documents. Existing tenants should describe and attach a copy of any new actions, orders, decrees, requests, notices or demands not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.2 Have there ever been, or are there now pending, any lawsuits against your company regarding any environmental or health and safety concerns?

Yes ☐ No ☑

If yes, describe any such lawsuits and attach copies of the complaint(s), cross—complaint(s), pleadings and all other documents related thereto as requested by Landlord. Existing tenants should describe and attach a copy of any new complaint(s), cross—complaint(s), pleadings and other related documents not already delivered to Landlord pursuant to the provisions of Section 29 of the signed Lease Agreement.

8.3 Have there been any problems or complaints from adjacent tenants, owners or other neighbors at your company's current facility with regard to environmental or health and safety concerns? Existing tenants should indicate whether or not there have been any such problems or complaints from adjacent tenants, owners or other neighbors at, about or near the Premises.

Yes ☐ No ☑

If yes, please describe. Existing tenants should describe any such problems or complaints not already disclosed to Landlord under the provisions of the signed Lease Agreement.

9. PERMITS AND LICENSES

9.1 Attach copies of all Hazardous Materials permits and licenses including a Transporter Permit number issued to your company with respect to its proposed operation in, on or about the Premises, including, without limitation, any wastewater discharge permits, air emissions permits, and use permits or approvals. Existing tenants should attach copies of any new permits and licenses as well as any renewals of permits or licenses previously issued.

The undersigned hereby acknowledges and agrees that (A) this Hazardous Materials Disclosure Certificate is being delivered in connection with, and as required by, Landlord in connection with the evaluation and finalization of a

Lease Agreement and will be attached thereto as an exhibit; (B) that this Hazardous Materials Disclosure Certificate is being delivered in accordance with, and as required by, the provisions of Section 29 of the Lease Agreement; and (C) that Tenant shall have and retain full and complete responsibility and liability with respect to any of the Hazardous Materials disclosed in the HazMat Certificate notwithstanding Landlord's/Tenant's receipt and/or approval of such certificate. Tenant further agrees that none of the following described acts or events shall be construed or otherwise interpreted as either (a) excusing, diminishing or otherwise limiting Tenant from the requirement to fully and faithfully perform its obligations under the Lease with respect to Hazardous Materials, including, without limitation, Tenant's indemnification of the Indemnitees and compliance with all Environmental Laws, or (b) imposing upon Landlord, directly or indirectly, any duty or liability with respect to any such Hazardous Materials, including, without limitation, any duty on Landlord to investigate or otherwise verify the accuracy of the representations and statements made therein or to ensure that Tenant is in compliance with all Environmental Laws; (i) the delivery of such certificate to Landlord and/or Landlord's acceptance of such certificate, (ii) Landlord's review and approval of such certificate, (iii) Landlord's failure to obtain such certificate from Tenant at any time, or (iv) Landlord's actual or constructive knowledge of the types and quantities of Hazardous Materials being used, stored, generated, disposed of or transported on or about the Premises by Tenant or Tenant's Representatives, Notwithstanding the foregoing or anything to the contrary contained herein, the undersigned acknowledges and agrees that Landlord and its partners, lenders and representatives may, and will, rely upon the statements, representations, warranties, and certifications made herein and the truthfulness thereof in entering into the Lease Agreement and the continuance thereof throughout the term, and any renewals thereof; of the Lease Agreement

I (print name) , acting with full authority to bind the (proposed) Tenant and on behalf of the (proposed) Tenant, certify, represent and warrant that the information contained in this certificate is true and correct.

(PROSPECTIVE) TENANT:
By: /s/ Stephen Dahl
Title: Director, Facilities
Date: 4/18/2008

LANDLORD: _____

Exhibit 31.1

Certification of Chief Executive Officer
Pursuant to Section 302 of the
Sarbanes-Oxley Act of 2002

I, John L. Bishop, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cepheid;
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(s) 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 the 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 registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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.

Date: May 7, 2008

/s/ JOHN L. BISHOP
John L. Bishop
Chief Executive Officer

Exhibit 31.2

Certification of Chief Financial Officer
Pursuant to Section 302 of the
Sarbanes-Oxley Act of 2002

I, Andrew D. Miller, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cepheid;
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(s) 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 the 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 registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) 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.

Date: May 7, 2008

/s/ ANDREW D. MILLER
Andrew D. Miller
Senior Vice President, Chief Financial Officer

Exhibit 32.1

Certification of Chief Executive Officer 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 Quarterly Report of Cepheid (the Company) on Form 10-Q for the quarter ended March 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the Report), I, John L. Bishop, as Chief Executive Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) 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 results of operations of the Company.

Date: May 7, 2008

/s/ JOHN L. BISHOP
John L. Bishop
Chief Executive Officer

This certification accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.

Exhibit 32.2

Certification of Chief Financial Officer 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 Quarterly Report of Cepheid (the Company) on Form 10-Q for the quarter ended March 31, 2008, as filed with the Securities and Exchange Commission on the date hereof (the Report), I, Andrew D. Miller, as Chief Financial Officer of the Company, hereby certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) 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 results of operations of the Company.

Date: May 7, 2008

/s/ ANDREW D. MILLER
Andrew D. Miller
Senior Vice President, Chief Financial Officer

This certification accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Securities Exchange Act of 1934 (whether made before or after the date of the Report), irrespective of any general incorporation language contained in such filing.