UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended March 31, 2010.

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: 001-16133

DELCATH SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Delaware	06-1245881
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

810 Seventh Avenue, Suite 3505. New York, NY 10019

(Address of principal executive offices)

(212) 489-2100

(Registrant's telephone number, including area code)

600 Fifth Avenue, 23RD Floor
New York, New York
(Former name or former address, if changed since last report.)

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

Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes No

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

Large accelerated filer Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company

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

Yes No

As of May 4, 2010, 37,282,081 shares of the Company's common stock, $0.01 par value were outstanding.

DELCATH SYSTEMS, INC.
(A Development Stage Company)

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DELCATH SYSTEMS, INC.
(A Development Stage Company)

PART I:

FINANCIAL INFORMATION

Item 1. Condensed Financial Statements (Unaudited)

Index to Financial Statements

DELCATH SYSTEMS, INC.
(A Development Stage Company)

Condensed Balance Sheets
(Unaudited)

	March 31, 2010	December 31, 2009
Assets:		
Current assets		
Cash and cash equivalents	$ 26,933,593	$ 35,486,319
Investments – CDs	3,235,000	–
Prepaid expenses and other assets	1,157,775	799,416
Total current assets	31,326,368	36,285,735
Property, plant and equipment		
Furniture and fixtures	$ 55,692	$ 36,800
Computers and equipment	104,617	78,063
Leasehold improvements	833,240	431,425
	993,549	546,288
Less: accumulated depreciation	(85,578)	(24,982)
Property, plant and equipment, net	907,971	521,306
Total assets	32,234,339	36,807,041
Liabilities and Stockholders' Equity:		
Current liabilities		
Accounts payable and accrued expenses	$ 1,266,019	$ 1,841,480
Warrant liability	19,894,931	11,207,214
Total current liabilities	21,160,950	13,048,694
Deferred revenue	300,000	–
Commitments and contingencies	–	–
Stockholders' equity		
Preferred stock, $.01 par value; 10,000,000 shares authorized; no shares issued and outstanding	–	–
Common stock, $.01 par value; 70,000,000 shares authorized; 36,678,838 and 36,531,007 shares issued and 36,650,738 and 36,502,907 outstanding at March 31, 2010 and December 31, 2009, respectively	366,888	362,231
Additional paid-in capital	94,011,294	92,835,174
Deficit accumulated during the development stage	(83,545,490)	(69,371,755)
Treasury stock, at cost; 28,100 shares at March 31, 2010 and December 31, 2009	(51,103)	(51,103)
Accumulated other comprehensive loss	(8,200)	(16,200)
Total stockholders' equity	10,773,389	23,758,347
Total liabilities and stockholders' equity	$ 32,234,339	$ 36,807,041

See accompanying notes to condensed financial statements.

DELCATH SYSTEMS, INC.
(A Development Stage Company)

Condensed Statements of Operations and Comprehensive Income

(Unaudited)

	Three Months Ended March 31,		Cumulative from Inception (Aug 5, 1988) to March 31,
	2010	**2009**	**2010**
Costs and expenses:			
General and administrative expenses	$ 2,546,172	$ 474,964	$ 29,223,976
Research and development costs	2,941,110	1,461,189	41,975,576
Total costs and expenses	$ 5,487,282	$ 1,936,153	$ 71,199,552
Operating loss	(5,487,282)	(1,936,153)	(71,199,552)
Change in fair value of warrant liability, net	(8,687,717)	(561,778)	(13,434,952)
Interest income	1,264	50,761	2,861,845
Other income	–	1,689	(102,753)
Interest expense	–	–	(171,473)
Net loss	(14,173,735)	(2,445,481)	(82,046,885)
Other comprehensive income (loss)	8,000	(3,000)	(8,200)
Total comprehensive loss	$ (14,165,735)	$ (2,448,481)	$ (82,055,085)
Common share data:			
Basic and diluted loss per share	$ (0.39)	$ (0.10)	
Weighted average number of shares of common stock outstanding	36,261,688	25,355,254	

See accompanying notes to condensed financial statements.

DELCATH SYSTEMS, INC.
(A Development Stage Company)

Condensed Statements of Cash Flows
(Unaudited)

	Three Months Ended March 31,		Cumulative from inception (Aug. 5, 1988) to March 31,
	2010	2009	2010
Cash flows from operating activities:			
Net loss	$ (14,173,735)	$ (2,445,481)	$ (82,046,885)
Adjustments to reconcile net loss to net cash used in operating activities:			
Stock option compensation expense	633,135	65,005	7,572,074
Stock and warrant compensation expense	341,483	40,333	2,222,177
Depreciation expense	60,596	1,465	120,339
Loss on disposal of furniture and fixtures	–	–	3,442
Amortization of organization costs	–	–	42,165
Non-cash interest income	(1,151)	(45,452)	(9,055)
Warrant liability fair value adjustment	8,687,717	561,778	13,434,952
Changes in assets and liabilities:			
Decrease (increase) in prepaid expenses and other assets	(349,208)	(23,103)	(1,118,624)
Increase (decrease) in accounts payable and accrued expenses	(575,461)	(490,346)	1,266,019
Deferred revenue	300,000	–	300,000
Net cash used in operating activities	$ (5,076,624)	$ (2,335,801)	$ (58,213,396)
Cash flows from investing activities:			
Purchase of equipment or furniture and fixtures	$ (447,261)	$ –	$ (1,031,953)
Purchase of short-term investments	(3,235,000)	–	(44,646,452)
Proceeds from sale of equipment	–	–	200
Purchase of marketable equity securities	–	–	(46,200)
Proceeds from maturities of short-term investments	–	200,710	41,419,356
Organization costs	–	–	(42,165)
Net cash (used in) provided by investing activities	$ (3,682,261)	$ 200,710	$ (4,347,214)
Cash flows from financing activities:			
Net proceeds from sale of stock and exercise of stock options and warrants	$ 206,159	$ –	$ 88,339,877
Repurchases of common stock	–	–	(51,103)
Dividends paid on preferred stock	–	–	(499,535)
Proceeds from short-term borrowings	–	–	1,704,964
Net cash provided by financing activities	$ 206,159	$ –	$ 89,494,203
(Decrease) increase in cash and cash equivalents	(8,552,726)	(2,135,091)	26,933,593
Cash and cash equivalents at beginning of period	35,486,319	6,939,233	–
Cash and cash equivalents at end of period	$ 26,933,593	$ 4,804,142	$ 26,933,593
Supplemental cash flow information:			
Cash paid for interest	–	–	171,473
Supplemental non-cash activities:			
Cashless exercise of stock options	$ 184,000	$ –	$ 544,116
Conversion of debt to common stock	–	–	1,704,964
Common stock issued for preferred stock dividends	–	–	999,070
Conversion of preferred stock to common stock	–	–	24,167
Common stock issued as compensation for stock sale	–	–	510,000
Fair value of warrants issued	–	–	6,459,979

See accompanying notes to condensed financial statements.

Note 1: Description of Business

Delcath Systems, Inc. (the "Company"), a development stage, oncology focused, specialty pharmaceutical and medical device company, is developing the Delcath Percutaneous Hepatic Perfusion (PHP) System (the "System"), an investigational system which is comprised of the chemotherapeutic agent melphalan combined with a proprietary administration system. The System is designed to provide a regionalized approach for the treatment of unresectable hepatic malignancies in which an ultra-high dose of anti-cancer drug is administered to the liver via the hepatic artery and venous effluent from the liver is collected and filtered using a percutaneously placed catheter and an extracorporeal filtration system. Sign ificantly higher doses of anti-cancer drugs can therefore be delivered to a patient's liver while minimizing entry of the drugs into the rest of the patient's circulation. This isolation limits toxicities which result from systemic chemotherapy treatments and allows for infusion of doses exceeding those of systemic or intra-arterial administration. The Delcath PHP System is not currently approved for marketing by the FDA or any other foreign regulatory agency and has not been determined to be safe and effective for this intended use. We believe that the Delcath PHP System is a platform technology that may have broader applicability to other organs and body regions. The most advanced application being tested with the Delcath PHP System is for the treatment of primary and secondary cancers of the liver. We recently released top-line data for our Phase III trial and are currently conducting a multi-arm Phase II trial of the Delcath PHP System with melphalan in p atients with liver cancers.

Note 2: Basis of Financial Statement Presentation

The accompanying condensed financial statements are unaudited and were prepared by the Company in accordance with accounting principles generally accepted in the United States of America ("GAAP") and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Certain information and footnote disclosures normally included in the Company's annual financial statements have been condensed or omitted. The unaudited interim condensed financial statements, in the opinion of management, reflect all adjustments (consisting of normal recurring accruals) necessary for a fair statement of the Company's results of operations, financial position and cash flows for the interim periods ended March 31, 2010 and 2009, and cumulative from inception (August 5, 1988) to March 31, 2010. In connection with the prep aration of the condensed financial statements and in accordance with the recently issued Financial Accounting Standards Board Accounting Standards Codification ("FASB ASC") 855-10, the Company evaluated subsequent events.

The results of operations and cash flows for the interim periods are not necessarily indicative of the results of operations to be expected for the fiscal year. These interim financial statements should be read in conjunction with the audited financial statements and notes thereto for the year ended December 31, 2009, which are contained in the Company's Annual Report on Form 10-K for the year ended December 31, 2009 as filed with the Securities and Exchange Commission (the "SEC") on February 26, 2010 (the "2009 Form 10-K").

Research and Development Costs

Research and development costs include the costs of materials, personnel, outside services and applicable indirect costs incurred in development of the Company's proprietary drug delivery system. All such costs are charged to expense when incurred.

General and Administrative Costs

General and administrative costs include salaries and related expenses for our executive and administrative staff, recruitment and employee retention expenses, professional license and organizational fees, business development and certain general legal activities.

Deferred Revenue Recognition

Deferred revenue on the accompanying balance sheets includes payment received upon execution of a research and distribution agreement with Chi-Fu Trading Co, Ltd. This agreement is discussed further in Note 7 to the Company's unaudited interim condensed financial statements contained in this Quarterly Report on Form 10-Q. The Company will amortize deferred revenue over the expected obligation period of the agreement.

Investments

The Company invests the majority of its cash in money market funds and certificates of deposit. The money market funds are accounted for based on the guidance for fair value measurements and are discussed further in Note 6 to the Company's unaudited interim condensed financial statements contained in this Quarterly Report on Form 10-Q. The Company's certificates of deposit are accounted for based on the guidance for investments, which requires securities to be categorized as either trading, available-for-sale or held-to-maturity. The certificates of deposit are classified as held-to-maturity and, as such, are carried at amortized cost.

Note 3: Recent Accounting Pronouncements

In October 2009, the Financial Accounting Standards Board ("FASB") issued an Accounting Standard Update ("ASU") No. 2009-13, which addresses the accounting for multiple-deliverable arrangements to enable vendors to account for products or services separately rather than as a combined unit and modifies the manner in which the transaction consideration is allocated across the separately identified deliverables. The ASU significantly expands the disclosure requirements for multiple-deliverable revenue arrangements. The ASU will be effective for the first annual reporting period beginning on or after June 15, 2010. The Company is currently evaluating the impact this update may have on its financial statements.

Note 4: Investment in Marketable Equity Securities

In January 2008, the Company entered into a research and development agreement with Aethlon Medical, Inc., ("AEMD") a publicly traded company whose securities are quoted on the Over the Counter Bulletin Board. As part of that agreement, the Company received 100,000 shares of restricted common stock of AEMD. The Company allocated $46,200 of the cost of the agreement to the fair value of the common stock acquired, using the closing stock price at the date of the agreement. The investment is classified as an available-for-sale security and had a fair value on March 31, 2010 of $38,000 which included a gross unrealized loss of $8,200, which is included as a component of comprehensive loss.

Note 5: Stock Option Plans

The Company established the 2000 Stock Option Plan, the 2001 Stock Option Plan, the 2004 Stock Incentive Plan, and the 2009 Stock Incentive Plan (collectively, the "Plans") under which 300,000, 750,000, 3,000,000, and 2,000,000 shares, respectively, were reserved for the issuance of stock options, stock appreciation rights, restricted stock, stock grants and other equity awards. A stock option grant allows the holder of the option to purchase a share of the Company's common stock in the future at a stated price. The Plans are administered by the Compensation and Stock Option Committee of the Board of Directors which determines the individuals to whom awards shall be granted as well as the type, terms and conditions of each award, the option price and the duration of each award.

During 2000, 2001, 2004 and 2009, respectively, the 2000 and 2001 Stock Option Plans and the 2004 and 2009 Stock Incentive Plans became effective. Options granted under the Plans vest as determined by the Company's Compensation and Stock Option Committee and expire over varying terms, but not more than ten years from the date of grant. Stock option activity for the three month period ended March 31, 2010 is as follows:

	The Plans			
	Stock Options	Exercise Price per Share	Weighted Average Exercise Price	Weighted Average Remaining Life (Years)
Outstanding at December 31, 2009	3,345,000	$ 1.23 – $6.18	$ 3.72	6.58
Granted	116,000	$ 5.28-8.10	6.19	-
Expired	-	-	-	-
Exercised	70,000	$ 1.43 – $3.45	$ 2.41	-
Outstanding at March 31, 2010	3,391,000	$ 1.23 – $8.10	$ 3.83	6.52

For the three months ended March 31, 2010, the Company recognized compensation expense of $589,498 relating to options granted in previous years and $43,637 relating to options granted during 2010. For the three months ended March 31, 2009, the Company recognized compensation expense of $65,005.

The Company uses an option pricing model to determine the fair value of stock options on the date of grant. The Company has expensed its share-based compensation for share-based payments granted under the ratable method, which treats each vesting tranche as if it were an individual grant.

The assumptions used in the option pricing model are as follows:

	Three Months Ended March 31,	
	2010	2009
Dividend yield	None	None
Expected volatility	73.10% - 75.04%	74.83%
Weighted average volatility	74.15%	74.83%
Risk-free interest rates	2.66% - 3.00%	1.01%
Expected life (in years)	5.0 – 6.0	2.5

Note 6: Assets and Liabilities Measured at Fair Value

Derivative financial instruments

The Company has allocated part of the proceeds of a private placement and a public offering of the Company's common stock to warrants issued in connection with such transactions. The Company determined that these warrants should be classified as liabilities rather than equity. The valuation of the warrants is determined using an option pricing model. This model uses inputs such as the underlying price of the shares issued when the warrant is exercised, volatility, risk free interest rate and expected life of the instrument. The Company has determined that the warrant derivative liability should be classified within Level 3 of the fair-value hierarchy by evaluating each input for the model against the fair-value hierarchy criteria and using the lowest level of input as the basis for the fair-value class ification as called for in FASB ASC 820-10-35. There are six inputs: the closing price of the Company's common stock on the day of evaluation; the exercise price of the warrants; the remaining term of the warrants; the volatility of Delcath's stock over that term; annual rate of dividends; and the riskless rate of return. Of those inputs, the exercise price of the warrants and the remaining term are readily observable in the warrant agreements. The annual rate of dividends is based on our historical practice of not granting dividends. The closing price of the Company's common stock would fall under Level 1 of the fair-value hierarchy as it is a quoted price in an active market (820-10-35-40). The riskless rate of return is a Level 2 input as defined in 820-10-35-48, while the historical volatility is a Level 3 input as defined in FASB ASC 820-10-55-22. Since the lowest level input is a Level 3, the Company determined the warrant derivative liability is most appropriately classified within L evel 3 of the fair value hierarchy.

In June 2009, the Company completed the sale of 869,565 shares of its common stock and the issuance of warrants to purchase 1,043,478 common shares (the "2009 Warrants") pursuant to a subscription agreement with a single investor. The Company received gross proceeds of $3 million, with net cash proceeds after related expenses from this transaction of approximately $2.67 million. Of those proceeds, the Company allocated an estimated fair value of $2,190,979 to the 2009 Warrants, resulting in net proceeds of $467,559. The fair value of the 2009 Warrants on June 15, 2009 was determined using an option pricing model model assuming a risk free interest rate of 2.75%, volatility of 72.93% and an expected life equal to the contractual life of the warrants (June 2014). The 2009 Warrants are exercisable at $3.60 per share and have a five-year term. The shares and warrants were issued pursuant to an effective registration statement on Form S-3.

In September 2007, the Company completed the sale of 3,833,108 shares of its common stock and the issuance of warrants to purchase 1,916,554 common shares (the "2007 Warrants" and together with the 2009 Warrants, the "Warrants") in a private placement to institutional and accredited investors. The Company received net proceeds of $13,303,267 in this transaction. The Company allocated $4,269,000 of the total proceeds to 2007 Warrants. The 2007 Warrants were initially exercisable at $4.53 per share beginning six months after the issuance thereof and on or prior to the fifth anniversary of the issuance thereof. As required by the 2007 Warrants agreement, both the exercise price and number of warrants were adjusted following the Company's June 9, 2009 sale of common stock. The 2007 Warrants are currently exerc isable at $3.44 per share with 2,345,628 warrants outstanding. The shares were issued pursuant to an effective registration statement on Form S-3.

The $2,190,979 in proceeds allocated to the 2009 Warrants and the $4,269,000 in proceeds allocated to the 2007 Warrants are classified as liabilities. The terms of the Warrants provide for potential adjustment in the exercise price and are therefore considered to be derivative instrument liabilities that are subject to mark-to-market adjustment each period. As a result, for the three month period ended March 31, 2010, the Company recorded the change in fair value of the warrant liability as pre-tax derivative instrument expense of $8,687,717. The resulting warrant liability totaled $19,894,931 at March 31, 2010. Management believes that the possibility of an actual cash settlement with a warrant holder is quite remote, and expects that the Warrants will either be exercised or expire worthless, at which point the then existing warrant l iability will be credited to stockholders' equity. The fair value of the Warrants at March 31, 2010 was determined by using an option pricing model assuming a risk free interest rate of 2.17% for the 2009 Warrants and 1.30% for the 2007 Warrants, volatility of 74.26% for the 2009 Warrants and 90.79% for the 2007 Warrants and an expected life equal to the contractual life of the Warrants (June 2014 and September 2012, respectively).

Marketable Equity Securities

The Company owns 100,000 shares of common stock of Aethlon Medical, Inc. ("AEMD"). At March 31, 2010, the valuation of such stock was determined utilizing the current quoted market price of AEMD. The Company has determined that the quoted market price is readily observable in an active market and, as a result, the instrument was classified within Level 1 of the fair-value hierarchy.

Money Market Funds

Cash and cash equivalents includes a money market account valued at $25,778,701.

The table below presents the Company's assets and liabilities measured at fair value on a recurring basis as of March 31, 2010, aggregated by the level in the fair value hierarchy within which those measurements fall:

Assets and Liabilities Measured at Fair Value on a Recurring Basis at March 31, 2010

	Level 1	Level 2	Level 3	Balance at March 31, 2010
Assets				
Marketable equity securities	$ 38,000	$ –	$ –	$ 38,000
Money market funds	25,778,701	–	–	25,778,701
Total Assets	$ 25,816,701	$ –	$ –	$ 25,816,701
Liabilities				
Warrant liability	$ –	$ –	$ 19,894,931	$ 19,894,931
Total Liabilities	$ –	$ –	$ 19,894,931	$ 19,894,931

Fair Value Measurements Using Significant Unobservable Inputs (Level 3)

	Warrant Liability
Beginning balance	$11,207,214
Total losses included in earnings	8,687,717
Ending balance	$19,894,931

Note 7: Research and Distribution Agreement

On February 9, 2010, the Company entered into a research and distribution agreement with Chi-Fu Trading Co., Ltd. (the "Research and Distribution Agreement"). The Research and Distribution Agreement grants Chi-Fu the exclusive right to promote, market, sell and distribute the Delcath PHP System in Taiwan for hepatic malignancies and infectious disease upon Taiwan Food and Drug Administration ("TFDA") approval, and for any other TFDA approved indications for treatment using the Delcath PHP System (collectively, the "Field of Use"). The Research and Distribution Agreement also grants Chi-Fu the right to extend its exclusive distribution rights to Singapore, subject to the satisfaction of certain conditions.

Pursuant to the Research and Distribution Agreement Chi-Fu will plan, fund and manage clinical studies of the Delcath PHP System in the Field of Use with initial focus on the treatment of hepatic malignancies at not less than two and up to four sites in Taiwan, and will promptly file for TFDA approval of the Delcath PHP System for as many indications of use as possible, promptly following Delcath's receipt of U.S. Food and Drug Administration ("FDA") approval of the Delcath PHP System. Chi-Fu's exclusive right to market, sell and distribute the Delcath PHP System in Taiwan in the Field of Use will begin on the date TFDA approval of the Delcath PHP System is granted and will continue for the term of the Research and Distribution Agreement. Beginning on the first day of the month in which TFDA approval is obtained, Chi-Fu is obligated to purchase a minimum number of Delcath PHP Systems annually during the term of the Research and Distribution Agreement; with such minimum purchase requirements to increase annually over the remaining term of the Research and Distribution Agreement. The Research and Distribution Agreement requires Chi-Fu to pay Delcath $1 million in milestone payments, comprised of $300,000 paid upon execution of the Research and Distribution Agreement and the balance in two installments, upon receipt of the CE Mark and upon receipt of FDA approval.

The term of the Research and Distribution Agreement commenced on February 9, 2010 and will continue for five (5) years from the first day of the month in which TFDA approval is obtained, following which the Research and Distribution Agreement will automatically renew for an additional five (5) years provided Chi-Fu has met all of its obligations under the Research and Distribution Agreement, including its minimum purchase requirements.

Note 8: Income Taxes

As discussed in Note 4 to the Company's audited financial statements contained in the 2009 Annual Report on Form 10-K, the Company has a valuation allowance against the full amount of its net deferred tax assets. The Company currently provides a valuation allowance against deferred tax assets when it is more likely than not that some portion or all of its deferred tax assets will not be realized. The Company has not recognized any unrecognized tax benefits in its balance sheet.

The Company is subject to U.S. federal income tax as well as income tax of certain state jurisdictions. The Company has not been audited by the United States Internal Revenue Service (the "IRS") or any states in connection with income taxes. The periods from December 31, 2003 to December 31, 2009 remain open to examination by the IRS and state authorities. Also note that for federal and state purposes, the tax authorities can generally reduce a net operating loss (but not create taxable income) for a period outside the statute of limitations in order to determine the correct amount of net operating loss which may be allowed as a deduction against income for a period within the statute of limitations.

For the quarter ended March 31, 2010, the Company recorded a state income tax benefit of $62,500 in the Statement of Operations. This benefit is a result of State of New York legislation, which allows companies to obtain cash refunds from the State of New York at a rate of 100% of their annual research and development expense credits, limited to $250,000 per year.

Note 9: Subsequent Events

On April 21, 2010, the Company issued a press release announcing that its Phase III National Cancer Institute (NCI)-led multi-center clinical trial has successfully met the study's primary endpoint of extended hepatic progression-free survival (hPFS) in patients with melanoma metastases to the liver based on an independently corroborated intent-to-treat analysis. Comparing treatment with the Delcath PHP System with melphalan to Best Alternative Care (BAC), based on independent core lab review of patient scans, the statistical analysis revealed that the PHP patients had a statistically significant longer median hPFS of 214 days compared to 70 days in the BAC arm (p=0.001). This reflects a 144-day prolongation of hPFS over that of BAC control arm, with less than half the risk of progression and/or death in the PHP group compared to the BAC group (Hazard Ratio = 0.46).

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the unaudited interim condensed financial statements and notes thereto contained in Item 1 of Part I of this Quarterly Report on Form 10-Q and our audited financial statements and notes thereto as of and for the year ended December 31, 2009 included in our Annual Report on Form 10-K for the year ended December 31, 2009 filed with the SEC to provide an understanding of our results of operations, financial condition and cash flows.

Special Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q, including the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section, contains "forward-looking statements" within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995 with respect to our business, financial condition, liquidity and results of operations. Words such as "anticipates," "expects," "intends," "plans," "predicts," "believes," "seeks," "estimates," "could," "would," "will," "may," "can," "continue," "potential," "should," and the negative of these terms or other comparable terminology often identify forward-looking statements. Statements in this Quarterly Report on Form 10-Q that are not historical facts are hereby identified as "forward-looking statements" for the purpose of the safe harbor provided by Section 21E of the Securities Exchange Act of 1934, as amended, and Section 27A of the Securities Act of 1933, as amended (the "Exchange Act"). These forward-looking statements are not guarantees of future performance and are subject to risks and uncertainties that could cause actual results to differ materially from the results contemplated by the forward-looking statements, including the risks discussed in the Company's Annual Report on Form 10-K in Item 1A under "Risk Factors" as well as in this report under "risk Factors" in Part II, Item 1A and Part I, Item 3 "Qualitative and Quantitative Disclosures About Market Risk". These forward-looking statements include, but a re not limited to, statements about:

- the progress and results of our research and development programs;
- our estimates regarding sufficiency of our cash resources, anticipated capital requirements and our need for additional financing;
- the results and timing of our clinical trials and the commencement of future clinical trials; and
- submission and timing of applications for regulatory approval.

Many of the important factors that will determine these results are beyond our ability to control or predict. You are cautioned not to put undue reliance on any forward-looking statements contained in this Annual Report on Form 10-Q, which speak only as of the date of this report. Except as otherwise required by law, we do not assume any obligation to publicly update or release any revisions to these forward-looking statements to reflect events or circumstances after the date of this Quarterly Report on Form 10-Q or to reflect the occurrence of unanticipated events.

Overview

The following section should be read in conjunction with Part I, Item 1: Condensed Financial Statements of this report and Part I, Item 1: Business; and Part II, Item 8: Financial Statements and Supplementary Data of the Company's Annual Report on Form 10-K.

We are developing the Delcath Percutaneous Hepatic Perfusion System, or the Delcath PHP System, an an investigational system which is comprised of the chemotherapeutic agent melphalan combined with a proprietary administration system. The System is designed to provide a regionalized approach for the treatment of unresectable hepatic malignancies in which an ultra-high dose of anti-cancer drug is administered to the liver via the hepatic artery and venous effluent from the liver is collected and filtered using a percutaneously placed catheter and an extracorporeal filtration system. Significantly higher doses of anti-cancer drugs can therefore be delivered to a patient's liver while minimizing entry of the drugs into the rest of the patient's circulation. This isolatio n limits toxicities which result from systemic chemotherapy treatments and allows for infusion of doses exceeding those of systemic or intra-arterial administration. The Delcath PHP System is not currently approved for marketing by the FDA or any other foreign regulatory agency and has not been determined to be safe and effective for this intended use. We believe that the Delcath PHP System is a platform technology that may have broader applicability to other organs and body regions. The most advanced application being tested with our System is for the treatment of primary and secondary cancers of the liver. We recently released top-line data for our Phase III trial and are currently conducting a multi-arm Phase II trial of the Delcath PHP System with melphalan in patients with liver cancers.

The System is a disposable kit consisting of various catheters, filters, and a tubing circuit used during cancer treatment to isolate the liver from the patient's general circulatory system. The System allows for ultra-high doses of chemotherapy agents to be directed at a patient's liver while at the same time limiting the exposure of healthy tissue and organs to the harmful effects of those chemotherapeutic agents. By providing higher dosing of chemotherapy agents than would otherwise be possible through conventional chemotherapy, we believe that treatment with the System has the potential to be more effective than conventional treatment at killing cancer cells and preventing new cancer cell formation.

We began enrollment of our Phase III clinical trial to support a marketing registration application for use of the System with melphalan, a chemotherapy agent, for the treatment of metastatic melanoma that has spread to the liver. The trial is being conducted under an FDA Special Protocol Assessment ("SPA") with the National Cancer Institute (the "NCI") serving as the coordinating center. Until April 2008, the NCI was the sole participating center in the trial. Since then, we have negotiated and entered into research relationships with eleven centers as part of this trial, bringing the total number of centers to twelve:

2008, 2nd Quarter
University of Maryland Medical Center
St. Luke's Cancer Center
Albany Medical Center
Atlantic Melanoma Center of Atlantic Health
University of Texas Medical Branch
2008, 3rd Quarter
Swedish Medical Center
John Wayne Cancer Institute
Providence Health Systems
Moffitt Cancer Center
2008, 4th Quarter
University of Pittsburgh Medical Center
2009, 1st Quarter
Ohio State University Comprehensive Cancer Center

Either a participating center's Institutional Review Board ("IRB") or the Western Institutional Review Board ("WIRB") has approved our protocol. The WIRB, which provides review services for more than 100 institutions (academic centers, hospitals, networks and in-house biotech research) in all 50 states and internationally, helped accelerate the internal review process at a number of the hospitals participating in the study. The trial reached full enrollment in October 2009. The Company expects expenses related to the trial to continue through 2010. In 2004, we began a multi-arm Phase II clinical trial for the use of the Delcath PHP System with melphalan in the treatment of hepatocellular carcinomas as well as neuroendocrine and adenocarcinoma cancers that ha ve spread to the liver. In 2007, an additional arm was added to the Phase II clinical trial to treat patients with metastatic melanoma that has spread to the liver who have received prior regional treatment with melphalan and did not qualify for inclusion in the Phase III clinical trial. Based on promising initial clinical results, we focused our efforts on enrolling patients for the treatment of metastatic neuroendocrine tumors. That arm of the clinical trial has 25 patients enrolled.

The successful development of the Delcath PHP System is highly uncertain, and development costs and timelines can vary significantly and are difficult to accurately predict. Various statutes and regulations also impact the manufacturing, safety, labeling, storage, record keeping and marketing of our system. The lengthy process of completing clinical trials, seeking FDA approval and subsequent compliance with applicable statutes and regulations require the expenditure of substantial resources. Any failure by us to obtain, or any delay in obtaining, regulatory approvals could materially, adversely affect our business. To date, we have not received approval for the sale of our system in any market and, therefore, have not generated any revenues. The Delcath PHP System has not yet been approved b y the FDA and may not be marketed in the United States without FDA approval.

Our expenses generally include costs for clinical studies, securing patents, regulatory activities, manufacturing, personnel, rent for our facilities, and general corporate and working capital, including general and administrative expenses. Because we have no FDA-approved product and no commercial sales, we will continue to be dependent upon existing cash, the sale of equity or debt securities, or establishing strategic alliances with appropriate partners to fund future activities. We cannot be assured that we will obtain FDA or other foreign approvals for our Delcath PHP System, that we will have, or could raise, sufficient financial resources to sustain our operations pending FDA or other foreign approvals, or that, if and when the required approvals are obtained, there will be a market for our product.

We expect that the amount of capital required for operations including preparation of the Company's submission to the FDA, operations at the manufacturing facility in upstate New York, and efforts to commericialize the Delcath PHP System will continue to increase over the coming months. We believe that we have sufficient capital for operations through 2010.

We are a development stage company, and since our inception we have raised approximately $88.3 million (net of fundraising expenses). We have financed our operations primarily through public and private placements of equity securities. We have incurred net losses since we were founded and we expect to continue to incur significant and increasing net losses over the year.

Results of Operations

Three Months Ended March 31, 2010 and March 31, 2009

We have operated at a loss for our entire history. We had a net loss for the three months ended March 31, 2010, of $14.2 million, which is an $11.7 million increase in the net loss for the same period in 2009. The increase in net loss is due to an $8.1 million increase in derivative instrument expense related to the Warrants, as well as an increase of $3.6 million in total costs, which is primarily due to our recent hiring and our efforts to prepare for submission to the FDA. During the first quarter of 2009 we had seven full-time employees. At the end of the first quarter of 2010, we had 24 full-time employees and have expanded nearly every department throughout the Company. We anticipate this trend to continue throughout 2010.

General and administrative expenses increased by $2 million, from $475,000 during the three months ended March 31, 2009 to $2.5 million for the three months ended March 31, 2010. With full enrollment of the Phase III clinical trial, the Company has begun taking steps to transition from a development stage company focused solely on research and development activites to a commercial enterprise with staff dedicated to commercializing the Delcath PHP System. The increase in the Company's general and administrative expenses is commensurate with these commercialization efforts. A significant portion of this increase is related to our recent hiring to expand our Marketing and Sales, Finance, and Manufacturing departments.

For the three months ended March 31, 2010, research and development expenses increased by 101.3%, from $1.5 million during the first quarter of 2009 to $2.9 million, an increase of $1.4 million. Our recent hiring has also contributed to a marked increase in research and development expenses. Our facility in Queensbury is now operational and we have expanded both our Research and Development and Regulatory and Quality Assurance departments. Additionally, we have focused substantial efforts to completing our submission for FDA approval of the Delcath PHP System.

Interest income is from our money market account and certificates of deposit. During the three months ended March 31, 2010, the Company had interest income of $1,264, as compared to $50,761 for the same period in 2009. This decrease is principally due to market conditions which continue to yield a lower percentage of return than in previous years.

Liquidity and Capital Resources

Our future results are subject to substantial risks and uncertainties. We have operated at a loss for our entire history and we anticipate that losses will continue for the foreseeable future. There can be no assurance that we will ever generate significant revenues or achieve profitability. We expect to use cash, cash equivalents and investment proceeds to fund our operating activities. Our future liquidity and capital requirements will depend on numerous factors, including the progress of our research and product development programs, including our ongoing Phase II and Phase III clinical trials; the timing and costs of making various United States and foreign regulatory filings, obtaining approvals and complying with regulations; the timing and effectiveness of product commercialization act ivities, including marketing arrangements overseas; the timing and costs involved in preparing, filing, prosecuting, defending and enforcing intellectual property rights; and the effect of competing technological and market developments. As we seek FDA and foreign approvals and commence marketing and manufacturing of our product we expect that our capital expenditures will increase significantly.

Nearly all of our available funds are invested in money market accounts and certificates of deposit. At March 31, 2010, we had cash and cash equivalents of $26.9 million, as compared to $35.5 million at December 31, 2009**.** Cash equivalents includes $996,000 in certificates of deposit. In addition, the Company holds $3,235,000 in certificates of deposit not classified as cash equivalents.

During the three months ended March 31, 2010, we used $5.1 million of cash in our operating activities. This amount compares to $2.3 million used in our operating activities during the comparable three month period in 2009. The increase of $2.8 million, or 117.3%, is due to the recent personnel additions discussed above, our efforts to focus on preparing our submission to the FDA, and our preparations to commericialize the System. We expect that our cash allocated to operating activities will continue to increase as we aggressively move towards fully staffing our facility in upstate New York and continuing to navigate the extensive FDA approval process. We believe we have sufficient capital to fund our operating activities through 2010.

At March 31, 2010, the Company's accumulated deficit was approximately $83.5 million. Because our business does not generate any positive cash flow from operating activities, we will need to continue raising additional capital in order to develop our product beyond the current clinical trials or to fund development efforts relating to new products. We believe that we could raise additional capital in the event that we find it in our best interest to do so. We anticipate raising such additional capital by either borrowing money, selling shares of our capital stock, or entering into strategic alliances with appropriate partners. To the extent additional capital is not available when we need it, we may be forced to abandon some or all of our development and commercialization efforts, which would have a material adverse effect on the prospects of our business. Further, our assumptions relating to our cash requirements may differ materially from those planned because of a number of factors, including significant unforeseen delays in the regulatory approval process, changes in the focus and direction of our clinical trials and costs related to commercializing our product.

We have funded our operations through a combination of private placements of our securities and through the proceeds of our public offerings in 2000 and 2003 along with our registered direct offering in 2007 and a public offering in November 2009. Please see the detailed discussion of our various sales of securities described in Note 3 to the Company's audited financial statements contained in the 2009 Annual Report on Form 10-K.

In June 2009, the Company completed the sale of 869,565 shares of its common stock and the issuance of warrants to purchase 1,043,478 common shares (the "2009 Warrants") pursuant to a subscription agreement with a single investor. The Company received gross proceeds of $3 million, with net cash proceeds after related expenses from this transaction of approximately $2.67 million. Of those proceeds, the Company allocated an estimated fair value of $2,190,979 to the 2009 Warrants, resulting in net proceeds of $467,559 allocated to the common stock. The fair value of the 2009 Warrants on June 15, 2009 was determined by using an option pricing model assuming a risk free interest rate of 2.75%, volatility of 72.93% and an expected life equal to the contractual life of the warrants (June 2014). The 2009 Warrants are exe rcisable at $3.60 per share and have a five-year term. The shares and warrants were issued pursuant to an effective registration statement on Form S-3.

In March 2010, the Company filed a registration statement on Form S-3, which will allow the Company to offer and sell, from time to time in one or more offerings up to $100,000,000 of common stock, preferred stock, stock purchase contracts, warrants and debt securities as it deems prudent or necessary to raise capital at a later date. The registration statement became effective April 13, 2010 (333-165677). The $100,000,000 of securities registered includes $24,810,000 of securities registered pursuant to Registration Statement No. 333-1559913 initially filed in June, 2009. The Company intends to use the net proceeds from any future offerings under the registration statement for general corporate purposes, including, but not limited to, funding its clinical trials, capital expenditures, working capital, repayment of debt and investments .

Critical Accounting Estimates

The Company's financial statements have been prepared in accordance with GAAP. Certain accounting policies have a significant impact on amounts reported in the financial statements. A summary of those significant accounting policies can be found in Note 1 to the Company's financial statements contained in the 2009 Annual Report on Form 10-K. The Company is still in the development stage and has no revenues, trade receivables, inventories, or significant fixed or intangible assets, and therefore has very limited opportunities to choose among accounting policies or methods. In many cases, the Company must use an accounting policy or method because it is the only policy or method permitted under GAAP.

Additionally, the Company devotes substantial resources to clinical trials and other research and development activities related to obtaining FDA and other approvals for the Delcath PHP System, the cost of which is required to be charged to expense as incurred. This further limits our choice of accounting policies and methods. Similarly, management believes there are very limited circumstances in which the Company's financial statement estimates are significant or critical.

The Company considers the valuation allowance for the deferred tax assets to be a significant accounting estimate. In applying FASB ASC 740 management estimates future taxable income from operations and tax planning strategies in determining if it is more likely than not that the Company will realize the benefits of its deferred tax assets. Management believes the Company does not have any uncertain tax positions.

The Company has adopted the provisions of FASB ASC 718, which establishes accounting for equity instruments exchanged for employee services. Under the provisions of FASB ASC 718, share-based compensation is measured at the grant date, based upon the fair value of the award, and is recognized as an expense over the option holders' requisite service period (generally the vesting period of the equity grant).The Company expenses its share-based compensation under the ratable method, which treats each vesting tranche as if it were an individual grant.

On January 1, 2008, the Company adopted FASB ASC 820, which defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. FASB ASC 820 applies to reported balances that are required or permitted to be measured at fair value under existing accounting pronouncements; accordingly, the standard does not require any new fair value measurements of reported balances. The adoption of FASB ASC 820 did not have a material effect on the carrying values of the Company's assets.

FASB ASC 820 emphasizes that fair value is a market-based measurement, not an entity-specific measurement. Therefore, a fair value measurement should be determined based on the assumptions that market participants would use in pricing the asset or liability. As a basis for considering market participant assumptions in fair value measurements, FASB ASC 820 establishes a fair value hierarchy that distinguishes between market participant assumptions based on market data obtained from sources independent of the reporting entity (observable inputs that are classified within Levels 1 and 2 of the hierarchy) and the reporting entity's own assumptions about market participant assumptions (unobservable inputs classified within Level 3 of the hierarchy).

Level 1 inputs utilize quoted prices (unadjusted) in active markets for identical assets or liabilities that the Company has the ability to

access. Level 2 inputs are inputs other than quoted prices included in Level 1 that are observable for the asset or liability, either directly or indirectly. Level 2 inputs may include quoted prices for similar assets and liabilities in active markets, as well as inputs that are observable for the asset or liability (other than quoted prices), such as interest rates, foreign exchange rates, and yield curves that are observable at commonly quoted intervals. Level 3 inputs are unobservable inputs for the asset or liability which are typically based on an entity's own assumptions, as there is little, if any, related market activity. In instances where the determination of the fair value measurement is based on inputs from different levels of the fair value hierarchy, the level in the fair value hierarchy within which the entire fair value measurement falls is based on the lowest level input that is significant to th e fair value measurement in its entirety. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment, and considers factors specific to the asset or liability. See Note 6 to the Company's condensed financial statements contained in this Quarterly Report on Form 10-Q for assets and liabilities the Company has evaluated under FASB ASC 820.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

The Company may be exposed to market risk through changes in market interest rates that could affect the value of its investments. However, the Company's marketable securities consist of short-term and/or variable rate instruments and, therefore, a change in interest rates would not have a material impact on the fair value of the Company's investment portfolio or related income.

In January 2008, the Company entered into a research and development agreement with Aethlon Medical, Inc. ("AEMD"), a publicly traded company whose securities are quoted on the Over the Counter Bulletin Board. As part of that agreement, the Company received 100,000 shares of restricted common stock of AEMD. The Company allocated $46,200 of the cost of the agreement to the fair value of the common stock acquired. The investment is classified as an available for sale security and had a fair value on March 31, 2010 of $38,000, which included a gross unrealized loss of $8,200, which is included as a component of comprehensive loss.

The Company measures all derivatives, including certain derivatives embedded in contracts, at fair value and recognizes them on the balance sheet as an asset or a liability, depending on the Company's rights and obligations under the applicable derivative contract.

In June 2009, the Company completed the sale of 869,565 shares of its common stock and the issuance of warrants to purchase 1,043,478 common shares (the "2009 Warrants") in a subscription agreement with a single investor. The Company received gross proceeds of $3 million, with net cash proceeds after related expenses from this transaction of approximately $2.67 million. Of those proceeds, the Company allocated an estimated fair value of $2,190,979 to the 2009 Warrants, resulting in net proceeds of $467,559 allocated to the common stock. The fair value of the 2009 Warrants on June 15, 2009 was determined by using an option pricing model assuming a risk free interest rate of 2.75%, volatility of 72.93% and an expected life equal to the contractual life of the 2009 Warrants (June 2014). The 2009 Warrants are exercisable at $3.60 per share and have a five-year term.

In September 2007, the Company completed the sale of 3,833,108 shares of its common stock and the issuance of warrants to purchase 1,916,554 common shares (the "2007 Warrants") in a private placement to institutional and accredited investors. The Company received net proceeds of $13,303,267 in this transaction. The Company allocated $4,269,000 of the total proceeds to the 2007 Warrants. The 2007 Warrants were initially exercisable at $4.53 per share beginning six months after the issuance thereof and on or prior to the fifth anniversary of the issuance thereof. As required by the 2007 Warrant agreement, both the exercise price and number of warrants were adjusted following the Company's June 9, 2009 sale of common stock. The 2007 Warrants are currently exercisable at $3.44 per share with 2,523,834 warrants outstanding .

The $2,190,979 in proceeds allocated to the 2009 Warrants and the $4,269,000 in proceeds allocated to the 2007 Warrants are classified as liabilities. The terms of the 2007 Warrants and the 2009 Warrants provide for potential adjustment in the exercise price and are therefore considered to be derivative instrument liabilities that are subject to mark-to-market adjustment each period. As a result, for the three month period ended March 31, 2010, the Company recorded the change in fair value of the warrant liability as pre-tax derivative instrument expense of $8,687,717. The resulting warrant liability totaled $19,894,931 at March 31, 2010. Management believes that the possibility of an actual cash settlement with a warrant holder of the recorded liability is quite remote, and expects that the warrants will either b e exercised or expire worthless, at which point the then existing warrant liability will be credited to stockholders' equity. The fair value of the Warrants at March 31, 2010 was determined by using an option pricing model assuming a risk free interest rate of 2.17% for the 2009 Warrants and 1.30% for the 2007 Warrants, volatility of 74.26% for the 2009 Warrants and 90.79% for the 2007 Warrants and an expected life equal to the contractual life of the Warrants (June 2014 and September 2012, respectively).

Item 4. Controls and Procedures

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) or 15d-15(e) of the Exchange Act. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures as of March 31, 2010 (the end of the period covered by this Quarterly Report on Form 10-Q), have been designed and are functioning effectively to provide reasonable assurance that the information required to be disclosed by us in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and com municated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

There were no changes to our internal control over financial reporting that occurred during our fiscal quarter ended March 31, 2010 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II:

OTHER INFORMATION

Item 1. Legal Proceedings
None.

Item 1A. Risk Factors
Our 2009 Form 10-K, in Part 1, Item 1A. "Risk Factors," contains a detailed discussion of factors that could materially adversely affect our business, operating results and/or financial condition. There have been no material changes in these risk factors since such disclosure.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds
On January 8, 2010, the Company withheld 15,394 shares of Delcath common stock that were the subject of a restricted stock award to satisfy the grantee's tax withholding obligations incurred in connection with the vesting of restricted stock, the per share value assigned to the shares of common stock withheld was $5.45 per share.

Item 3. Defaults upon Senior Securities
Not Applicable.

Item 5. Other Information
On May 4, 2010, the Company entered into an amended and restated supply agreement with B. Braun Medical Inc. ("B.Braun Medical"), which amends, restates and replaces in its entirety the supply agreement dated January 11, 2010 between the Company and B.Braun Medical (the "Amended and Restated Supply Agreement"), and pursuant to which B. Braun Medical has agreed to supply the Company with double balloon catheters and double balloon catheter accessory packs, to sell the Company certain tooling and related equipment for the manufacturing of such products, and to provide the Company with certain technical and design assistance. A copy of the Amended and Restated Supply Agreement is attached as Exhibit 10.7 to this Quarterly Report on Form 10-Q.

Item 6. Exhibits

Exhibit No.		Description
10.1		Lease Agreement, dated as of February 5, 2010, by and between the Company and SLG 810 Seventh Lessee LLC.
10.2	*	Amendment No. 1. to the Form of Employee Stock Option Grant Letter, amended as of March 11, 2010, by and between the Company and Eamonn P. Hobbs
10.3	*	Employee Stock Option Grant Letter by and between the Company and Eamonn P. Hobbs, Grant Date January 4, 2010
10.4	*	Form of Non-Statutory Stock Option Grant Letter
10.5	*	Form of Restricted Stock Agreement
10.6	†	Research and Distribution Agreement, dated as of February 9, 2010, by and between the Company and Chifu Trading Co., Ltd.
10.7		Amended and Restated Supply Agreement, dated May 4, 2010, by and between the Company and B. Braun Medical, Inc.
31.1		Certification by Principal executive officer Pursuant to Rule 13a-14(a).
31.2		Certification by Principal financial officer Pursuant to Rule 13a-14(a).
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 Principal financial officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

† Portions of this exhibit have been redacted and are subject to a confidential treatment request filed with the Securities and Exchange Commission pursuant to Rule 24b-2 under the Secretary of the Securities Exchange Act of 1934, as amended.
* Indicates management contract or compensatory plan or arrangement.

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.

May 5, 2010

DELCATH SYSTEMS, INC.
(Registrant)
/s/David A. McDonald

David A. McDonald
Chief Financial Officer
(Principal Financial Officer)

Exhibit Index

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AGREEMENT OF LEASE

between

SLG 810 Seventh Lessee LLC

Landlord

and

Delcath Systems, Inc.

Tenant

Dated as of February 5, 2010

Portion of the 35th Floor
810 Seventh Avenue
New York, New York

INDEX OF DEFINED TERMS

TERM PAGE

LEASE (this "Lease") made as of the 5th day of February 2010 between **SLG 810 Seventh Lessee LLC**, a limited liability company having an office c/o SL Green Realty Corp., at 420 Lexington Avenue, New York, New York, 10170, hereinafter referred to as "Landlord", and **Delcath Systems, Inc.**, a Delaware corporation having an office at Rockefeller Center, 600 Fifth Avenue, 23rd Floor, New York, New York 10020, hereinafter referred to as "Tenant".

W I T N E S S E T H

Landlord and Tenant, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby covenant and agree as follows:

ARTICLE 1

DEMISE; PREMISES AND PURPOSE

1.01 Landlord hereby leases and demises to Tenant, and Tenant hereby hires and takes from Landlord, those certain premises located on and comprising a rentable portion of the thirty fifth (35th) floor designated as Suite 3505, deemed to consist of approximately 8,629 square feet, approximately as indicated by hatch marks on the plan annexed hereto and made a part hereof as "**Exhibit A**" (the "Premises") in the building known as and located at 810 Seventh Avenue, New York, New York (the "Bui lding") subject to the provisions of this Lease.

1.02 The Premises shall be used and occupied for executive and general office use consistent with that found in Class "A" high-rise office buildings located in midtown Manhattan (the "Permitted Use") only and for no other purpose.

1.03 Neither the Premises, nor the halls, corridors, stairways, elevators or any other portion of the Building shall be used by Tenant or Tenant's servants, employees, licensees, invitees or visitors in connection with the aforesaid Permitted Use or otherwise so as to cause any congestion of the public portions of the Building or the entranceways, sidewalks or roadways adjoining the Building whether by trucking or by the congregating or loitering thereon of Tenant and/or the servants, employees, licensees, invitees or visitors of Tenant.

1.04 Tenant shall not permit messengers, delivery personnel or other individuals providing such services to Tenant ("Delivery Personnel") to: (i) assemble, congregate or to form a line outside of the Premises or the Building or otherwise impede the flow of pedestrian traffic outside of the Premises or Building or (ii) park or otherwise leave bicycles, wagons or other delivery carts outside of the Premises or the Building except in locations outside of the Building designated by Landlord from time-to-time. Tenant shall require all Delivery Personnel to comply with rules reasonably promulgated by Landlord from time-to-time regarding the use of outside messenger services.

ARTICLE 2

TERM

2.01 The Premises are leased for a term of approximately seven (7) years and six (6) months (the "Term") which shall commence on the date (the "Commencement Date") which shall be the earlier of:

(x) the date upon which Landlord's Work (hereinafter defined in Article 22 hereof) are deemed to be substantially completed in accordance with Section 22.05 hereof, or

(y) the date Tenant or anyone claiming by, under or through Tenant first shall occupy any part of the Premises for the conduct of Tenant's business,

and shall end on the last day of the sixth (6th) calendar month following the month which the seventh (7th) anniversary of the Commencement Date occurs (the "Expiration Date") or on such earlier date upon which the term of this Lease shall expire, be canceled or terminated pursuant to any of the conditions or covenants of this Lease or pursuant to law. As soon as the Commencement Date and the Expiration Date are known, Landlord and Tenant shall execute a memorandum prepared by Landlord confirming the same within ten (10) days of written demand therefor, but any failure to execute such a memora ndum shall not affect such dates as determined by Landlord. Landlord shall endeavor to provide Tenant with seven (7) days prior notice (which may be given in person or by telephone) of Landlord's reasonable estimate of the Commencement Date; provided, however, that Landlord's failure to provide such notice and/or such date estimated to be the Commencement Date shall not affect the actual Commencement Date of this Lease.

ARTICLE 3

RENT AND ADDITIONAL RENT

3.01 Tenant shall pay fixed annual rent without electricity (the "Fixed Annual Rent") at the rates provided for in the schedule annexed hereto and made a part hereof as "**Exhibit B**" in equal monthly installments in advance on the first (1st) day of each calendar month during the Term, except that the first (1st) monthly installment of Fixed Annual Rent shall be paid by Tenant upon its execution of this Lease. All sums other than Fixed Annual Rent payable hereunder shall be deemed to be "Additional Rent" and shall be payable from and after the Commencement Date within ten (10) days after demand, unless other payment dates are hereinafter provided. Tenant shall pay all Fixed Annual Rent and Additional Rent due hereunder at the office of Landlord or such other place as Landlord may designate, payable in United States legal tender, by cash, or by good and sufficient check drawn on a New York City bank which is a member of the New York Clearing House or a successor thereto, and without any set off or deduction whatsoever, except as expressly provided for in this Lease. The term "Rent" as used in this Lease shall mean Fixed Annual Rent and Additional Rent. Landlord may apply payments made by Tenant towards the payment of any item of Fixed Annual Rent and/or Additional Rent payable hereunde r notwithstanding any designation by Tenant as to the items against which any such payment should be credited.

3.02 Subject to the provisions hereof, if and so long as Tenant is not in default under this Lease, the first six (6) monthly installment(s) of Fixed Annual Rent (without electricity) accruing under the Lease shall be abated by the sum of $38,111.42 per month (for a total abatement of $228,668.50).

ARTICLE 4

ASSIGNMENT/SUBLETTING

4.01 Neither Tenant nor Tenant's legal representatives or successors in interest by operation of law or otherwise, shall assign, mortgage or otherwise encumber this Lease, or sublet or permit all or part of the Premises to be used by others, without the prior written consent of Landlord, which shall be granted or withheld in each instance in accordance with the terms of this Lease, subject, however, to the provisions of Section 4.09 hereof. The transfer of a majority of the issued and outstanding capital stock of any corporate tenant or sublessee of this Lease or a majority of the total interest in any partnership tenant or sublessee or company, however accomplished, and whether in a single transaction or in a series of related or unrelated transactions, the conversion of a tenant or sublessee entity to either a limited liability company or a limited liability partnership or the merger or consolidation of a corporate tenant or sublessee, shall be deemed an assignment of this Lease or of such sublease. If this Lease is assigned, or if the Premises or any part thereof is underlet or occupied by any person or entity other than Tenant, Landlord may, after default by Tenant, collect rent from the assignee, undertenant or occupant, and apply the net amount collected to the rent herein reserved, but no assignment, underletting, occupancy or collection shall be deemed a waiver of the provisions hereof, the acceptance of the assignee, undertenant or occupant as tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. The consent by Landlord to an assignment or underletting shall not in any way be construed to relieve Tenant from obtaining the express consent in writing of Landlor d to any further assignment or underletting. In no event shall any permitted sublessee assign or encumber its sublease or further sublet all or any portion of its sublet space, or otherwise suffer or permit the sublet space or any part thereof to be used or occupied by others, without Landlord's prior written consent in each instance, except in accordance with the terms of this Lease. A modification, amendment or extension of a sublease shall be deemed a sublease. The listing of the name of a party or entity other than that of Tenant on the Building or floor directory or on or adjacent to the entrance door to the Premises shall neither grant such party or entity any right or interest in this Lease or in the Premises nor constitute Landlord's consent to any assignment or sublease to, or occupancy of the Premises by, such party or entity. If any lien is filed against the Premises or the Building of which the same form a part for brokerage services claimed to have been performed for Tenant in connection with any such assignment or sublease, whether or not actually performed, the same shall be discharged within twenty (20) days thereafter, at Tenant's expense, by filing the bond required by law, or otherwise, and paying any other necessary sums, and Tenant agrees to indemnify Landlord and its agents and hold them harmless from and against any and all claims, losses or liability resulting from such lien for brokerage services rendered.

4.02 If Tenant desires to assign this Lease or to sublet all or any portion of the Premises, it shall first submit in writing to Landlord the documents described in Section 4.06 hereof, and shall offer in writing ("Tenant's Recapture Offer"), (i) with respect to a prospective assignment, to assign this Lease to Landlord without any payment of moneys or other consideration therefor, or, (ii) with respect to a prospective subletting, to sublet to Landlord the portion of the Premises involved ("Leaseback Area") for the term specified by Tenant in its proposed sublease or, at Landlord's option in the event such prospe ctive subletting is of all or substantially all of the Premises, for the balance of the term of the Lease less one (1) day, and in any such case of a prospective subletting at the lower of (a) Tenant's proposed subrental or (b) the rate of Fixed Annual Rent and Additional Rent, and otherwise on the same terms, covenants and conditions (including provisions relating to escalation rents), as are contained herein and as are allocable and applicable to the portion of the Premises to be covered by such subletting. Tenant's Recapture Offer shall specify the date when the Leaseback Area will be made available to Landlord, which date shall be in no event earlier than forty five (45) days nor later than one hundred eighty (180)

days following the acceptance of Tenant's Recapture Offer (the "Recapture Date"). If an offer of sublease is made, and if the proposed sublease will result in all or substantially all of the Premises being sublet for the balance or substantially the balance of the Term hereof, then Landlord shall have the option to extend the term of its proposed sublease for the balance of the term of this Lease less one (1) day. Landlord shall have a period of thirty (30) days from the receipt of such Tenant's Recapture Offer to either accept or reject Tenant's Recapture Offer or, with respect to a proposed assignment of this Lease or sublease of all or substantially all of the Premises for the balance or substantially the balan ce of the Term, to terminate this Lease. Notwithstanding anything contained herein to the contrary, but subject to the provisions of Section 4.09 of this Article, the provisions of this Section 4.02 shall not apply to an assignment of this Lease or sublet of the Premises or portion thereof to a "Related Entity" (defined below).

4.03 If Landlord exercises its option to terminate this Lease pursuant to Section 4.02 of this Article, then (i) the term of this Lease shall end on the Recapture Date and (ii) Tenant shall surrender to Landlord and vacate the Premises on or before such date in the same condition as is otherwise required upon the expiration of this Lease by its terms, (iii) the Rent and Additional Rent due hereunder shall be paid and apportioned to such date, and (iv) Landlord shall be free to lease the Premises (or any portion thereof) to any individual or entity including, without limitation, Tenant's proposed assignee or subtenant.

4.04 If Landlord shall accept Tenant's Recapture Offer Tenant shall then execute and deliver to Landlord, or to anyone designated or named by Landlord, an assignment or sublease, as the case may be, in either case in a form reasonably satisfactory to Landlord's counsel.

If a sublease is so made it shall expressly:

(i) permit Landlord to make further subleases of all or any part of the Leaseback Area and (at no cost or expense to Tenant) to make and authorize any and all changes, alterations, installations and improvements in such space as necessary;

(ii) provide that Tenant will at all times permit reasonably appropriate means of ingress to and egress from the Leaseback Area;

(iii) negate any intention that the estate created under such sublease be merged with any other estate held by either of the parties;

(iv) provide that Landlord shall accept the Leaseback Area "as is" except that Landlord, at Tenant's expense, shall perform all such work and make all such alterations as may be required physically to separate the Leaseback Area from the remainder of the Premises and to permit lawful occupancy, it being intended that Tenant shall have no other cost or expense in connection with the subletting of the Leaseback Area;

(v) provide that at the expiration of the term of such sublease Tenant will accept the Leaseback Area in its then existing condition, subject to the obligations of Landlord to make such repairs thereto as may be necessary to preserve the Leaseback Area in good order and condition, ordinary wear and tear excepted.

4.05 Landlord shall indemnify and save Tenant harmless from all obligations under this Lease as to the Leaseback Area during the period of time it is so sublet, except for Fixed Annual Rent and Additional Rent, if any, due under the within Lease, which are in excess of the rents and additional sums due under such sublease(and the amount of Fixed Annual Rent and Additional Rent payable by Tenant hereunder shall be reduced by the amount of Fixed Annual Rent and Additional Rent for which Landlord is indemnifying Tenant pursuant to the provisions of this Section 4.05). Subject to the foregoing, performance by Landlord, or its designee, under a sublease of the Leaseback Area shall be deemed performance by Tenant of any similar obligation under this Lease and any de fault under any such sublease shall not give rise to a default under a similar obligation contained in this Lease, nor shall Tenant be liable for any default under this Lease or deemed to be in default hereunder if such default is occasioned by or arises from any act or omission of the tenant under such sublease or is occasioned by or arises from any act or omission of any occupant holding under or pursuant to any such sublease.

4.06 If Tenant requests Landlord's consent to a specific assignment or subletting, it shall submit in writing to Landlord (i) the name and address of the proposed assignee or sublessee, (ii) a duly executed counterpart of the proposed agreement of assignment or sublease, (iii) reasonably satisfactory information as to the nature and character of the business of the proposed assignee or sublessee and as to its proposed use of the space, and (iv) banking, financial or other credit information relating to the proposed assignee or sublessee reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed assignee or sublessee.

4.07 If Landlord shall not have accepted Tenant's Recapture Offer and Landlord shall not have terminated this Lease, as provided for in Section 4.02 hereof, then Landlord will not unreasonably withhold or delay its consent to Tenant's request for consent to such specific assignment or subletting for the use permitted under this Lease, provided that:

(i) The Premises shall not, without Landlord's prior consent, have been listed or otherwise publicly advertised for assignment or subletting at a rental rate lower than the higher of (a) the Fixed Annual Rent and all Additional Rent then payable, or (b) the then prevailing rental rate for other space in the Building; provided, however that this Section 4.07(i) shall not be deemed to prevent Tenant from effectuating an assignment or sublease at a rental rate lower than the then prevailing rental rate for other space in the Building;

(ii) The proposed assignee or subtenant shall have a financial standing, be of a character, be engaged in a business, and propose to use the Premises, in a manner consistent with the Permitted Use or otherwise acceptable to Landlord (in Landlord's sole discretion) and in keeping with the standards of the Building;

(iii) The proposed assignee or subtenant shall not then be a tenant, subtenant, assignee or occupant of any space in the Building, nor shall the proposed assignee or subtenant be a person or entity who has dealt with Landlord or Landlord's agent (directly or through a broker) with respect to space in the Building during the six (6) months immediately preceding Tenant's request for Landlord's consent, provided that in any such case, Landlord then has comparable space for a reasonably comparable term available or becoming available for lease in the Building;

(iv) The character of the business to be conducted in the Premises by the proposed assignee or subtenant shall not be likely to increase operating expenses or the burden on existing cleaning services, elevators or other services and/or systems of the Building;

(v) In case of a subletting, the subtenant shall be expressly subject to all of the obligations of Tenant under this Lease and the further condition and restriction that such sublease shall not be assigned, encumbered or otherwise transferred or the Premises further sublet by the subtenant in whole or in part, or any part thereof suffered or permitted by the subtenant to be used or occupied by others, without the prior written consent of Landlord in each instance;

(vi) No subletting shall end later than one (1) day before the Expiration Date nor shall any subletting be for a term of less than one (1) year unless it commences less than one (1) year before the Expiration Date;

(vii) At no time shall there be more than two (2) occupants, including Tenant, in the Premises;

(viii) Tenant shall reimburse Landlord on demand for any reasonable costs, including reasonable attorneys' fees and disbursements that may be incurred by Landlord in connection with reviewing said assignment or sublease;

(ix) The character of the business to be conducted in the Premises by the proposed assignee or subtenant shall not require any alterations, installations, improvements, additions or other physical changes to be performed, or made to, any portion of the Building or the Real Property other than the Premises; and

(x) The proposed assignee or subtenant shall not be any entity which is entitled to diplomatic or sovereign immunity or which is not subject to service of process in the State of New York or to the jurisdiction of the courts of the State of New York and the United States located in New York County.

4.08 Any consent of Landlord under this Article shall be subject to the terms of this Article and conditioned upon there being no default by Tenant, beyond any grace period, under any of the terms, covenants and conditions of this Lease at the time that Landlord's consent to any such subletting or assignment is requested and on the date of the commencement of the term of any proposed sublease or the effective date of any proposed assignment. Tenant acknowledges and agrees that no assignment or subletting shall be effective unless and until Tenant, upon receiving any necessary Landlord's written consent (and unless it was theretofore delivered to Landlord) causes a duly executed copy of the sublease or assignment to be delivered to Landlord within t en (10) days after execution thereof. Any such sublease shall provide that the sublessee shall comply with all applicable terms and conditions of this Lease to be performed by Tenant hereunder. Any such assignment of this Lease shall contain an assumption by the assignee of all of the terms, covenants and conditions of this Lease to be performed by Tenant.

4.09 Anything hereinabove contained to the contrary notwithstanding, so long as Tenant is not in default under this Lease beyond the grace period applicable to such default, if any, Landlord's consent shall not be required for an assignment of this Lease, or sublease of all or part of the Premises for the uses permitted hereunder, to a Related Entity provided that (i) Landlord is given prior notice thereof and reasonably satisfactory proof that the requirements of this Lease have been met and Tenant agrees to remain primarily liable, jointly and severally, with any transferee or assignee, for the obligations of Tenant under this Lease and (ii) in Landlord's reasonable judgment the proposed assignee or subtenant is engaged in a business and the Premises, or the relevant p art thereof, will be used in a manner which (x) is in keeping with the standards of the Building and (y) would not adversely affect or increase Landlord's cost in the operation of the Building.

4.10 For purposes of this Article:

(i) a "Related Entity" shall mean (x) a wholly-owned subsidiary of Tenant or any corporation or entity which controls or is controlled by Tenant or is under common control with Tenant or (y) any entity (i) to which substantially all the assets of Tenant are transferred or (ii) into which Tenant may be merged or consolidated, provided that in either such case both the net worth and ratio of current assets to current liabilities (exclusive of good will) of such transferee or of the resulting or surviving corporation or other business entity, as the case may be, as certified by the certified public accountants of such transferee or the resulting or surviving business entity in accordance with generally accepted accounting principles, consistently applied, is not less than Tenant's net worth and ratio of current assets to current liabilities (exclusive of good will), as so certified, as of (a) the Commencement Date or (b) the day immediately prior to such transaction, whichever is greater, and provided also that any such transaction complies with the other provisions of this Article; and

(ii) the term "control" shall mean, in the case of a corporation or other entity, ownership or voting control, directly or indirectly, of at least fifty (50%) percent of all of the general or other partnership (or similar) interests therein.

4.11 If Landlord shall not have accepted Tenant's Recapture Offer hereunder and Landlord has not elected to terminate this Lease, and Tenant effects any assignment or subletting, then Tenant thereafter shall pay to Landlord a sum equal to fifty percent (50%) of (a) any rent or other consideration paid to Tenant in connection with such sublease or assignment by any subtenant or assignee which is in excess of the rent allocable to the subleased or assigned space which is then being paid by Tenant to Landlord pursuant to the terms hereof, and (b) any other profit or gain realized by Tenant from any such subletting or assignment. In computing such excess amount and/or profit or gain, any actual reasonable out-of-pocket expenses incurred by Tenant for adverti sing, legal fees, brokerage commissions, work allowances, rent concessions and cost of work performed for such subtenant or assignee in connection with such assignment or subleasing shall be deducted.

4.12. In no event shall Tenant be entitled to make, nor shall Tenant make, any claim, and Tenant hereby waives any claim, for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord has unreasonably withheld or unreasonably delayed its consent or approval to a proposed assignment or subletting as provided for in this Article. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance, injunction or declaratory judgment.

ARTICLE 5

DEFAULT

5.01 Landlord may terminate this Lease on ten (10) Business Days' notice: (a) if Fixed Annual Rent or Additional Rent is not paid within five (5) days after written notice from Landlord that the same is past due; or (b) if Tenant shall have failed to cure a default in the performance of any covenant of this Lease (except the payment of Rent), or any rule or regulation hereinafter set forth, within thirty (30) days after written notice thereof from Landlord, or if default cannot be completely cured in such time, if Tenant shall not promptly proceed to cure such default within said thirty (30) days, or shall not complete the curing of such default with due diligence; or (c) when and to the extent permitted by law, if a petition in bankruptcy shall be filed by or agai nst Tenant or if Tenant shall make a general assignment for the benefit of creditors, or receive the benefit of any insolvency or reorganization act; or (d) if a receiver or trustee is appointed for any portion of Tenant's property and such appointment is not vacated within sixty (60) days; or (e) if an execution or attachment shall be issued under which the Premises shall be taken or occupied or attempted to be taken or occupied by anyone other than Tenant; or (f) if Tenant shall default beyond any grace period under any other lease between Tenant and Landlord. At the expiration of the ten (10) Business Day notice period, this Lease and any rights of renewal or extension thereof shall terminate as completely as if that were the date originally fixed for the expiration of the Term of this Lease, but Tenant shall remain liable as hereinafter provided.

5.02 In the event that Tenant is in arrears for Fixed Annual Rent or any item of Additional Rent, Tenant waives its right, if any, to designate the items against which payments made by Tenant are to be credited and Landlord may apply any payments made by Tenant to any items which Landlord in its sole discretion may elect irrespective of any designation by Tenant as to the items against which any such payment should be credited.

5.03 Tenant shall not seek to remove and/or consolidate any summary proceeding brought by Landlord with any action commenced by Tenant in connection with this Lease or Tenant's use and/or occupancy of the Premises (provided, however, that nothing contained herein shall preclude Tenant from asserting a compulsory counterclaim in any such proceeding).

5.04 In the event of a default by Landlord hereunder, no property or assets of Landlord, or any principals, shareholders, officers, directors, partners or members of Landlord, whether disclosed or undisclosed, other than the Building in which the Premises are located and the land upon which the Building is situated, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder or Tenant's use and occupancy of the Premises.

ARTICLE 6
RELETTING, ETC.

6.01 If Landlord shall re-enter the Premises ~~on~~ following the default of Tenant after the giving of any required notice and the expiration of the grace period applicable thereto, if any, by summary proceedings or otherwise: (a) Landlord may re-let the Premises or any part thereof, as Tenant's agent, in the name of Landlord, or otherwise, for a term shorter or longer than the balance of the term of this Lease, and may grant concessions or free rent; (b) Tenant shall pay Landlord any deficiency between the rent hereby reserved and the net amount of any rents collected by Landlord for the remaining term of this Lease, through such re-letting. Such deficiency shall become due and payable monthly, as it is determined. Landlord shall have no obligation to re-let the Premises, and its failure or refusal to do so, or failure to collect rent on re-letting, shall not affect Tenant's liability hereunder. In computing the net amount of rents collected through such re-letting, Landlord may deduct all reasonable expenses incurred in obtaining possession or re-letting the Premises, including reasonable legal expenses and fees, reasonable brokerage fees, the reasonable cost of restoring the Premises to good order, and the reasonable cost of all alterations and decorations deemed necessary by Landlord to effect re-letting. In no event shall Tenant be entitled to a credit or repayment for rerental income which exceeds the sums payable by Tenant hereunder or which covers a period after the original term of this Lease; (c) Tenant hereby expressly waives any right of redemption granted by any present or future law. "Re-enter" and "re - -entry" as used in this Lease are not restricted to their technical legal meaning. In the event of a breach or threatened breach of any of the covenants or provisions hereof, Landlord shall have the right of injunctive relief. Mention herein of any particular remedy shall not preclude Landlord from any other available remedy; (d) Landlord shall recover as liquidated damages, in addition to accrued rent and other charges, if Landlord's re-entry is the result of Tenant's bankruptcy, insolvency, or reorganization, the full rental for the maximum period allowed by any act relating to bankruptcy, insolvency or reorganization.

6.02 If Landlord re-enters the Premises for any cause, or if Tenant abandons the Premises, or after the expiration of the term of this Lease, any property left in the Premises by Tenant shall be deemed to have been abandoned by Tenant, and Landlord shall have the right to retain or dispose of such property in any manner without any obligation to account therefor to Tenant. If Tenant shall at any time default hereunder, and if Landlord shall institute an action or summary proceeding against Tenant based upon such default, and Landlord prevails on its claim, then Tenant will reimburse Landlord for the reasonable legal expenses and fees thereby incurred by Landlord.

ARTICLE 7
LANDLORD MAY CURE DEFAULTS

7.01 If Tenant shall default in performing any covenant or condition of this Lease, after any required notice is given to Tenant and expiration of the grace period applicable to such default hereunder, if any, (provided, however, that notice under this Article shall not be required in the event of an imminent danger to health or safety or in the event that the failure to promptly remedy such default may result in potential criminal or other liability or a default by Landlord under a mortgage, ground lease or other agreement) Landlord may perform the same for the account of Tenant, and if Landlord, in connection therewith, or in connection with any default by Tenant, makes any expenditures or incurs any obligations for the payment of money, including but not limited to re asonable attorney's fees, such sums so paid or obligations incurred shall be deemed to be Additional Rent hereunder, and shall be paid by Tenant to Landlord within five (5) days of rendition of any bill or statement therefor, and if Tenant's lease term shall have expired at the time of the making of such expenditures or incurring of such obligations, such sums shall be recoverable by Landlord as damages.

ARTICLE 8
ALTERATIONS

8.01 (A) Tenant shall make no decoration, alteration, addition or improvement in the Premises, without the prior written consent of Landlord, and then only by contractors or mechanics and in such manner and time, and with such materials, as approved by Landlord. Subject to all of the other provisions of this Article 8, Landlord shall not unreasonably withhold its consent to the performance of work and improvements in the Premises by contractors employing union labor with the proper jurisdictional qualifications provided, however, that (i) all work affecting the Building's "Class E" system shall be performed by Landlord's designated contractor and all plan filings with the Department of Buildings shall be performed by Landlord's designated expeditor and Landlord's designated consulting engineer provided that the hourly rates and/or fees charged by any of the foregoing must be consistent with those found in Class "A" high-rise office buildings located in midtown Manhattan, and (ii) Landlord's previous experience with a contractor, and concerns regarding the financial stability of, and any criminal proceedings currently or previously pending against, a contractor or mechanic may form a basis upon which Landlord may withhold its consent. All alterations, additions or improvements to the Premises, including air-conditioning equipment and duct work, except movable office furniture and trade equipment installed at the expense of Tenant, shall, unless Landlord elects otherwise in writing, become the property of Landlord, and shall be surrendered with the Premises, at the expirat ion or sooner termination of the term of this Lease. Any such alterations, additions and improvements which Landlord shall designate shall be removed by Tenant and any damage repaired, at Tenant's expense, prior to the expiration of this Lease. Landlord shall make such designation at the time that consent to such alteration, addition or improvement is given provided that Tenant attaches, as part of its request for such consent, a separate written notice specifically referencing this provision and advising Landlord that Landlord is required to make such designation as part of any such consent given by Landlord hereunder.

(B) Notwithstanding anything contained in this Lease to the contrary, Tenant shall not be obligated to remove any Alterations (as hereinafter defined) hereinafter performed in or to the Premises except for Specialty Alterations. For purposes of this Section 8.01 (B), "Specialty Alterations" shall mean Alterations consisting of kitchens, pantries, executive bathrooms, raised computer floors, computer installations, vaults, libraries, filing systems, internal staircases, dumbwaiters, pneumatic tubes, vertical and horizontal transportation systems, any Alterations which are structural in nature or penetrate or otherwise affects any floor slab, and other Alterations of a similar character which are not customary for general office use in non-institutional office buildings in midtown Manhattan. Any Alterations performed in the Premises as part of Landlord's Work shall not constitute a Specialty Alteration for purposes of this Section 8.01(B). Tenant shall, at Tenant's cost and expense, remove any Specialty Alteration designated by Landlord, repair any damage to the Premises or the Building due to such removal, cap all electrical, plumbing and waste disposal lines in accordance with sound construction practice and restore the Premises to the condition existing prior to the making of such Specialty Alteration. All such work shall be performed in accordance with plans and specifications first approved by Landlord and all applicable terms, covenants, and conditions of this Lease. If Landlord's insurance premiums increase as a result of any Specialty Alterations, Tenant shall pay each such increase each year as Additional Rent upon rece ipt of a bill therefore from Landlord.

8.02 Anything hereinabove to the contrary notwithstanding, Landlord will not unreasonably withhold or delay approval of written requests of Tenant to make nonstructural interior alterations, additions and improvements (herein referred to as "Alterations") in the Premises, provided that such Alterations do not affect utility services or plumbing and electrical lines or other systems of the Building and do not affect and are not visible from any portion of the Building outside of the Premises (and purely decorative changes shall not require the consent of Landlord, subject, however, to all other applicable provisions of this Lease). Notwithstanding anything to the contrary set for th herein, Tenant shall have the right, without the prior consent of Landlord, to make Alterations in the Premises provided that such Alterations: (a) cost no more than Twenty Thousand and 00/100 ($20,000.00) Dollars, (b) are nonstructural, (c) do not require a building permit or change in the certificate of occupancy for the Building, (d) do not directly or indirectly affect building systems, (e) do not directly or indirectly affect any portion of the Building outside of the Premises, and (f) are not visible from any portion of the Building outside of the Premises. All Alterations shall be performed in accordance with the following conditions:

(i) Prior to the commencement of any Alterations requiring Landlord's consent under this Article 8, Tenant shall first submit to Landlord for its approval detailed dimensioned coordinated plans and specifications, including layout, architectural, mechanical, electrical, plumbing and structural drawings for each proposed Alteration. Landlord shall be given, in writing, a good description of all other Alterations.

(ii) All Alterations in and to the Premises shall be performed in a good and workmanlike manner and in accordance with the Building's rules and regulations governing Tenant Alterations. Prior to the commencement of any such Alterations, Tenant shall, at its sole cost and expense, obtain and exhibit to Landlord any governmental permit required in connection with such Alterations. In order to compensate Landlord for its general conditions and the costs incurred by Landlord in connection with Tenant's performance of Alterations in and/or to the Premises (including, without limitation, the costs incurred by Landlord in connection with the coordination of Alterations which may affect systems or services of the Building or portions of the Buil ding outside of the Premises), Tenant shall pay to Landlord a fee equal to three (3%) percent of the cost of such Alterations requiring Landlord's consent under this Article 8 (excluding, however Landlord's Work and all other work performed in the Premises in order to prepare the same for Tenant's initial occupancy therein). Such fee shall be paid by Tenant as Additional Rent hereunder within fifteen (15) days following receipt of an invoice therefor.

(iii) All Alterations shall be done in compliance with all other applicable provisions of this Lease and with all applicable laws, ordinances, directions, rules and regulations of governmental authorities having jurisdiction, including, without limitation, the Americans with Disabilities Act of 1990 and New York City Local Law No. 57/87 and similar present or future laws, and regulations issued pursuant thereto, and also New York City Local Law No. 76 and similar present or future laws, and regulations issued pursuant thereto, on abatement, storage, transportation and disposal of asbestos and other hazardous materials, which work, if required, shall be effected at Tenant's sole cost and expense, by contractors and consultants approved by Landlord and in strict comp liance with the aforesaid rules and regulations and with Landlord's rules and regulations thereon.

(iv) All work shall be performed with union labor having the proper jurisdictional qualifications.

(v) Tenant shall keep the Building and the Premises free and clear of all liens for any work or material claimed to have been furnished to, on behalf of or through Tenant or its contractors or subtenants.

(vi) Prior to the commencement of any work by or for Tenant, Tenant shall furnish to Landlord certificates evidencing the existence of the following insurance maintained by either Tenant or Tenant's contractor:

(a) Workmen's compensation insurance covering all persons employed for such work and with respect to whom death or bodily injury claims could be asserted against Landlord, Tenant or the Premises.

(b) Broad form general liability insurance written on an occurrence basis naming Tenant as an insured and naming Landlord and its designees as additional insureds, with limits of not less than $3,000,000 combined single limit for personal injury in any one occurrence, and with limits of not less than $500,000 for property damage (the foregoing limits may be revised from time to time by Landlord to such higher limits as Landlord from time to time reasonably requires). Tenant, at its sole cost and expense, shall cause all such insurance to be maintained at all time when the work to be performed for or by Tenant is in progress. All such insurance shall be obtained from a company authorized to do business in New York and shall provide that it cannot be canceled without thirty (30) days prior written notice to Landlord. All polices, or certificates therefor, issued by the insurer and bearing notations evidencing the payment of premiums, shall be delivered to Landlord. Blanket coverage shall be acceptable, provided that coverage meeting the requirements of this paragraph is assigned to Tenant's location at the Premises.

(vii) [Intentionally Deleted.]

(viii) All work to be performed by Tenant shall be done in a manner which will not interfere with or disturb other tenants and occupants of the Building.

(ix) The review and/or approval by Landlord, its agents, consultants and/or contractors, of any Alteration or of plans and specifications therefor and the coordination of such Alteration work with the Building, as described in part above, are solely for the benefit of Landlord, and neither Landlord nor any of its agents, consultants or contractors shall have any duty toward Tenant; nor shall Landlord or any of its agents, consultants and/or contractors be deemed to have made any representation or warranty to Tenant, or have any liability, with respect to the safety, adequacy, correctness, efficiency or compliance with laws of any plans and specifications, Alterations or any other matter relating thereto.

(x) Promptly following the substantial completion of any Alterations requiring Landlord's consent under this Article 8, Tenant shall submit to Landlord: (a) one (1) sepia and one (1) copy on floppy disk (using a current version of Autocad or such other similar software as is then commonly in use) of final, "as-built" plans for the Premises showing all such Alterations and demonstrating that such Alterations were performed substantially in accordance with plans and specifications first approved by Landlord and (b) an itemization of Tenant's total construction costs, detailed by contractor, subcontractors, vendors and materialmen; bills, receipts, lien waivers and releases from all contractors, subcontractors, vendors and materialmen; architectsR 17; and Tenant's certification of completion, payment and acceptance, and all governmental approvals and confirmations of completion for such Alterations.

ARTICLE 9

LIENS

9.01 Tenant at its expense shall cause any lien filed against the Premises or the Building, for work or materials claimed to have been furnished to Tenant, to be discharged of record within fifteen (15) days after notice thereof.

ARTICLE 10

REPAIRS

10.01 Tenant shall take good care of the Premises and the fixtures and appurtenances therein, and shall make all repairs necessary to keep them in good working order and condition, including structural repairs to the extent necessitated by the act, omission or negligence of Tenant or its agents, employees, invitees or contractors, subject to the provisions of Article 11 hereof. During the term of this Lease, Tenant may have the use of any air-conditioning equipment servicing the Premises, subject to the provisions of Article 35 of this Lease, and shall reimburse Landlord, in accordance with Article 41 of this Lease, for electricity consumed by such equipment. The exterior walls and roofs of the Building, the mechanical rooms, service closets, shafts, areas abo ve any hung ceiling and the windows and the portions of all window sills outside same are not part of the Premises demised by this Lease, and Landlord hereby reserves all rights to such parts of the Building. Tenant shall not paint, alter, drill into or otherwise change the appearance of the windows including, without limitation, the sills, jambs, frames, sashes, and meeting rails.

10.02 Landlord shall maintain and repair the structural elements and the common facilities, equipment and systems of the Building (other than the distribution portions of the Building's systems located in the Premises) and the perimeter heating and air conditioning systems servicing the Premises. Notwithstanding anything to the contrary contained herein, Landlord's aforesaid obligation shall be performed at the expense of Tenant to the extent that the need for same arises out of the negligence or willful misconduct of Tenant, its employees, agents or invitees, or Tenant's breach of the terms, covenants or conditions of this Lease.

ARTICLE 11

FIRE OR OTHER CASUALTY

11.01 Damage by fire or other casualty to the Building and to the core and shell of the Premises (i.e., exterior Building walls, core Building walls and doors, Premises demising walls, utility risers, elevators and other Building facilities serving the Premises), (excluding the tenant improvements and betterments and Tenant's personal property) shall be repaired at the expense of Landlord ("Landlord's Restoration Work"), but without prejudice to the rights of subrogation, if any, of Landlord's insurer to the extent not waived herein. Landlord shall not be required to repair or restore any of Tenant's property or any alteration, installation or leasehold improve ment made in and/or to the Premises. If, as a result of such damage to the Building or to the core and shell of the Premises, the Premises are rendered untenantable, the Rent shall abate in proportion to the portion of the Premises not usable by Tenant from the date of such fire or other casualty until Landlord's Restoration Work is substantially completed. Landlord shall not be liable to Tenant for any delay in performing Landlord's Restoration Work, Tenant's sole remedy being the right to an abatement of Rent, as provided above. Tenant shall cooperate with Landlord in connection with the performance by Landlord of Landlord's Restoration Work. If the Premises are rendered wholly untenantable by fire or other casualty and if Landlord shall decide not to restore the Premises, or if the Building shall be so damaged that Landlord shall decide to demolish it or not to rebuild it (whether or not the Premises have been damaged), Landlord may withi n ninety (90) days after such fire or other cause give written notice to Tenant of its election that the term of this Lease shall automatically expire no less than ten (10) days after such notice is given provided that Landlord shall have canceled leases covering at least seventy-five (75%) percent of the office space in the Building pursuant to which it may, under such circumstances, exercise a right of termination. Notwithstanding the foregoing, each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty, and to the extent that such insurance is in force and collectible and to the extent permitted by law, Landlord and Tenant each hereby releases and waives all right of recovery against the other or any one claiming through or under each of them by way of subrogation or otherwise. The foregoing release and waiver shall be in force only if both releasors' insurance p olicies contain a clause providing that such a release or waiver shall not invalidate the insurance and also, provided that such a policy can be obtained without additional premiums. Tenant hereby expressly waives the provisions of Section 227 of the Real Property Law and agrees that the foregoing provisions of this Article shall govern and control in lieu thereof.

11.02 In the event that the Premises has been damaged or destroyed and this Lease has not been terminated in accordance with the provisions of this Article, Tenant shall (i) cooperate with Landlord in the restoration of the Premises and shall remove from the Premises as promptly as reasonably possible all of Tenant's salvageable inventory, movable equipment, furniture and other property and (ii) repair the damage to the tenant improvements and betterments and Tenant's personal property and restore the Premises within one hundred eighty (180) days following the date upon which the core and shell of the Premises shall have been substantially repaired by Landlord.

11.03 Provided that Landlord does not elect to terminate this Lease in accordance with the provisions of this Article, within ninety (90) days following the date of any fire or other casualty to the Building, Landlord shall notify Tenant of Landlord's good faith estimate of the period necessary for Landlord to perform Landlord's Restoration Work. If (i) the core and shell of the Premises have been damaged or destroyed or the Building has been damaged or destroyed to the extent that Tenant's access to the Premises has been substantially impaired (a "Major Casualty") and (ii) the estimated time by Landlord to restore the core and shell of the Premises is more than nine (9) months after the occurrence of such Major Casualty or to restore Tenant's access to the Premises is more than nine (9) months after the occurrence of such Major Casualty, as the case may be, Tenant shall have the option, within thirty (30) days of the date such notice is given to Tenant, to elect by written notice to Landlord to terminate this Lease on a date not less than ten (10) nor more than thirty (30) days after the date Tenant's notice is given.

11.04 Provided that Landlord does not elect to terminate this Lease in accordance with the provisions of this Article and Tenant does not elect to terminate this Lease in accordance with the provisions of Section 11.03 of this Article, in the event of a Major Casualty, if: (i) there has been substantial damage or destruction to any portion or portions of the Building and Landlord shall not have substantially restored Tenant's access to the Premises within nine (9) months from the date of such Major Casualty, or within such period after such date (not exceeding three (3) months) as shall equal the aggregate period Landlord may have been delayed in doing so by reasons of Force Majeure (defined below); or (ii) if damage is confined substantially to the Premises and La ndlord shall not have substantially completed the making of the required repairs to the core and shell of the Premises within nine (9) months from the date of such Major Casualty, or within such period after such date (not exceeding three (3) months) as shall equal the aggregate period Landlord may have been delayed in doing so by reasons of Force Majeure, then, and in such event, Tenant may elect to terminate this Lease upon giving written notice to Landlord within thirty (30) days after the end of such nine (9) month period, as the case may be, and as the same may be extended in accordance with the provisions hereof, and the term of this Lease shall expire on the date set forth therein which shall be not less than thirty (30) days after the date such notice is given (the "Cancellation Date") provided that Landlord does not substantially complete the required repairs to the Building or to the core and shell of the Premises, as the case may be, prior to the Cancellation Date. For purposes of this Article, "Force Majeure" shall mean the inability of Landlord to perform an obligation accruing under this Article by reason of accidents, strikes, the inability to secure a proper supply of fuel, gas, steam, water, electricity, labor or supplies, governmental restrictions, regulations or controls or by reason of any other similar cause beyond the reasonable control of Landlord.

11.05 For purposes of this Article 11, the term "untenantable" shall mean that the Premises are unsuitable for Tenant's normal business operations in the Premises.

ARTICLE 12

END OF TERM

12.01 Tenant shall surrender the Premises to Landlord at the expiration or sooner termination of this Lease in good order and condition, except for reasonable wear and tear and damage by fire or other casualty, and Tenant shall remove all of its property. Tenant agrees it shall indemnify and save Landlord harmless against all costs, claims, loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay. The parties recognize and agree that the damage to Landlord resulting from any failure by Tenant timely to surrender the Premises will be substantial, will exceed the amount of monthly Rent theretofore payable hereunder, and will be imposs ible of accurate measurement. Tenant therefore agrees that if possession of the Premises is not surrendered to Landlord within one (1) day after the date of the expiration or sooner termination of the Term of this Lease, then Tenant will pay Landlord as liquidated damages for each month and for each portion of the first and second month during which Tenant holds over in the Premises after expiration or termination of the Term of this Lease, a sum equal to one and one-half (1 ½) times the average Rent which was payable per month under this Lease during the last six months of the Term thereof and for the third and subsequent months during which Tenant holds over in the Premises after expiration or termination of the Term of this Lease, a sum equal to two (2) times the Rent which was payable per month under this Lease during the last month of the Term thereof. Tenant shall also pay all Additional Rent as incurred in the normal course of operations under the Lease. The afore said obligations shall survive the expiration or sooner termination of the Term of this Lease. At any time during the Term of this Lease, Landlord may exhibit the Premises to prospective purchasers or mortgagees of Landlord's interest therein upon reasonable advance notice to Tenant (which may be given in person or by telephone). During the last year of the term of this Lease, Landlord may exhibit the Premises to prospective tenants upon reasonable advance notice to Tenant (which may be given in person or by telephone).

ARTICLE 13

SUBORDINATION AND ESTOPPEL, ETC.

13.01 This Lease, and all rights of Tenant hereunder, are, and shall continue to be, subject and subordinate in all respects to:

(1) all ground leases, overriding leases and underlying leases of the land and/or the building now or hereafter existing;

(2) all mortgages that may now or hereafter affect the land, the Building and/or any of such leases, whether or not such mortgages shall also cover other lands and/or buildings;

(3) each and every advance made or hereafter to be made under such mortgages;

(4) all renewals, modifications, replacements and extensions of such leases and such mortgages; and

(5) all spreaders and consolidations of such mortgages.

13.02 The provisions of Section 13.01 of this Article shall be self-operative, and no further instrument of subordination shall be required. In confirmation of such subordination, Tenant shall execute and deliver any instrument that Landlord, the lessor of any such lease, the holder of any mortgage or any of its successors in interest shall reasonably request to evidence such subordination and, in the event that Tenant shall fail to execute and deliver any such instrument within ten (10) days after request therefor, and provided Landlord gives Tenant a reminder notice of such failure, and Tenant continues to fail to deliver such statement to Landlord within five (5) days after such reminder notice is deemed given, pursuant to Section 27.01 hereof, then Tenant shall irrevocably consti tute and appoint Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute and deliver any such instrument for and on behalf of Tenant; provided that such subordination does not increase any monetary obligations, materially increase any non-monetary obligations, or materially decrease the rights of Tenant under this Lease. The leases to which this Lease is, at the time referred to, subject and subordinate pursuant to this Article 13 are herein sometimes called "superior leases", the mortgages to which this Lease is, at the time referred to, subject and subordinate are herein sometimes called "superior mortgages", the lessor of a superior lease or its successor in interest at the time referred to is sometimes herein called a "lessor" and the mortgagee under a superior mortgage or its successor in interest at the time referred to is sometimes herein called a "mortgagee".

13.03 In the event of any act or omission of Landlord that would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant shall not exercise such right until:

(i) it has given written notice of such act or omission to the mortgagee of each superior mortgage and the lessor of such superior lease whose name and address shall previously have been furnished to Tenant; and

(ii) a reasonable period for remedying such act or omission shall have elapsed following the giving of such notice and following the time when such mortgagee or lessor shall have obtained possession of the Premises and become entitled under such superior mortgage or superior lease, as the case may be, to remedy the same (which reasonable period shall in no event be less than the period to which Landlord would be entitled under this Lease or otherwise, after similar notice, to effect such remedy). Nothing contained herein shall obligate such lessor or mortgagee to remedy such act or omission.

13.04 If the lessor of a superior lease or the mortgagee of a superior mortgage shall succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease or deed, then, at the request of such party so succeeding to Landlord's rights (hereinafter sometimes called a "successor landlord"), and upon such successor landlord's written agreement to accept Tenant's attornment, Tenant shall attorn to and recognize such successor landlord as Tenant's landlord under this Lease, and shall promptly execute and deliver any instrument that such successor landlord may reasonably request to evidence such attornment. Upon such attornment this Lease shall continue in full force and effect as, or as if it were, a direct lease between such successor landlord and Tenant upon all of the terms, conditions and covenants as are set forth in this Lease and shall be applicable after such attornment, except that such successor landlord shall not be subject to any offset or liable for any previous act or omission of Landlord under this Lease except for the repair, maintenance and service obligations of the Landlord under the Lease which accrued or are continuing on or after such successor landlord shall have obtained possession of the Premises; provided that nothing herein shall be construed to limit Tenant's rights and remedies against the Landlord under the Lease.

13.05 If, in connection with obtaining financing or refinancing for the Building, a banking, insurance, or other lender shall request reasonable modifications to this Lease as a condition to such financing or refinancing, Tenant shall not unreasonably withhold, delay, or defer its consent thereto, provided that such modifications do not increase the obligation, or decrease the rights, of Tenant hereunder (except to a de minimus extent, in each instance). In no event shall a requested modification of this Lease requiring Tenant to do the following be deemed to adversely affect the leasehold interest hereby created:

(i) give notice of any default by Landlord under this Lease to such lender and/or permit the curing of such defaults by such lender; and

(ii) obtain such lender's consent for any modification of this Lease.

13.06 This Lease may not be modified or amended so as to reduce the Rent, shorten the term, or otherwise materially affect the rights of Landlord hereunder, or be canceled or surrendered, without the prior written consent in each instance of the ground lessors and of any mortgagees whose mortgages shall require such consent. Any such modification, agreement, cancellation or surrender made without such prior written consent shall be null and void.

13.07 Tenant agrees that if this Lease terminates, expires or is canceled for any reason or by any means whatsoever by reason of a default under a ground lease or mortgage, and if prior to Tenant having vacated the Premises as a result of such termination (provided a reasonable period of time has elapsed before Tenant vacates the Premises as a result of such termination), the applicable ground lessor or mortgagee so elects by written notice to Tenant, this Lease shall automatically be reinstated for the balance of the term which would have remained but for such termination, expiration or cancellation, at the same rental, and upon the same agreements, covenants, conditions, restrictions and provisions herein contained, with the same rental, and upon the same agreements, c ovenants, conditions, restrictions and provisions herein contained, with the same force and effect as if no such termination, expiration or cancellation had taken place. Tenant covenants to execute and deliver any instrument required to confirm the validity of the foregoing.

13.08 From time to time, Tenant, on at least fifteen (15) days' prior written request by Landlord, shall deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there shall have been modifications, that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent and other charges have been paid and stating whether or not Landlord is in default in performance of any covenant, agreement or condition contained in this Lease and, if so, specifying each such default, and provided Landlord gives Tenant a reminder notice of such failure, and Tenant continues to fail to deliver such statement to Landlord within five (5) days after such reminder notice is deemed given, Then Tenant hereby irrevocably constitutes an d appoints Landlord the attorney-in-fact of Tenant to execute, acknowledge and deliver any such statements or certificates for and on behalf of Tenant in the event that Tenant fails to so execute any such statement or certificate.

13.09 Provided that Tenant occupies the entire rentable portion of the thirty fifth (35th) floor of the Building, Landlord will use commercially reasonable efforts to obtain for the benefit of Tenant a subordination, attornment and non-disturbance agreement with all future mortgagees of the Building, the Premises or the Land (collectively, the "Superior Interests"), in the standard form of each su ch Superior Interest which shall provide, in substance, that so long as Tenant is not in default under this Lease, then each Superior Interest will not terminate this Lease or take any action to recover possession of the Premises, notwithstanding any termination of the Landlord's interest in the Building, the Premises or the Land, provided Tenant on request promptly attorns to the Superior Interests or their designee or, on request, enters into a new lease with the Superior Interests or their designee for the remaining term of this Lease and otherwise on the same terms, covenants, conditions and rentals as herein provided (each, a "Qualifying Nondisturbance Agreement"). Under no circumstances shall the Superior Interests be subject to any offsets or defenses not expressly provided for in this Lease which Tenant may have against Landlord or bound by any credit for Fixed Annual Rent or Additional Rent which may have b een paid by Tenant to Landlord for more than the then current month unless expressly approved in writing by the Superior Interests. Landlord shall have no liability to Tenant for its failure to obtain any Qualifying Nondisturbance Agreement. Landlord's agreement to use commercially reasonable efforts hereunder shall not impose any obligation upon Landlord (i) to incur any cost or expense or (ii) to institute any legal or other proceeding in connection with obtaining such Qualifying Nondisturbance Agreement. Any fees or costs imposed by the Superior Interests or their attorneys in connection with obtaining such Qualifying Nondisturbance Agreement shall be paid by Tenant promptly following demand.

13.10 Notwithstanding anything contained herein to the contrary, if Tenant shall fail to execute, acknowledge and return any such Qualifying Nondisturbance Agreement within ten (10) days after receipt thereof, and such failure shall continue for five (5) days after notice of such failure shall have been given to Tenant, then Tenant shall be deemed to have executed and delivered such Qualifying Nondisturbance Agreement and Landlord will be deemed to have obtained such Qualifying Nondisturbance Agreement for the benefit of Tenant, notwithstanding the fact that Tenant has not, in fact, executed and delivered such Qualifying Nondisturbance Agreement. Tenant hereby irrevocably constitutes and appoints Landlord the attorney-in-fact of Tenant to execute, acknowledge and deliver such Qualifying Nondisturbance Agreement for and on behalf of Tenant in the event that Tenant fails to so execute, acknowledge and deliver any such Qualifying Nondisturbance Agreement.

ARTICLE 14

CONDEMNATION

14.01 If the whole or any substantial part of the Premises shall be condemned by eminent domain or acquired by private purchase in lieu thereof, for any public or quasi-public purpose, this Lease shall terminate on the date of the vesting of title through such proceeding or purchase, and Tenant shall have no claim against Landlord for the value of any unexpired portion of the Term of this Lease, nor shall Tenant be entitled to any part of the condemnation award or private purchase price. If less than a substantial part of the Premises is condemned, this Lease shall not terminate, but Rent shall abate in proportion to the portion of the Premises condemned. Nothing contained herein shall preclude Tenant from filing a separate claim for the value of its trade fix tures and moving expenses provided that such claim does not diminish Landlord's claim hereunder.

ARTICLE 15

REQUIREMENTS OF LAW

15.01 Tenant at its expense shall comply with all laws, orders and regulations of any governmental authority having or asserting jurisdiction over the Premises, which shall impose any violation, order or duty upon Landlord or Tenant with respect to the Premises or the Building or the use or occupancy thereof, including, without limitation, compliance in the Premises with the Americans with Disabilities Act of 1990 (the "ADA"), and all City, State and Federal laws, rules and regulations on the disabled or handicapped, on fire safety and on hazardous materials (collectively, "Applicable Laws"). The foregoing sh all not require Tenant to do work to the Building or to the Premises unless the requirement for the performance of any such work is attributable to (i) Tenant's particular manner of use of the Premises or method of operation therein, (ii) the particular nature of any Alterations or tenant improvements in the Premises, (iii) a breach by Tenant of its obligations under the Lease or (iv) the negligence or willful misconduct of Tenant, its agents, servants, contractors, invitees, subtenants and/or any person or entity entering or occupying the Premises or any portion thereof with the consent of Tenant or any such parties. Landlord shall comply with all Applicable Laws except to the extent that Tenant is required to comply with such Applicable Laws hereunder, subject to Landlord's right to defer compliance therewith for so long as Landlord is contesting in good faith the validity or applicability thereof to the Premises**,** the Building o r the land thereunder, and provided that Landlord's election under this Section 15.01 does not prohibit Tenant's use of the Premises for office purposes.

15.02 Tenant will not clean, nor require, permit, suffer or allow, any window in the Premises to be cleaned from the outside, in violation of Section 202 of the Labor Law and the rules of any governmental authority having or asserting jurisdiction.

15.03 Tenant at its expense shall comply with all requirements of the New York Board of Fire Underwriters, or any other similar body affecting the Premises, and shall not use the Premises in a manner which shall increase the rate of fire insurance of Landlord or of any other tenant, over that in effect prior to this Lease. If Tenant's use of the Premises increases the fire insurance rate, Tenant shall reimburse Landlord for all such increased costs. That the Premises are being used for the purpose set forth in Article 1 hereof shall not relieve Tenant from the foregoing duties, obligations and expenses.

ARTICLE 16

CERTIFICATE OF OCCUPANCY

16.01 Tenant will at no time use or occupy the Premises in violation of the certificate of occupancy issued for the Building. The statement in this Lease of the nature of the business to be conducted by Tenant shall not be deemed to constitute a representation or guaranty by Landlord that such use is lawful or permissible in the Premises under the certificate of occupancy for the Building.

ARTICLE 17

POSSESSION

17.01 If Landlord shall be unable to give possession of the Premises on the Commencement Date because of the retention of possession of any occupant thereof, alteration or construction work, or for any other reason, Landlord shall not be subject to any liability for such failure. In such event, this Lease shall stay in full force and effect, without extension of its Term. However, the Rent hereunder and the rent abatement set forth in Section 3.02 hereof shall not commence until the Premises are available for occupancy by Tenant. If delay in possession is due to work, changes or decorations being made by or for Tenant (other than on account of Landlord's Work) or is otherwise caused by Tenant, there shall be no rent abatement and th e Rent (and the abatement provided for in Section 3.02 hereof) shall commence on the date specified in this Lease. If permission is given to Tenant to occupy the Premises or other Premises prior to the date specified as the commencement of the Term, such occupancy shall be deemed to be pursuant to the terms of this Lease, except that the parties shall separately agree as to the obligation of Tenant to pay Rent for such occupancy.

17.02 Notwithstanding anything contained herein to the contrary:

(i) in the event that the Commencement Date shall not have occurred on or before the 1st Penalty Date (as such term is hereinafter defined), then, in addition to the rent abatement provided for in Section 3.02 hereof, Tenant shall receive a rent credit in an amount equal to one half (1/2) day's Fixed Annual Rent payable hereunder for each day of delay after the 1st Penalty Date until the earlier of (a) the day immediately preceding the 2nd Penalty Date (as such term is her einafter defined) or (b) the Commencement Date, provided, however, the 1st Penalty Date shall be extended by one day for each day of delay which is due to a Tenant Delay (as such term is hereinafter defined) or Force Majeure (as such term is hereinafter defined); and

(ii) in the event that the Commencement Date shall not have occurred on or before the 2nd Penalty Date (as such term is hereinafter defined), then, in addition to the rent abatement provided for in Section 3.02 hereof, Tenant shall receive a rent credit in an amount equal to one (1) day's Fixed Annual Rent payable hereunder for each day of delay after the 2nd Penalty Date until the Commencement Date shall have occurred, provided, however, the 2nd Penalty Date shall be extended by one day for each day of delay which is due to a Tenan t Delay or Force Majeure, and

(iii) in the event that the Commencement Date shall not have occurred on or before the Outside Delivery Date (as such term is hereinafter defined), then Tenant may by written notice given to Landlord on or before the date that is ten (10) days following the Outside Delivery Date elect to terminate and cancel this Lease effective on the date (the "Cancellation Date") occurring ten (10) days following the date such notice is given, in which event (provided that the Commencement Date has not occurred prior to the Cancellation Date) this Lease shall be null and void and of no further force and effect, and neither Landlord nor Tenant shall have any further rights or obligations hereunder; provided fu rther, however, that the representations and indemnifications contained in Article 40 hereof shall survive such termination), all monies paid by Tenant hereunder for rent and security shall be immediately returned to Tenant and the Outside Delivery Date shall be extended by one day for each day of delay which is due to a Tenant Delay or Force Majeure.

17.03 For purposes of Section 17.02 of this Article, the following terms shall have the following meanings: (I) the "1st Penalty Date" shall mean the date that is fifty two (52) days following the date (the "Work Permit Date") Landlord receives from the New York City Department of Buildings a building permit for the performance of Landlord's Work; (II) the "2nd Penalty Date" shall mean the date that is eighty two (82) days following the Work Permit Date; (III) the "Outside Delivery Date" shall mean the date that is two hundred forty (240) days following the Work Permit Date; (IV) "Tenant Delay" means any delay which Landlord may encounter in the performance of Landlord's obligations hereunder by reason of any act or omission of any nature of Tenant, Tenant's agents or contractors, including, without limitation, delays due to changes in or additions to the work set forth herein requested by Tenant, delays by Tenant in submission of information or giving authorizations or approvals or delays due to the postpone ment of any such work at the request of Tenant; and (V) "Force Majeure" shall mean any of the following: (i) a strike, (ii) lock-out or other labor trouble, (iii) governmental preemption of priorities or other controls in connection with a public emergency or (iv) shortages of fuel, supplies or labor or failure or defect in the supply, quantity or quality of electricity or water as the result of governmental preemption or by reason of any legal requirement or act or omission of a public utility. Upon Landlord's receipt of a written request from Tenant, Landlord shall provide Tenant with a copy of the building permit referred to in subsection (I) of this Section 17.03 provided that such permit is then in the possession of Landlord.

17.04 The provisions of this Article are intended to constitute an "express provision to the contrary" within the meaning of Section 223(a), New York Real Property Law.

ARTICLE 18

QUIET ENJOYMENT

18.01 Landlord covenants that if Tenant pays the Rent and performs all of Tenant's other obligations under this Lease, Tenant may peaceably and quietly enjoy the Premises, subject to the terms, covenants and conditions of this Lease and to the ground leases, underlying leases and mortgages hereinbefore mentioned.

ARTICLE 19

RIGHT OF ENTRY

19.01 Tenant shall permit Landlord to erect, construct and maintain pipes, conduits and shafts in and through the Premises. Landlord or its agents shall have the right to enter or pass through the Premises at all times, upon reasonable advance notice to Tenant (which may be given in person or by telephone) and, in the event of an emergency, by master key, reasonable force or otherwise, to examine the same, and to make such repairs, alterations or additions as it may deem necessary or desirable to the Premises or the Building, and to take all material into and upon the Premises that may be required therefor. Such entry and work shall not constitute an eviction of Tenant in whole or in part, shall not be grounds for any abatement of Rent, and shall im pose no liability on Landlord by reason of inconvenience or injury to Tenant's business. Landlord shall use reasonable efforts to minimize interference with Tenant's normal business activities within the Premises provided, however, that Tenant acknowledges and agrees that at, Landlord's election, all such work shall be performed on normal business days during normal business hours, unless Tenant requests and pays Landlord incremental difference in cost for overtime or premium labor. Landlord shall have the right at any time, without the same constituting an actual or constructive eviction, and without incurring any liability to Tenant, to change the arrangement and/or location of entrances or passageways, windows, corridors, elevators, stairs, toilets, or other public parts of the Building, and to change the designation of rooms and suites and the name or number by which the Building is known.

ARTICLE 20

INDEMNITY

20.01 Tenant shall indemnify, defend and save Landlord harmless from and against any liability or expense arising from the use or occupation of the Premises by Tenant, or anyone on the Premises with Tenant's permission, or from any breach of Tenant's obligations under this Lease except to the extent arising out of the gross negligence or willful misconduct of Landlord, its employees or agents (subject, however, to the provisions of Articles 11 and 43 hereof).

ARTICLE 21
LANDLORD'S LIABILITY, ETC.

21.01 This Lease and the obligations of Tenant hereunder shall not in any way be affected because Landlord is unable to fulfill any of its obligations or to supply any service, by reason of strike or other cause not within Landlord's control. Landlord shall have the right, without incurring any liability to Tenant, to stop any service because of accident or emergency, or for repairs, alterations or improvements, necessary or desirable in the judgment of Landlord, until such repairs, alterations or improvements shall have been completed. Landlord shall undertake such repairs, alterations or improvements promptly and shall proceed with reasonable diligence and shall use reasonable efforts to minimize interference with Tenant's normal business activities within the Premises provided, however, that Tenant acknowledges and agrees that at, Landlord's election, all such work shall be performed on normal business days during normal business hours, unless Tenant requests and pays Landlord incremental difference in cost for overtime or premium labor. Landlord shall not be liable to Tenant or anyone else, for any loss or damage to person, property or business; nor shall Landlord be liable for any latent defect in the Premises or the Building. Nothing contained herein shall relieve Landlord from its liability for its negligence or willful misconduct. Neither the partners, entities or individuals comprising Landlord, nor the agents, directors, or officers or employees of any of the foregoing shall be liable for the performance of Landlord's obligations hereunder. Tenant agrees to look solely to LandlordR 17;s estate and interest in the land and Building, or the lease of the Building or of the land and Building, and the Premises, for the satisfaction of any right or remedy of Tenant for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord, and in the event of any liability by Landlord, no other property or assets of Landlord or of any of the aforementioned parties shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder, or Tenant's use and occupancy of the Premises or any other liability of Landlord to Tenant.

21.02 The failure by Landlord to make any repair or provide any service Landlord is obligated to provide under this Lease, including heat and/or air conditioning (hereinafter referred to as an "Interruption in Services") shall not render Landlord liable to Tenant in any respect, nor be construed as an eviction of Tenant or breach of any implied warranty of suitability, habitability or otherwise, or relieve Tenant from the obligation to fulfill any covenant or agreement hereof, and except as hereinafter provided, Tenant shall have no claim for offset or abatement of Rent or damages on account of any interruption in services under this Lease. If as a result of an Interruption in Service s, Tenant shall be not able to use and shall have discontinued its occupancy of all or any affected portion of the Premises for a period of twelve (12) consecutive days or more after written notice thereof to Landlord specifying the particular Interruption in Service(s) then, except as provided in Article 10 hereof, Tenant shall be entitled to an abatement of rent with respect to the Fixed Annual Rent and Additional Rent allocable to such portion of the Premises which is not usable and is unoccupied for each day after said twelve (12) consecutive day period until said repair is substantially completed or services substantially restored by Landlord; provided further, however, Tenant shall not be entitled to an abatement of Rent in the event that such failure results from (i) any installation, alteration or improvement which is not performed by Tenant in a good workmanlike manner; (ii) Tenant's failure to perform its obligations hereunder; (iii) reasons beyond Landlord's reasonable control ; or (iv) the negligence or tortious conduct of Tenant. The provisions of this Section shall not be applicable with respect to a casualty or condemnation, which shall be subject to Articles 11 and 14 of this Lease.

ARTICLE 22
CONDITION OF PREMISES

22.01 The parties acknowledge that Tenant has inspected the Premises and the Building and is fully familiar with the physical condition thereof and Tenant agrees to accept the Premises at the commencement of the Term in its then "as is" condition, except to the extent expressly provided for in this Article 22. Tenant acknowledges and agrees that Landlord shall have no obligation to do any work in or to the Premises in order to make it suitable and ready for occupancy and use by Tenant, except to the extent expressly provided for in this Article 22.

22.02 Landlord shall perform the work set forth on the schedule annexed hereto as "**Exhibit C**" in a building standard manner using building standard materials ("Landlord's Work") in compliance with all Applicable Laws. Landlord, or Landlord's designated agent, shall perform Landlord's Work with reasonable dispatch, subject to delay by causes beyond its control or by the action or inaction of Tenant. Tenant acknowledges and agrees that the performance of Landlord's Work is expressly conditioned upon compliance by T enant with all the terms and conditions of this Lease.

22.03 Any changes in or additions to Landlord's Work, which shall be (a) requested by Tenant or Tenant's designated agents, (b) consented to by Landlord, and (c) made by Landlord, or its agents, shall be paid for by Tenant promptly when billed at the net additional out of pocket cost to Landlord plus 5% for overhead. Any further changes in or additions to the Premises after Landlord's Work has been completed, which shall be (a) requested by Tenant or Tenant's designated agents, (b) consented to by Landlord and (c) made by Landlord, shall be paid for by Tenant promptly when billed at cost plus 1 ¼ % for insurance, 5% for overhead and 5% for general condi tions, and in the event of the failure of Tenant so to pay for said changes or additions, Landlord at its option may consider the cost thereof, plus the above percentages, as Additional Rent payable by Tenant and collectible as such hereunder, as part of the rent for the next ensuing months.

22.04 If Landlord's Work is not substantially completed and is delayed by acts, omissions or changes made or requested by Tenant, its agents, designers, architects or any other party acting on Tenant's behalf, then Tenant shall pay as hereinbefore provided rent and additional rent on a per diem basis for each day of delay of Landlord's substantial completion caused by Tenant or any of the aforementioned parties. Landlord shall notify Tenant promptly after becoming aware of any such delay.

22.05 Landlord's Work shall be deemed to be substantially completed notwithstanding that (i) minor or non-material details of construction, mechanical adjustment or decoration remain to be performed which do not materially interfere with Tenant's use of the Premises for the conduct of Tenant's business (collectively, the "Punch List Items") or (ii) a portion of Landlord's Work is incomplete because construction scheduling requires that such work be done after incomplete finishing or after other work to be done by or on behalf of Tenant is completed, provided that Tenant may use the Premises for its intended purpose hereunder without material interference as a result of such inc omplete work. Landlord hereby agrees that within thirty (30) days after Landlord's receipt of a written notice from Tenant identifying any purported Punch List Items that require Landlord's completion, Landlord shall complete said Punch List Items.

ARTICLE 23

CLEANING

23.01 Landlord, at its sole cost and expense, shall cause the Premises to be kept clean in accordance with the cleaning specifications annexed hereto and made a part hereof as **"Exhibit D"**, provided they are kept in order by Tenant. Landlord, its cleaning contractor and their employees shall have after-hours access to the Premises and the use of Tenant's light, power and water in the Premises as may be reasonably required for the purpose of cleaning the Premises. If requested by Tenant, Landlord shall remove Tenant's extraordinary refuse from the Building and Tenant shall pay the cost thereof at commercially reasonable rates.

23.02 Tenant acknowledges that Landlord has designated a cleaning contractor for the Building. Tenant agrees to employ said cleaning contractor or such other contractor as Landlord shall from time to time designate (the "Building Cleaning Contractor") to perform all cleaning services Tenant elects to have performed within the Premises in addition to the items and services listed on "**Exhibit D**" hereto and for any other waxing, polishing, and other cleaning and maintenance work of the Premises and Tenant's furniture, fixtures and equipment (collectively, "T enant Cleaning Services") provided that the prices charged by said contractor are comparable to the prices customarily charged by other reputable cleaning contractors employing union labor in midtown Manhattan for the same level and quality of service. Tenant acknowledges that it has been advised that the cleaning contractor for the Building may be a division or affiliate of Landlord. Tenant agrees that it shall not employ any other cleaning and maintenance contractor, nor any individual, firm or organization for such purpose, without Landlord's prior written consent. In the event that Landlord and Tenant cannot agree on whether the prices then being charged by the Building Cleaning Contractor for such cleaning services are comparable to those charged by other reputable contractors as herein provided, then Landlord and Tenant shall each obtain two (2) bona fide bids for such services from reputable cleaning contractors performing such services in comparable buildings in mid town Manhattan employing union labor, and the average of the four bids thus obtained shall be the standard of comparison. In the event that the Building Cleaning Contractor does not agree to perform such cleaning services for Tenant at such average price, Landlord shall not unreasonably withhold its consent to the performance of Tenant Cleaning Services by a reputable cleaning contractor designated by Tenant employing union labor with the proper jurisdictional qualifications provided, however, that, without limitation, Landlord's experience with such contractor or any criminal proceedings pending or previously filed against such contractor may form a basis upon which Landlord may withhold or withdraw its consent.

ARTICLE 24

JURY WAIVER

24.01 Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim involving any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or involving the right to any statutory relief or remedy. Tenant will not interpose any counterclaim of any nature (other than a compulsory counterclaim) in any summary proceeding unless the failure to assert the same would result in the waiver of such claim.

ARTICLE 25

NO WAIVER, ETC.

25.01 No act or omission of Landlord or its agents shall constitute an actual or constructive eviction, unless Landlord shall have first received written notice of Tenant's claim and shall have had a reasonable opportunity to meet such claim. In the event that any payment herein provided for by Tenant to Landlord shall become overdue for a period in excess of ten (10) days, then at Landlord's option a "late charge" shall become due and payable to Landlord, as Additional Rent, from the date it was due until payment is made, at a rate (the "Interest Rate") equal to one (1%) percent above the prime rate of interest charged by JP Morgan Chase, New York, (or the successor thereto) at the t ime such payment first becomes due. No act or omission of Landlord or its agents shall constitute an acceptance of a surrender of the Premises, except a writing signed by Landlord. The delivery or acceptance of keys to Landlord or its agents shall not constitute a termination of this Lease or a surrender of the Premises. Acceptance by Landlord of less than the Rent herein provided shall at Landlord's option be deemed on account of earliest Rent remaining unpaid. No endorsement on any check, or letter accompanying Rent, shall be deemed an accord and satisfaction, and such check may be cashed without prejudice to Landlord. No endorsement on any check, or letter accompanying Rent, shall be deemed an accord and satisfaction, and such check may be cashed without prejudice to Landlord. No waiver of any provision of this Lease shall be effective, unless such waiver be in writing signed by the party to be charged. In no event shall Tenant be entitled to make, nor shall Tenant make any claim, and Tenant hereby waives any claim for money damages (nor shall Tenant claim any money damages by way of set-off, counterclaim or defense) based upon any claim or assertion by Tenant that Landlord had unreasonably withheld, delayed or conditioned its consent or approval to any request by Tenant made under a provision of this Lease. Tenant's sole remedy shall be an action or proceeding to enforce any such provision, or for specific performance or declaratory judgment. In the event that Tenant shall commence any action against Landlord in order to enforce Tenant's rights under this Lease (provided that Tenant does not seek to remove and consolidate with such action any summary proceeding commenced by Landlord except if and to the extent expressly permitted herein), and should Tenant prevail and obtain a final, non-appealable order, judgment or award on the merits, Landlord will reimburse Tenant (by means of credit against Fixed Annual Rent or if there should be insufficient term remaining in this Lease or any renewals and extensions in order to exhaust such credit, then the remainder shall be reimbursed by payment) for the reasonable legal expenses and fees thereby incurred by Tenant. Tenant shall comply with the rules and regulations contained in this Lease, and any reasonable modifications thereof or additions thereto. Landlord will enforce all rules and regulations in a non-discriminatory manner. Landlord shall not be liable to Tenant for the violation of such rules and regulations by any other tenant. Failure of Landlord to enforce any provision of this Lease, or any rule or regulation, shall not be construed as the waiver of any subsequent violation of a provision of this Lease, or any rule or regulation. This Lease shall not be affected by nor shall Landlord in any way be liable for the closing, darkening or bricking up of window s in the Premises, for any reason, including as the result of construction on any property of which the Premises are not a part or by Landlord's own acts.

ARTICLE 26

OCCUPANCY AND USE BY TENANT

26.01 If this Lease is terminated because of Tenant's default hereunder, then, in addition to Landlord's rights of re-entry, restoration, preparation for and rerental, and anything elsewhere in this Lease to the contrary notwithstanding, at Landlord's election, all Rent and Additional Rent reserved in this Lease from the date of such breach to the expiration date of this Lease shall become immediately due and payable to Landlord and Landlord shall retain its right to judgment on and collection of Tenant's aforesaid obligation to make a single payment to Landlord of a sum equal to (i) the amount by which (x) the Fixed Annual Rent and Additional Rent payable hereunder for the period to the Expiration Date from the date of such breach, exceeds (y) the then fair and reasonable rental value of the Premises for the same period, both discounted at the prime rate of interest charged by JP Morgan Chase, New York, (or the successor thereto) on the date of such breach to present worth, and (ii) all reasonable out-of-pocket expenses of Landlord in obtaining possession of, and in effecting the reletting of the Premises including, without limitation, alteration costs, commissions, concessions and legal fees. In no event shall Tenant be entitled to a credit or repayment for rerental income which exceeds the sums payable by Tenant hereunder or which covers a period after the original Term of this Lease.

ARTICLE 27

NOTICES

27.01 Any bill, notice or demand from Landlord to Tenant, may be delivered personally at the Premises or sent by registered or certified mail or by any nationally recognized overnight delivery service and addressed to Tenant at the Premises or at the address first set forth herein. Any notice, request or demand from Tenant to Landlord must be sent by registered or certified mail or by any nationally recognized overnight delivery service to the last address designated in writing by Landlord. Any bill, notice or demand shall be deemed to have been given at the time of receipt or refusal of receipt or the inability to deliver on account of a change of address with respect to which notice was not properly given hereunder.

ARTICLE 28
WATER

28.01 Tenant shall pay the amount of Landlord's cost for all excessive water ("Excessive Water") used by Tenant for any purpose other than ordinary lavatory, drinking, pantry and cleaning uses, and any sewer rent or tax based thereon. Landlord may install a water meter to measure Tenant's Excessive Water consumption and Tenant agrees to pay for any such Excessive Water consumption as shown on said meter at Landlord's cost therefor plus seven (7%) percent. If water is made available to Tenant in the Building or the Premises through a meter which also supplies other Premises, or without a meter, then Tenant shall pay to Landlord a reasonable charge per month for E xcessive Water use. Landlord reserves the right to discontinue water service to the Premises if either the quantity or character of such service is changed or is no longer available or suitable for Tenant's requirements or for any other reason without releasing Tenant from any liability under this Lease and without Landlord or Landlord's agent incurring any liability for any damage or loss sustained by Tenant by such discontinuance of service.

ARTICLE 29
SPRINKLER SYSTEM

29.01 If there shall be a "sprinkler system" in the Premises for any period during this Lease and such sprinkler system is damaged by any act or omission of Tenant or its agents, employees, licensees or visitors, Tenant shall restore the system to good working condition at its own expense in accordance with Article 8. If the New York Board of Fire Underwriters, the New York Fire Insurance Exchange, the Insurance Services Office, or any governmental authority requires the installation of, or any alteration to a sprinkler system by reason of Tenant's Alterations after Landlord's Work is substantially complete, including any alteration necessary to obtain the full allowance for a sprinkler system in the fire insurance rate of Landlord, or for any other reason, Tenant shall make such installation or alteration promptly, and at its own expense.

ARTICLE 30
HEAT, ELEVATOR, ETC.

30.01 Landlord shall provide heating service to the Premises from October 16 through May 14 (the "Heating Season"), Monday through Friday, excluding State holidays, Federal holidays, or Building Service Employees Union Contract holidays ("Business Days") from 8:00 a.m. to 8:00 p.m. ("Business Hours") and on Saturdays from 8:00 a.m. to 1:00 p.m. in accordance with Applicable Laws. In the event Tenant shall require heat to the Premises other than on the above referenced days and hours, but during the Heating Season, Landlord shall furnish such heat, provided that written notice is hand delivered to Landlord at Landlord's office in the Building, addressed to the attention of the Operations Manager, or such other address designated by Landlord, not less than twenty-four (24) hours prior to the date for which such service is requested and, if such heating service is required on a non-Business Day, such notice shall also be required to be delivered prior to 1:00 p.m. on the Business Day immediately preceding the date such service is required). Landlord shall use reasonable efforts to supply such requested service if less notice is g iven to Landlord. Tenant shall reimburse Landlord, as Additional Rent, within fifteen (15) days of Landlord's demand, for the standard charges then assessed by Landlord for such after hours service; provided, however, there shall be a minimum charge of four (4) hours for any time period of additional service. The price charged for after hours heat service as of the date hereof shall be $600.00 per hour, plus sales tax, if applicable, and is subject to future increases in the Building standard rate reasonably promulgated by Landlord from time to time. In the event that other tenants in the Building requested heating service for the same after hours periods on the same days as Tenant has requested such service, such charge shall be prorated by the number of tenants occupying one or more floors of the Building requesting such service for the applicable period.

30.02 Landlord shall provide a minimum of one (1) passenger elevator from the lobby of the Building to the Premises twenty-four (24) hours per day, seven (7) days per week, subject to all other applicable provisions of the Lease.

30.03 No bulky materials including, but not limited to furniture, office equipment, packages, or merchandise ("Freight Items") shall be received in the Premises or Building by Tenant or removed from the Premises or Building by Tenant except on Mondays through Fridays between the hours of 8:30 a.m. and 4:30 p.m. and by means of the freight elevators only, which Landlord will provide without charge on a first come, first served basis. If the elevators in the Building are manually operated, Landlord may convert to automatic elevators at any time, without in any way affecting Tenant's obligations hereunder. In t he event that Tenant requires additional freight elevator service at hours other than those set forth above, Landlord shall make available to Tenant, upon reasonable notice, overtime freight elevator service at Tenant's sole cost and expense at the Building standard rate for such service. In the event that additional freight service is requested for a weekend or for a period of time that does not immediately precede or follow the normal working hours of the personnel providing such overtime freight service, the minimum charge prescribed by Landlord shall be for four (4) hours if required by union contract. Solely in connection with Tenant's initial (one (1) continuous phase) move into the Premises ("Tenant's Move"), which move must take place after normal business hours, Landlord shall furnish freight elevator service to Tenant without charge. In the event that Tenant requires freig ht elevator service at times other than during or in connection with Tenant's Move, Landlord shall make available to Tenant, upon reasonable notice, overtime freight elevator service at Tenant's sole cost and expense. Any damage done to the Building or Premises by Tenant, its employees, agents, servants, representatives and/or contractors in the course of moving any Freight Items shall be paid by Tenant upon demand by Landlord.

30.04 Tenant shall have access to the Premises 24 hours per day, 7 days per week, subject to Force Majeure, Landlord's rules and regulations and the other provisions of this Lease. For purposes of this Section 30.04, "Force Majeure" shall mean strikes, lockouts, labor troubles, failure of power, acts of God or forces of nature, restrictive governmental laws or regulations, riots, insurrection, terrorism, war or other reason beyond the reasonable control of Landlord.

ARTICLE 31

SECURITY DEPOSIT

31.01 Tenant has deposited with Landlord the sum of $419,225.58 as security (the "Security") for the performance by Tenant of the terms of this Lease. Landlord may use any part of the Security to satisfy any default of Tenant after the expiration of any applicable notice and grace period provided for herein, and any expenses arising from such default, including but not limited to reasonable legal fees and any damages or rent deficiency before or after re-entry by Landlord. Tenant shall, upon demand, deposit with Landlord the full amount so used, and/or any amount not so deposited by Tenant, in order that Landlord shall have the full Security deposit on hand at all times dur ing the term of this Lease. If Tenant shall comply fully with the terms of this Lease, the Security shall be returned to Tenant after the date fixed as the end of the Lease. In the event of a sale or lease of the Building containing the Premises, Landlord may transfer the Security to the purchaser or tenant, and Landlord shall thereupon be released from all liability for the return of the Security provided that such purchaser or tenant assumes such liability in writing. This provision shall apply to every transfer or assignment of the Security to a new Landlord. Tenant shall have no legal power to assign or encumber the Security herein described.

31.02 Effective as of the date immediately following the last day of the sixth (6^{th}) calendar month following the third (3^{rd}) anniversary of the Commencement Date (the "Security Reduction Date"), the security required to be maintained by Tenant under the provisions of Article 31 of the Lease shall be reduced by the sum of $76,222.83 (the "Partial Security Refund") to the sum of $343,002.75 provided that Tenant is not in default of the Lease on the Security Reductio n Date. In addition, from and after the Security Reduction Date, the security required to be maintained by Tenant under the provisions of Article 31 of the Lease shall be further reduced by the sum of $114,334.25 (the "$2^{nd}$ Partial Security Refund") to the sum of $228,668.50 provided that: (i) Tenant is not in default of the Lease on the Security Reduction Date; (ii) the Tenant first named herein (the "Named Tenant") or a Related Entity is the Tenant under the Lease at the time of the 2^{nd} Partial Security Refund; (iii) Tenant has obtained approval from the Federal Drug Administration for Te nant's Percutaneous Hepatic Perfusion technology; and (iii) Tenant (x) has a net worth and ratio of current assets to current liabilities (exclusive of good will), as certified by a reputable unaffiliated certified public accountant calculated in accordance with generally accepted accounting principles, consistently applied, greater than $20,000,000.00, as so certified, as of the date Tenant requests such refund (which request date shall not occur prior to the Security Reduction Date), and (y) has net operating losses in the most recent consecutive twelve (12) month period, as certified by a reputable unaffiliated certified public accountant in accordance with generally accepted accounting principles, consistently applied, of no greater than $5,000,000.00, as so certified, as of the date Tenant requests such refund (which request date shall not occur prior to the Security Reduction Date). In the event that Tenant is entitled to a reduction of security in accordance with the provisions of thi s Section 31.02, Landlord shall, within thirty (30) days following request by Tenant, which request shall, in the case of the 2^{nd} Partial Security Refund, include evidence reasonably satisfactory to Landlord that the conditions set forth in the preceding sentence entitling to Tenant to such 2^{nd} Partial Security Refund are satisfied, execute an appropriate amendment to any letter of credit held by Landlord to confirm such reduction or, in the event that a cash security deposit is held by Landlord, at Landlord's election, refund to Tenant either of the Partial Security Refunds by either issuing a check or credit against the next installments of Fixed Annual Rent and Additional Rent accruing hereunder from and after the respective Security Reduction Dates.

31.02 In lieu of a cash deposit, Tenant shall be permitted to deliver to Landlord as and for security hereunder a clean, irrevocable and unconditional letter of credit in an amount equal to the security required to be deposited by Tenant pursuant hereto which shall comply and conform in all material respects with the form annexed hereto and made a part hereof as "**Exhibit E**" and be issued by a bank reasonably acceptable to Landlord.

ARTICLE 32

TAX ESCALATION

32.01 Tenant shall pay to Landlord, as Additional Rent, tax escalation in accordance with this Article:

(a) For purposes of this Lease, Landlord and Tenant acknowledge and agree that the rentable square foot area of the Premises shall be deemed to be 8,629 square feet.

(b) For the purpose of this Article, the following definitions shall apply:

(i) The term "Tenant's Share", for purposes of computing tax escalation, shall mean 1.341 percent (1.341 %). Tenant's Share has been computed on the basis of a fraction, the numerator of which is the rentable square foot area of the Premises and the denominator of which is the total rentable square foot area of the office and commercial space in the Building Project. The parties acknowledge and agree that the total rentable square foot area of the office and commercial space in the Building Project shall be deemed to be 643,675 sq. ft.

(ii) The term the "Building Project" shall mean the aggregate combined parcel of land on a portion of which are the improvements of which the Premises form a part, with all the improvements thereon, said improvements being a part of the block and lot for tax purposes which are applicable to the aforesaid land.

(iii) The "Base Tax Year" shall mean the New York City fiscal tax year commencing on July 1, 2010 through June 30, 2011.

(iv) The term "Comparative Year" shall mean the twelve (12) month period following the Base Tax Year, and each subsequent period of twelve (12) months thereafter.

(v) The term "Real Estate Taxes" shall mean the total of all taxes and special or other assessments levied, assessed or imposed at any time by any governmental authority upon or against the Building Project including, without limitation, any tax or assessment levied, assessed or imposed at any time by any governmental authority in connection with the receipt of income or rents from said Building Project to the extent that same shall be in lieu of all or a portion of any of the aforesaid taxes or assessments, or additions or increases thereof, upon or against said Building Project. If, due to a future change in the method of taxation or in the taxing authority, or for any other reason, a franchise, income, transit, profit or other tax or governmenta l imposition, however designated, shall be levied against Landlord in substitution in whole or in part for the Real Estate Taxes, or in lieu of additions to or increases of said Real Estate Taxes, then such franchise, income, transit, profit or other tax or governmental imposition shall be deemed to be included within the definition of "Real Estate Taxes" for the purposes hereof. Provided, however, that except to the extent expressly includable hereunder, the following shall be excluded from "Real Estate Taxes" for purposes of this Article: any interest or penalties incurred by Landlord by reason of a late payment of Real Estate Taxes.

(vi) Where more than one assessment is imposed by the City of New York for any tax year, whether denominated an "actual assessment" or a "transitional assessment" or otherwise, then the phrases herein "assessed value" and "assessments" shall mean whichever of the actual, transitional or other assessment is designated by the City of New York as the taxable assessment for that tax year.

32.02 In the event that the Real Estate Taxes payable for any Comparative Year shall exceed the amount of the Real Estate Taxes payable during the Base Tax Year, Tenant shall pay to Landlord, as Additional Rent for such Comparative Year, an amount equal to Tenant's Share of the excess. Before or after the start of each Comparative Year, Landlord shall furnish to Tenant a statement of the Real Estate Taxes payable during the Comparative Year. If the Real Estate Taxes payable for such Comparative Year exceed the Real Estate Taxes payable during the Base Tax Year, Additional Rent for such Comparative Year, in an amount equal to Tenant's Share of the excess, shall be due from Tenant to Landlord, and such Additional Rent shall be payable by T enant to Landlord within thirty (30) days after receipt of the aforesaid statement. The benefit of any discount for any early payment or prepayment of Real Estate Taxes shall accrue solely to the benefit of Landlord, and such discount shall not be subtracted from the Real Estate Taxes payable for any Comparative Year (unless Landlord requires Tenant to pay, and Tenant actually pays, the Additional Rent due under this Article earlier than otherwise due). In addition to the foregoing, Tenant shall pay to Landlord, on demand, as Additional Rent, a sum equal to Tenant's Share of any business improvement district assessment payable by the Building Project.

32.03 In the event the Real Estate Taxes payable during the Base Tax Year be reduced by final determination of legal proceedings, settlement or otherwise, then, the Real Estate Taxes payable during the Base Tax Year shall be correspondingly revised, the Additional Rent theretofore paid or payable hereunder for all Comparative Years shall be recomputed on the basis of such reduction, and Tenant shall pay to Landlord as Additional Rent, within thirty (30) days after being billed therefor, any deficiency between the amount of such Additional Rent as theretofore computed and the amount thereof due as the result of such recomputations.

32.04 If, after Tenant shall have made a payment of Additional Rent under Section 32.02, Landlord shall receive a refund of any portion of the Real Estate Taxes payable for any Comparative Year after the Base Tax Year on which such payment of Additional Rent shall have been based, as a result of a reduction of such Real Estate Taxes by final determination of legal proceedings, settlement or otherwise, Landlord shall within ten (10) days after receiving the refund pay to Tenant Tenant's Share of the refund less Tenant's Share of expenses (including reasonable attorneys' and appraisers' fees) incurred by Landlord in connection with any such application or proceeding unless Tenant has already paid its share of such expenses in accordance with this Se ction 32.04. Tenant shall pay to Landlord, as Additional Rent, within fifteen (15) days after Landlord shall have delivered to Tenant a statement therefor, Tenant's Share of all reasonable expenses incurred by Landlord in reviewing or contesting the validity or amount of any Real Estate Taxes or for the purpose of obtaining reductions in the assessed valuation of the Building Project prior to the billing of Real Estate Taxes, including without limitation, the fees and disbursements of attorneys, third party consultants, experts and others. Upon Landlord's receipt of a written request from Tenant, Landlord shall provide Tenant with copies of the actual Real Estate Tax bills for a specified Comparison Year and the Base Tax Year provided that they are then in the possession of Landlord.

32.05 The statements of the Real Estate Taxes to be furnished by Landlord as provided above shall be certified by Landlord and shall constitute a final determination as between Landlord and Tenant of the Real Estate Taxes for the periods represented thereby, unless Tenant within ninety (90) days after they are furnished shall give a written notice to Landlord that it disputes their accuracy or their appropriateness, which notice shall specify the particular respects in which the statement is inaccurate or inappropriate. If Tenant shall so dispute said statement then, pending the resolution of such dispute, Tenant shall pay the Additional Rent to Landlord in accordance with the statement furnished by Landlord. If Landlord and Tenant are unable to res olve any such dispute within thirty (30) days after Tenant's notice of objection, then either party may within ten (10) days thereafter refer the dispute to an independent, third party certified public accounting firm selected by Landlord and reasonably acceptable to Tenant. In connection therewith, Landlord, Tenant and such firm shall enter into a confidentiality agreement, in form and substance reasonably satisfactory to the parties, whereby such parties shall agree not to disclose to any third party any of the information in connection with the prosecution, review and determination of such dispute or of any resulting reconciliation, compromise or resolution. Such firm may request such supporting documentation as it reasonably deems appropriate in order to promptly determine the dispute. The determination of such firm shall be rendered within thirty (30) days after the referral of the dispute, and shall be conclusive and binding upon Landlord and Tenant and shall be set forth in a w ritten determination along with the rationale for the determination; however such firm shall not have the power to add to, modify or delete any of the provisions of this Lease or to award any relief whatsoever to either party, the sole function of said firm being to determine the accuracy of any and all statements disputed by Tenant hereunder. Landlord and Tenant shall each be responsible for any respective fees and expenses (including, without limitation, attorneys' fees) incurred in connection with said dispute, unless the such firm determines that a disputed statement overstated the Additional Rent due from Tenant hereunder by more than five (5%) percent for the applicable Comparison Year, as finally determined, in which event, Landlord shall reimburse Tenant for any such fees and expenses in connection with the dispute of said statement, by way of credit against the monthly installments of Fixed Annual Rent next accruing under this Lease until such credit is exhausted.

32.06 In no event shall the Fixed Annual Rent under this Lease be reduced by virtue of this Article.

32.07 If the Commencement Date of the Term of this Lease is not the first day of the first Comparative Year, then the Additional Rent due hereunder for such first Comparative Year shall be a proportionate share of said Additional Rent for the entire Comparative Year, said proportionate share to be based upon the length of time that the lease Term will be in existence during such first Comparative Year. Upon the date of any expiration or termination of this Lease (except termination because of Tenant's default) whether the same be the date hereinabove set forth for the expiration of the Term or any prior or subsequent date, a proportionate share of said Additional Rent for the Comparative Year during which such expiration or termination occurs shall immed iately become due and payable by Tenant to Landlord, if it was not theretofore already billed and paid. The said proportionate share shall be based upon the length of time that this Lease shall have been in existence during such Comparative Year. Landlord shall promptly cause statements of said Additional Rent for that Comparative Year to be prepared and furnished to Tenant. Landlord and Tenant shall thereupon make appropriate adjustments of amounts then owing.

32.08 Landlord's and Tenant's obligations to make the adjustments referred to in Section 32.07 above shall survive any expiration or termination of this Lease. Any delay or failure of Landlord in billing any tax escalation hereinabove provided shall not constitute a waiver of or in any way impair the continuing obligation of Tenant to pay such tax escalation hereunder.

ARTICLE 33

RENT CONTROL

33.01 In the event the Fixed Annual Rent or Additional Rent or any part thereof provided to be paid by Tenant under the provisions of this Lease during the Term shall become uncollectible or shall be reduced or required to be reduced or refunded by virtue of any Federal, State, County or City law, order or regulation, or by any direction of a public officer or body pursuant to law, or the orders, rules, code or regulations of any organization or entity formed pursuant to law, whether such organization or entity be public or private, then Landlord, at its option, may at any time thereafter terminate this Lease, by not less than ninety (90) days' written notice to Tenant, on a date set forth in said notice, in which event this Lease and the term hereof shall terminat e and come to an end on the date fixed in said notice as if the said date were the date originally fixed herein for the termination of the demised term. Landlord shall not have the right to so terminate this Lease if Tenant within such period of ninety (90) days shall in writing lawfully agree that the rentals herein reserved are a reasonable rental and agree to continue to pay said rentals, and if such agreement by Tenant shall then be legally enforceable by Landlord.

ARTICLE 34

SUPPLIES

34.01 Only Landlord or any one or more persons, firms, or corporations authorized in writing by Landlord shall be permitted to furnish laundry, linens, towels, drinking water, water coolers, ice and other similar supplies and services to tenants and licensees in the Building, provided that the prices for same are competitive, such authorization not to be unreasonably withheld. Landlord may fix, in its own reasonable discretion, from time to time, the hours during which and the regulations under which such supplies and services are to be furnished.

34.02 Only Landlord or any one or more persons, firms or corporations authorized in writing by Landlord shall be permitted to sell, deliver or furnish any food or beverages whatsoever for consumption within the Premises or elsewhere in the Building, provided that the prices for same are competitive, such authorization not to be unreasonably withheld. Landlord further expressly reserves the right to exclude from the Building any person, firm or corporation attempting to deliver or purvey any such food or beverages, but not so authorized by Landlord. It is understood, however, that Tenant or its regular office employees may personally bring food or beverages into the Building for consu mption within the Premises by the said employees, but not for resale or for consumption by any other tenant.

ARTICLE 35

AIR CONDITIONING

35.01 Subject to the provisions of this Article and all other applicable provisions of this Lease, Landlord shall supply air-conditioning service to the Premises through the Building's central air-conditioning facilities (the "Building HVAC System") during the Building's air conditioning season (May 15th to October 15th) during the Building's air conditioning operating hours (Monday to Friday from 8:00 a.m. to 6:00 p.m.) subject to and in accordance with the provisions of this Lease. Landlord shall perform such work as is necessary, if any, in order to place the Building HVAC System in good working order ("Landlord's Initial HVAC Work"). Landlord shall perform Landlord's Initial HVAC Work as promptly as is reasonably practical following the commencement of the Term hereof. All air conditioning equipment and facilities (other than the Building HVAC System) located in or servicing the Premises, including, without limitation, the ducts, dampers, registers, grilles and appurtenances utilized in connection with the Building HVAC System and any Supplemental Systems (hereinafter defined) shall be maintained, repaired and operated by Tenant in compliance with all present and future laws and regulations relating thereto at Tenant's sole cost and expense. Tenant shall pay Tenant's proportionate share of all electricity (and also water, gas and/or steam, if applicable) consumed in the ope ration of the Building HVAC System and for the production of chilled and/or condenser water and its supply to the Premises. If supplementary air-conditioning equipment is required to accommodate Tenant's special usage areas (i.e. computer rooms, conference rooms, cafeteria/lunchroom or any special usage which subjects a portion or the entire Premises to a high density of office personnel and/or heat generating machines or appliances), it shall be Tenant's responsibility to furnish, install, maintain, repair and operate such required supplementary air-conditioning equipment for such Supplemental System at its sole cost and expense. Landlord reserves the right to suspend operation of the Building HVAC System at any time that Landlord, in its reasonable judgment, deems it necessary to do so for reasons such as accidents, emergencies or any situation arising in the Premises or within the Building which has an adverse affect, either directly or indirectly, on the operation of Bui lding HVAC System, including without limitation, reasons relating to the making of repairs, alterations or improvements in the Premises or the Building, and Tenant agrees that any such suspension in the operation of the Building HVAC System may continue until such time as the reason causing such suspension has been remedied and that Landlord shall not be held responsible or be subject to any claim by Tenant due to such suspension, provided that the foregoing shall not be deemed to preclude Tenant from being entitled to an abatement of rent as provided in Article 21 hereof, if applicable. Tenant further agrees that Landlord shall have no responsibility or liability to Tenant if operation of the Building HVAC System is prevented by strikes or accidents or any cause beyond Landlord's reasonable control, or by the orders or regulations of any federal, state, county or municipal authority or by failure of the equipment or electric current, steam and/or water or other required power source.

35.02 In the event that Tenant shall require air conditioning service other than on the above referenced days and hours, but during the Cooling Season, Landlord shall furnish after hours air conditioning service through the Building HVAC System provided that written notice is given to Landlord by Tenant not less than six (6) hours prior to the time for which such service is requested or prior to 1:00 p.m. on business days preceding weekends and the aforementioned holidays. Tenant shall reimburse Landlord, as additional rent within ten (10) days of Landlord's demand, for the charges assessed by Landlord for such after hours air conditioning service pursuant to this Article. The price charged for after hours air-conditioning service as of the date hereof shall b e $750.00 per hour, plus sales tax, if applicable, subject to future increases.

35.03 (A) Tenant acknowledges and agrees that the Existing Supplemental HVAC Equipment (as defined on "**Exhibit C**") shall be operated, maintained and repaired by Tenant and that Landlord has no obligation to operate, maintain or to repair the said equipment or to supply supplemental air-conditioning service to the Premises. The Existing Supplemental HVAC Equipment and all other air conditioning systems, equipment and facilities hereafter located in or servicing the Premises, other than the Building HVAC System (collectively, the "Supplemental Systems") in cluding, without limitation, the ducts, dampers, registers, grilles and appurtenances utilized in connection with both the Existing Supplemental HVAC Equipment and the Supplemental Systems (collectively hereinafter referred to as the "Supplemental HVAC System"), shall be maintained, repaired and operated by Tenant in compliance with all present and future laws and regulations relating thereto at Tenant's sole cost and expense. Tenant shall pay for all electricity consumed in the operation of the Supplemental HVAC System, subject to the terms of Article 41 of this Lease. Tenant shall pay for all parts and supplies necessary for the proper operation of the Supplemental HVAC System (and any restoration or replacement by Tenant of all or any part thereof shall be in quality and class at least equal to the original work or installations), except to the extent specifically set forth on "**Exhibit C**" annexed hereto; provided, however, that Tenant shall not alter, modify, remove or replace the Supplemental HVAC System, or any part thereof, without Landlord's prior written consent.

(B) Without limiting the generality of the foregoing, Tenant shall, at its own cost and expense, (a) cause to be performed all maintenance of the Supplemental HVAC System, including all repairs and replacements thereto, and (b) commencing as of the date upon which Tenant shall first occupy the Premises for the conduct of its business, and thereafter throughout the Term of the Lease, maintain in force and provide a copy of the same to Landlord an air conditioning service repair and full service maintenance contract covering the Supplemental HVAC System in form reasonably satisfactory to Landlord with an air conditioning contractor or servicing organization approved by Landlord. All such contracts shall provide for the thorough overhauling of the Supplemental HV AC System at least once each year during the Term of this Lease and shall expressly state that (i) it shall be an automatically renewing contract terminable upon not less than thirty (30) days prior written notice to Landlord (sent by certified mail, return receipt requested) and (ii) the contractor providing such service shall maintain a log at the Premises detailing the service provided during each visit pursuant to such contract. Tenant shall keep such log at the Premises and permit Landlord to review the same promptly after Landlord's request during normal business hours. The Supplemental HVAC System is and shall at all times remain the property of Landlord, and at the expiration or sooner termination of the Lease, Tenant shall surrender to Landlord the Supplemental HVAC System in good working order and condition, subject to normal wear and tear and shall deliver to Landlord a copy of the service log; provided, however, that Tenant shall not be obligated to replace the Existing Supplemental HVAC Equipment in the event the same has become inoperable. In the event that Tenant fails to obtain the contract required herein or perform any of the maintenance or repairs required hereunder, Landlord shall have the right, but not the obligation, to procure such contract and/or perform any such work and charge Tenant as Additional Rent hereunder the cost of same plus an administrative fee equal to five (5%) of such cost which shall be paid for by Tenant on demand.

35.04 (A) Supplemental Condenser Water. If and so long as Tenant is not in default of the Lease beyond the expiration of the applicable grace period provided for therein, if any, upon Tenant's election, Landlord shall make available to Tenant up to two and a half (2½) tons of condenser water ("Supplemental Condenser Water") for use by Tenant in the Premises in connection with the operation by Tenant of supplemental air-conditioning equipment.

(B) Supplemental Condenser Water Charges. Tenant shall pay to Landlord as Additional Rent under the Lease the following charges (plus sales tax, if applicable) in consideration of Landlord's agreement to make available to Tenant Supplemental Condenser Water hereunder, commencing as of the date upon the Commencement Date, an annual charge of $900.00 per ton of Supplemental Condenser Water per annum (the "Annual Condenser Water Charge"), subject to increase as provided for herein. Except as otherwise provided for herein, all sums payable under this Article shall be deemed to be Additional Rent and paid by Tenant within thirty (30) days after the issuance of a statement therefor. Commencing as of January 1, 2011 and each January 1 thereafter during the term of this Lease, the Annual Condenser Water Charge shall be increased to an amount equal to the product obtained by multiplying (i) the Annual Condenser Water Charge, by (ii) a fraction, the numerator of which is the Consumer Price Index, All Items, New York and New Jersey, All Urban Consumers (the "CPI") for December of the year immediately preceding such January 1st, and the denominator of which is the CPI for December 2009.

ARTICLE 36

SHORING

36.01 Tenant shall permit any person authorized to make an excavation on land adjacent to the Building containing the Premises to do any work within the Premises necessary to preserve the wall of the Building from injury or damage, and Tenant shall have no claim against Landlord for damages or abatement of rent by reason thereof. Landlord shall endeavor to use commercially reasonable efforts to minimize interference with Tenant's permitted use of the Premises during the course of said excavations and shoring.

ARTICLE 37

EFFECT OF CONVEYANCE, ETC.

37.01 If the Building containing the Premises shall be sold, transferred or leased, or the lease thereof transferred or sold, Landlord shall be relieved of all future obligations and liabilities hereunder and the purchaser, transferee or tenant of the Building shall be deemed to have assumed and agreed to perform all such obligations and liabilities of Landlord hereunder. In the event of such sale, transfer or lease, Landlord shall also be relieved of all existing obligations and liabilities hereunder, provided that the purchaser, transferee or tenant of the Building assumes in writing such obligations and liabilities.

ARTICLE 38

RIGHTS OF SUCCESSORS AND ASSIGNS

38.01 This Lease shall bind and inure to the benefit of the heirs, executors, administrators, successors, and, except as otherwise provided herein, the assigns of the parties hereto. If any provision of any Article of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of that Article, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of said Article and of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 39

CAPTIONS

39.01 The captions herein are inserted only for convenience, and are in no way to be construed as a part of this Lease or as a limitation of the scope of any provision of this Lease.

ARTICLE 40

BROKERS

40.01 Tenant covenants, represents and warrants that Tenant has had no dealings or negotiations with any broker or agent in connection with the consummation of this Lease other than SL Green Leasing LLC and Colliers ABR, Inc. (collectively, the "Brokers") and Tenant covenants and agrees to defend, hold harmless and indemnify Landlord from and against any and all cost, expense (including reasonable attorneys' fees) or liability for any compensation, commissions or charges claimed by any broker or agent with respect to this Lease or the negotiation thereof.

40.02 Landlord represents and warrants to Tenant that it did not consult or negotiate with any broker, finder, or consultant with regard to the Premises other than the Brokers, and that no other broker, finder or consultant participated with Landlord in procuring this Lease. Landlord hereby indemnifies and agrees to defend and hold Tenant, its agents, servants and employees harmless from any suit, action, proceeding, controversy, claim or demand whatsoever at law or in equity that may be instituted against Tenant by anyone with whom it is claimed that Landlord has dealt for recovery of compensation or damages for procuring this Lease or by reason of a breach or purported breach of the representations and warranties contained herein. Landlord shall pay commissi ons due the Brokers in connection with this Lease, if any, pursuant to the terms of separate agreements.

ARTICLE 41

ELECTRICITY

41.01 Tenant acknowledges and agrees that electric service shall be supplied to the Premises on a "submetered basis" in accordance with the provisions of this Article 41. Electricity and electric service, as used herein, shall mean any element affecting the generation, transmission, and/or distribution or redistribution of electricity, including but not limited to services which facilitate the distribution of service. Landlord shall make available during the Term of this Lease at the combined electrical closets servicing the Premises electricity for all purposes with an average capacity of not less than six (6) watts connected load per rentable square foot of the Premises (exclusive of the electricity required to operate the Building HVA C System), which shall be distributed by Tenant at its sole cost and expense, subject to all other applicable provisions of this Lease.

41.02 If and so long as Landlord provides redistributed electricity to the Premises on a submetered basis, Tenant agrees that the charges for such redistributed electricity shall be computed in the manner hereinafter described, to wit, a sum equal to Landlord's cost for such electricity ("Landlord's Cost") plus five (5%) percent thereof. Landlord's Cost for such redistributed electricity shall be equal to (a) Landlord's cost for the relevant billing period as hereinafter defined ("Landlord's Cost Rate") multiplied by Tenant's electricity consump tion for the relevant billing period measured and calculated as hereinafter provided (but never less than Landlord's actual cost for the electricity so redistributed), (b) Landlord's costs for measuring, calculating and reporting Tenant's electricity charges, including the fees of an electrical consultant ("Consultant Costs") and (c) all taxes paid by Landlord. Where more than one meter measures the service of Tenant in the Building, the service rendered through each meter may be computed and billed separately in accordance with the rates herein specified.

41.03 Landlord's Cost Rate shall mean the amount for energy (kilowatt hours, i.e., "KWH") and demand (kilowatts, i.e., "KW") that would be charged, at the time in question, by the public utility company supplying electric current to the Building, or such other service providers, at the rate schedule payable by Landlord from time to time including, without limitation, all applicable surcharges, demand charges, time-of-day charges, energy charges, fuel adjustment charges, rate adjustment charges, taxes and other sums payable in respect thereof, as if Tenant's con sumption, KWH and KW, for the relevant billing period were the total current being purchased.

41.04 Landlord shall install one (1) submeter at its cost and expense if one does not presently exist to measure Tenant's electricity consumption, KWH and KW, in the Premises; any replacements thereof or additional submeters to measure Tenant's electric consumption, KWH and KW, in the Premises shall be installed at Tenant's sole cost and expense. Bills therefor shall be rendered at such times as Landlord may elect, and the amount, as computed from a meter, shall be deemed to be, and shall be paid as Additional Rent. If any tax is imposed upon Landlord's receipt from the resale of electrical energy to Tenant by any Federal, State or Municipal authority, Tenant covenants and agrees that, wher e permitted by law, Tenant's share of such taxes based upon its usage and demand shall be passed on to, and shall be included in the bill of, and shall be paid by Tenant to Landlord.

41.05 In the event that all or part of the meters, or system by which Landlord measures Tenant's consumption of electricity (the "Submetering System"), shall not be operable or malfunction, (a) Landlord, through an independent, electrical consultant selected by Landlord, shall estimate the readings that would have been yielded by said Submetering System as if such system was operable or the malfunction had not occurred, as the case may be, on the basis of Tenant's prior usage and demand and the lighting and equipment installed within the Premises, (b) Tenant shall utilize such estimated readings and the bill rendered based thereon shall be binding and conclusive on Tenant unless, withi n sixty (60) days after receipt of such a bill, Tenant challenges, in writing to Landlord, the accuracy or method of computation thereof. If, within sixty (60) days of Landlord's receipt of such a challenge, the parties are unable to agree on the amount of the contested bill, the controlling determination of the same shall be made by an independent electrical consultant agreed upon by the parties or, upon their inability to agree, as selected by the American Arbitration Association. The determination of such electrical consultant shall be final and binding on both Landlord and Tenant and the expenses of such consultant shall be divided equally between the parties. Pending such controlling determination, Tenant shall timely pay Additional Rent to Landlord in accordance with the contested bill. Tenant shall be entitled to a prompt refund from Landlord, or shall make prompt additional payment to Landlord, in the event that the electrical consultant determines that the amount of a contested bill should have been other than as reflected thereon.

41.06 If all or part of the submetering Additional Rent payable in accordance with this Article becomes uncollectible or reduced or refunded by virtue of any law, order or regulations, the parties agree that, at Landlord's option, in lieu of submetering Additional Rent, and in consideration of Tenant's use of the Building's electrical distribution system and receipt of redistributed electricity and payment by Landlord of consultant's fees and other redistribution costs, the Fixed Annual Rental rate(s) to be paid under this Lease shall be increased by an "alternative charge" which shall be a sum equal to Landlord's Cost, as hereinabove defined, plus five (5%) p ercent thereof (or the maximum such percentage then permitted by law but not more than five (5%) percent).

41.07 Landlord shall not be liable to Tenant for any loss or damage or expense which Tenant may sustain or incur if either the quantity or character of electric service is changed or is no longer available or suitable for Tenant's requirements unless caused by the negligence or willful misconduct of Landlord or its employees in which event, however, Landlord shall not be liable for any consequential or special damages. Tenant covenants and agrees that at all times its use of electric current shall never exceed the capacity of existing feeders to the Building or wiring installation. Any riser or risers to supply Tenant's electrical requirements, upon written request of Tenant, will be installed by Landlord, at the sole cost and expense of Tenant, if, in Landlord's sole judgment, the same are necessary and will not cause permanent damage or injury to the Building or the Premises or cause or create a dangerous or hazardous condition or entail excessive or unreasonable alterations, repairs or expense or interfere with or disturb other tenants or occupants. In addition to the installation of such riser or risers, Landlord will also at the sole cost and expense of Tenant, install all other equipment proper and necessary in connection therewith subject to the aforesaid terms and conditions. The Landlord reserves the right to terminate the furnishing of electricity at any time, upon thirty (30) days' written notice to the Tenant, provided such change is also required of all other tenants in the Building, in which event the Tenant may make application directly to the public utility and/or other providers for the Tenant's entire separate supply of electric current provided that Tenant has obtained service directly from the public utility or other service provider (unless the failure to do so results from Tenant's failure to promptly apply for such service and diligently prosecute such application to completion) and Landlord shall permit its wires and conduits, to the extent available and safely capable, to be used for such purpose, but only to the extent of Tenant's then authorized load. Any meters, risers, or other equipment or connections necessary to furnish electricity on a submetering basis or to enable Tenant to obtain electric current directly from such utility and/or other providers shall be installed at Tenant's sole cost and expense. Only rigid conduit or electricity metal tubing (EMT) will be allowed. The Landlord, upon the expiration of the aforesaid thirty (30) days' written notice to the Tenant may discontinue furnishing the electric current but this Lease shall otherwise remain in full force an d effect.

ARTICLE 42
LEASE SUBMISSION

42.01 Landlord and Tenant agree that this Lease is submitted to Tenant on the understanding that it shall not be considered an offer and shall not bind Landlord in any way unless and until (i) Tenant has duly executed and delivered duplicate originals thereof to Landlord and (ii) Landlord has executed and delivered one of said originals to Tenant.

ARTICLE 43
INSURANCE

43.01 Tenant shall not violate, or permit the violation of, any condition imposed by the standard fire insurance policy then issued for office buildings in the Borough of Manhattan, City of New York, and shall not do, or permit anything to be done, or keep or permit anything to be kept in the Premises which would subject Landlord to any liability or responsibility for personal injury or death or property damage, or which would increase the fire or other casualty insurance rate on the Building or the property therein over the rate which would otherwise then be in effect (unless Tenant pays the resulting premium as hereinafter provided for) or which would result in insurance companies of good standing refusing to insure the building or any of such property in amounts reaso nably satisfactory to Landlord.

43.02 Tenant covenants to provide on or before the Commencement Date, and to keep in force, at Tenant's own cost, during the term hereof the following insurance coverage which coverage shall be effective from and after such first Commencement Date:

(a) A Commercial General Liability insurance policy naming Landlord and its designees as additional insureds protecting Landlord, its designees against any alleged liability, occasioned by any incident involving injury or death to any person or damage to property of any person or entity, on or about the Building, the Premises, common areas or areas around the Building or premises. Such insurance policy shall include Products and Completed Operations Liability and Contractual Liability covering the liability of Tenant to Landlord by virtue of the indemnification agreement in this Lease, covering bodily injury liability, property damage liability, personal injury & advertising liability and fire legal liability, all in connection with the use and occupancy of or the condition of the Premises, the Building or the related common areas, in amounts not less than:

$5,000,000, general aggregate per location
$5,000,000, per occurrence for bodily injury & property damage
$5,000,000, personal & advertising injury
$1,000,000, fire legal liability

Such insurance may be carried under or limitations reached through a combination of Primary General Liability umbrella or blanket policy covering the Premises and other locations of Tenant, if any, provided such a policy contains an endorsement (i) naming Landlord and its designees as additional insureds, (ii) specifically referencing the Premises; and (iii) guaranteeing a minimum limit available for the Premises equal to the limits of liability required under this Lease;

(b) "All-risk" insurance, including flood, earthquake and terrorism coverage in an amount adequate to cover the cost of replacement of all personal property, fixtures, furnishings, equipment, improvements, betterments and installations located in the Premises, whether or not installed or paid for by Landlord.

43.03 All such policies shall be issued by companies of recognized responsibility permitted to do business within New York State and reasonably approved by the Landlord (provided that such companies are rated by Best's Insurance Reports or any successor publication of comparable standing and carry a rating of A- VIII or better or the then equivalent of such rating), and all such policies shall contain a provision whereby the same cannot be canceled or modified unless Landlord and any additional insured are given at least thirty (30) days prior written notice of such cancellation or modification.

43.04 Prior to the time such insurance is first required to be carried by Tenant and thereafter, at least fifteen (15) days prior to the expiration of any such policies, Tenant shall deliver to Landlord either duplicate originals of the aforesaid policies or a 2003 Accord 28 certificates evidencing such insurance (the 2006 Accord 28 being unacceptable to Landlord), together with evidence of payment for the policy. If Tenant delivers certificates as aforesaid Tenant, upon reasonable prior notice from Landlord, shall make available to Landlord, at the Premises, duplicate originals of such policies from which Landlord may make copies thereof, at Landlord's cost. Tenant's failure to provide and keep in force the aforementioned insurance shal l be regarded as a material default hereunder, entitling Landlord to exercise any or all of the remedies as provided in this Lease in the event of Tenant's default. In addition, in the event Tenant fails to provide and keep in force the insurance required by this Lease, at the times and for the durations specified in this Lease, Landlord shall have the right, but not the obligation, at any time and from time to time, and without notice, to procure such insurance and/or pay the premiums for such insurance in which event Tenant shall repay Landlord within ten (10) days after demand by Landlord, as Additional Rent, all sums so paid by Landlord and any costs or expenses incurred by Landlord in connection therewith without prejudice to any other rights and remedies of Landlord under this Lease.

43.05 Landlord and Tenant shall each endeavor to secure an appropriate clause in, or an endorsement upon, each "all-risk" insurance policy obtained by it and covering property as stated in 43.02 (b), pursuant to which the respective insurance companies waive subrogation against each other and any other parties, if agreed to in writing prior to any damage or destruction. The waiver of subrogation or permission for waiver of any claim hereinbefore referred to shall extend to the agents of each party and its employees and, in the case of Tenant, shall also extend to all other persons and entities occupying or using the Premises in accordance with the terms of this Lease. If and to the extent that such waiver or permission can be obtained only upon pay ment of an additional charge then, except as provided in the following two paragraphs, the party benefiting from the waiver or permission shall pay such charge upon demand, or shall be deemed to have agreed that the party obtaining the insurance coverage in question shall be free of any further obligations under the provisions hereof relating to such waiver or permission.

43.06 Subject to the foregoing provisions of this Article, and insofar as may be permitted by the terms of the insurance policies carried by it, each party hereby releases the other with respect to any claim (including a claim for negligence) which it might otherwise have against the other party for loss, damages or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the Term of this Lease.

43.07 If, by reason of a failure of Tenant to comply with the provisions of this Lease, the rate of fire insurance with extended coverage on the building or equipment or other property of Landlord shall be higher than it otherwise would be, Tenant shall reimburse Landlord, on demand, for that part of the premiums for fire insurance and extended coverage paid by Landlord because of such failure on the part of Tenant.

43.08. Landlord may, from time to time, require that the amount of the insurance to be provided and maintained by Tenant hereunder be increased so that the amount thereof adequately protects Landlord's interest, but in no event in excess of the amount that would be required of other tenants in other similar office buildings in the Borough of Manhattan.

43.09 A schedule or make up of rates for the building or the Premises, as the case may be, issued by the New York Fire Insurance Rating Organization or other similar body making rates for fire insurance and extended coverage for the premises concerned, shall be conclusive evidence of the facts therein stated and of the several items and charges in the fire insurance rate with extended coverage then applicable to such premises.

43.10 Each policy evidencing the insurance to be carried by Tenant under this Lease shall contain a clause that such policy and the coverage evidenced thereby shall be primary with respect to any policies carried by Landlord, and that any coverage carried by Landlord shall be excess insurance.

43.11 Landlord shall maintain in respect of the Building at all times during the Term, property insurance covering the Building, general liability insurance, Worker's Compensation Insurance and employer's liability insurance, in each case in amounts of coverage comparable to the amounts carried by owners of office buildings in the Borough of Manhattan comparable to the Building.

ARTICLE 44

SIGNAGE

44.01 Tenant shall be permitted to affix either sign or plaque on or adjacent to the entrance door to the Premises, subject to the prior written approval of Landlord which shall not be unreasonably withheld subject to the other provisions of this Article, with respect to location, design, size, materials, quality, coloring, lettering and shape thereof, and subject, also, to compliance by Tenant, at its expense, with all applicable legal requirements or regulations. In addition, Landlord shall install, at Tenant's cost and expense, signage containing Tenant's name in accordance with Landlord's standard signage program on the multi-tenant directory located in the elevator lobby on the thirty fifth (35th) floor of the Building. In addition, Tenant shall, at no cost and expense, be entitled to its pro rata share of listings in the electronic directory for the Building. All such signage shall be consistent and compatible with the design, aesthetics, signage and graphics program for the Building as established by Landlord. Landlord may remove any sign installed in violation of this provision, and Tenant shall pay the cost of such removal and any restoration costs.

ARTICLE 45

[INTENTIONALLY DELETED]

ARTICLE 46

FUTURE CONDOMINIUM CONVERSION

46.01 Tenant acknowledges that the Building and the land of which the Premises form a part (the "Land") may be subjected to the condominium form of ownership prior to the end of the Term of this Lease. Tenant agrees that if, at any time during the Term, the Building and the Land shall be subjected to the condominium form of ownership, then, this Lease and all rights of Tenant hereunder are and shall be subject and subordinate in all respects to any condominium declaration and any other documents (collectively, the "Declaration") which shall be recorded in order to convert the Building and the Land to a condom inium form of ownership in accordance with the provisions of Article 9-B of the Real Property Law of the State of New York or any successor thereto. If any such Declaration is to be recorded, Tenant, upon request of Landlord, shall enter into an amendment of this Lease in such respects as shall be necessary to conform to such condominiumization, including, without limitation, appropriate adjustments to Real Estate Taxes payable during the Base Tax Year and Tenant's Share, as such terms are defined in Article 32 hereof and appropriate adjustments to Expenses payable during the Base Year, Base Insurance Expenses and the Percentage, as such terms are defined and/or referenced in Article 49 of the Lease, provided that Tenant's obligations under this Lease shall not be materially increased (and there shall be no increase in Tenant's monetary obligations) and Tenant's rights are not diminished as a result thereof.

ARTICLE 47

MISCELLANEOUS

47.01 This Lease represents the entire understanding between the parties with regard to the matters addressed herein and may only be modified by written agreement executed by all parties hereto. All prior understandings or representations between the parties hereto, oral or written, with regard to the matters addressed herein are hereby merged herein. Tenant acknowledges that neither Landlord nor any representative or agent of Landlord has made any representation or warranty, express or implied, as to the physical condition, state of repair, layout, footage or use of the Premises or any matter or thing affecting or relating to Premises except as specifically set forth in this Lease. Tenant has not been induced by and has not relied upon a ny statement, representation or agreement, whether express or implied, not specifically set forth in this Lease. Landlord shall not be liable or bound in any manner by any oral or written statement, broker's "set-up", representation, agreement or information pertaining to the Premises, the Building or this Agreement furnished by any real estate broker, agent, servant, employee or other person, unless specifically set forth herein, and no rights are or shall be acquired by Tenant by implication or otherwise unless expressly set forth herein. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this agreement to be drafted.

ARTICLE 48

[INTENTIONALLY DELETED]

ARTICLE 49

OPERATING EXPENSE ESCALATION

49.01 Tenant shall pay to Landlord, as Additional Rent, operating expense escalations in accordance with this Article:

49.02 Definitions: For the purpose of this Article, the following definitions shall apply:

(i) The term "Base Year" as hereinafter set forth for the determination of operating expense escalation, shall mean the calendar year 2010, and the term "Base Insurance Expenses" year shall mean the Building Insurance Expenses (hereinafter defined) for the calendar year 2010.

(ii) The term the "Percentage", for purposes of computing operating expense escalations hereunder, shall mean 1.367%. The Percentage has been computed on the basis of a fraction, the numerator of which is the rentable square foot area of the presently demised premises and the denominator of which is the total rentable square foot area of the office space in the Building. The parties acknowledge and agree that, for purposes of this Article only, the total rentable square foot area of the Premises presently demised to Tenant shall be deemed to be 8,629 square feet, and that the rentable square foot area of the office space in the Buil ding shall be deemed to be 631,372 square feet.

(iii) The term the "Building Project" for purposes of this Article shall mean the aggregate combined parcel of land on a portion of which is the Building of which the Premises form a part, with all the improvements thereon, said improvements being a part of the block and lot for tax purposes which are applicable to the aforesaid land.

(iv) The term "Comparative Year" for purposes of this Article shall mean the twelve (12) months following the Base Year, and each subsequent period of twelve (12) months, and the term "Comparative Insurance Year" for purposes of this Article shall mean the twelve (12) month period commencing as of January 1, 2011, and each subsequent period of twelve (12) months.

(v) The term "Building Insurance Expenses" shall mean the total of all the costs and expenses incurred or borne by Landlord with respect to procuring and maintaining in respect of the Building Project: comprehensive all risk insurance on the Building Project and the personal property contained therein or thereon; commercial general liability insurance against claims for personal injury, bodily injury, death or property damage, occurring upon, in or about the Building Project; extended coverage, boiler and machinery, sprinkler, apparatus, rental, business income and plate glass insurance; owner's contingent or protective liability insurance; workers' ; compensation and employer's liability insurance; insurance against acts of terrorism (including, without limitation, bio-terrorism), and any insurance required by a mortgagee;

(vi) The term "Expenses" shall mean the total of all the costs and expenses incurred or borne by Landlord with respect to the operation and maintenance of the Building Project and the services provided tenants therein, including, but not limited to, the costs and expenses incurred for and with respect to: steam and any other fuel; water rates and sewer rents; air-conditioning; mechanical ventilation; heating; cleaning, by contract or otherwise; window washing (interior and exterior); elevators, escalators; porters and matron service; Building electric current*;protection and security; lobby decoration; repairs, replacements and improve ments which are appropriate for the continued operation of the Building as a first-class building; maintenance; management fees; painting of non-tenant areas; supplies; wages, salaries, disability benefits, pensions, hospitalization, retirement plans and group insurance respecting employees of the Building up to and including the building manager; uniforms and working clothes for such employees and the cleaning thereof and expenses imposed pursuant to law or to any collective bargaining agreement with respect to such employees; workmen's compensation insurance, payroll, social security, unemployment and other similar taxes with respect to such employees; and association fees or dues.

Provided, however, that the foregoing Expenses shall exclude or have deducted from them, as the case may be and as shall be appropriate:

(a) leasing commissions;

(b) managing agents' fees or commissions in excess of the rates then customarily charged by owner/operators for building management for buildings of like class and character;

(c) executive's salaries above the grade of building manager;

(d) expenditures for capital improvements except those which under generally applied real estate practice are expensed or regarded as deferred expenses and except for capital expenditures required by law, in either of which cases the cost thereof shall be included in Expenses for the Comparative Year in which the costs are incurred and subsequent Comparative Years, amortized on a straight line basis over an appropriate period, but not more then ten years, with an interest factor equal to the prime rate of JPMorgan Chase, New York, (or the successor thereto) at the time of Landlord's having incurred said expenditure;

(e) amounts received by Landlord through proceeds of insurance to the extent the proceeds are compensation for expenses which were previously included in Expenses hereunder;

(f) cost of repairs or replacements incurred by reason of fire or other casualty to the extent to which Landlord is compensated therefor through proceeds of insurance, or caused by the exercise of the right of eminent domain;

(g) advertising and promotional expenditures;

(h) legal fees for disputes with tenants and legal and auditing fees, other than legal and auditing fees reasonably incurred in connection with the maintenance and operation of the Building Project or in connection with the preparation of statements required pursuant to Additional Rent or lease escalation provisions; and

(i) the incremental cost of furnishing services such as overtime HVAC to any tenant at such tenant's expense; costs incurred in performing work or furnishing services for individual tenants (including this Tenant) at such tenant's expense; and costs of performing work or furnishing services for tenants other than this Tenant at Landlord's expense to the extent that such work or service is in excess of any work or service Landlord is obligated to furnish to this Tenant at Landlord's expense;

(j) Building Insurance Expenses;

(k) any cost at any time of any installation, alteration and decoration within a tenant space incurred in connection with preparing space for any tenant (including Tenant) of the Building; and

(l) the cost of any separate electrical meter Landlord may provide to any of the tenants in the Building.

49.03 If Landlord shall purchase any item of capital equipment or make any capital expenditure designed to result in savings or reductions in Expenses, then the costs for same shall be included in Expenses. The costs of capital equipment or capital expenditures are so to be included in Expenses for the Comparative Year in which the costs are incurred and subsequent Comparative Years, on a straight line basis, to the extent that such items are amortized over such period of time as reasonably can be estimated as the time in which such savings or reductions in Expenses are expected to equal Landlord's costs for such capital equipment or capital expenditure, with an interest factor equal to the prime rate of JP Morgan Chase, New York, (or the successor thereto) at the time of Landlord's having incurred said costs. If Landlord shall lease any such item of capital equipment designed to result in savings or reductions in Expenses, then the rentals and other costs paid pursuant to such leasing shall be included in Expenses for the comparative year in which they were incurred.

49.04 If during all or part of any Base Year or Comparative Year, Landlord shall not furnish any particular item(s) of work or service (which would constitute an Expense hereunder) to portions of the Building Project due to the fact that such portions are not occupied or leased, or because such item of work or service is not required or desired by the tenant of such portion, or such tenant is itself obtaining and providing such item of work or service, or for other reasons, then, for the purposes of computing the Additional Rent payable hereunder, the amount of the Expenses for such item for such period shall be increased by an amount equal to the additional operating and maintenance expenses which would reasonably have bee n incurred during such period by Landlord if it had at its own expense furnished such item of work or services to such portion of the Building Project.

49.05 If the Expenses for any Comparative Year shall be greater than the Expenses for the Base Year, Tenant shall pay to Landlord, as Additional Rent for such Comparative Year, in the manner hereinafter provided, an amount equal to the Percentage of the excess of the Expenses for such Comparative Year over the Expenses for the Base Year (such amount being hereinafter called the "Expense Payment"). If the Building Insurance Expenses for any Comparative Insurance Year shall be greater than the Base Insurance Expenses, Tenant shall pay to Landlord, as Additional Rent for such Comparative Insurance Year, in the manner hereinafter provided, an amount equal to the Percentage of the excess of the Building Insurance Expenses for such Comparative Insurance Year over the Base Insurance Expenses (such amount being hereinafter called the "Insurance Expense Payment").

49.06 Following the expiration of each Comparative Year and Comparative Insurance Year and after receipt of necessary information and computations from Landlord's certified public accountant, Landlord shall submit to Tenant a statement or statements, as hereinafter described, setting forth the Expenses for the preceding Comparative Year (and for the first Comparative Year, such statement shall set forth Expenses for the Base Year), and the Expense Payment, if any, due to Landlord from Tenant for such Comparative Year, and a statement setting forth the Base Insurance Expenses and the Insurance Expense Payment, if any, due to Landlord from Tenant for such Insurance Comparative Year. The rendition of any such statem ent to Tenant shall constitute prima facie proof of the accuracy thereof, subject to the provisions of Section 49.07 hereof, and, if such statement shows an Expense Payment and/or Insurance Expense Payment due from Tenant to Landlord with respect to the preceding Comparative Year and/or Comparative Insurance Year, then (i) Tenant shall make payment of any unpaid portion thereof within thirty (30) days after receipt of such statement; and (ii) Tenant shall also pay Landlord, as Additional Rent within thirty (30) days after receipt of such statement, an amount equal to the product obtained by multiplying the Expense Payment and/or Insurance Expense Payment for the Comparative Year or the Comparative Insurance Year, as the case may be, by a fraction, the denominator of which shall be 12 and the numerator of which shall be the number of months of the current Comparative Year or Comparative Insurance Year, as the case may be, which shall have elapsed prior to the first day of the month immediately following the r endition of such statement; and (iii) Tenant shall also pay to Landlord, as Additional Rent, commencing as of the first day of the month immediately following the rendition of such statement and on the first day of each month thereafter until a new statement is rendered an amount equal to 1/12th of the total Expense Payment for the preceding Comparative Year and/or 1/12th of the total Insurance Expense Payment for the preceding Comparative Insurance Year . The aforesaid monthly payments based on the total Expense Payment for the preceding Comparative Year or the total Insurance Expense Payment for the preceding Comparative Insurance Year, as the case may be, shall from time to time be adjusted to reflect, if Landlord can reasonably so estimate, known increases in rates or cost, for the current Comparative Year or the current Comparative Insurance Year, as the case may be, applicable to the categories involved in computing Expenses or Building Insurance Expenses, whenever such increases become know n prior to or during such current Comparative Year or the current Comparative Insurance Year, as the case may be. The payments required to be made under (ii) and (iii) above shall be credited toward the Expense Payment or the Insurance Expense payment due from Tenant for the then current Comparative Year or the current Comparative Insurance Year, as the case may be, subject to adjustment as and when the statement for such current Comparative Year or the current Comparative Insurance Year is rendered by Landlord.

49.07 The statements of the Expenses and the Building Insurance Expenses to be furnished by Landlord as provided above shall be certified by Landlord, and shall be prepared in reasonable detail and based on information and computations made for the Landlord by a Certified Public Accountant (who may be the CPA now or then employed by Landlord for the audit of its accounts): said Certified Public Accountant may rely on Landlord's allocations and estimates wherever operating cost allocations or estimates are needed for this Article. The statements thus furnished to Tenant shall constitute a final determination as between Landlord and Tenant of the Expenses for the periods represented thereby, unless Tenan t within ninety (90) days after they are furnished shall give notice to Landlord that it disputes their accuracy or their appropriateness, which notice shall specify the particular respects in which the statement is inaccurate or inappropriate. Pending the resolution of any such dispute, Tenant shall pay the Additional Rent to Landlord in accordance with the statements furnished by Landlord.

49.08 In no event shall the Fixed Annual Rent under this Lease be reduced by virtue of this Article.

49.09 Landlord's and Tenants obligation to make the adjustments referred to in Section 49.06 above shall survive any expiration or termination of this Lease.

49.10. Any delay or failure of Landlord in billing any escalation hereinabove provided shall not constitute a waiver of or in way impair the continuing obligation of Tenant to pay such escalation hereunder.

ARTICLE 50
EXTENSION OPTION

50.01 (i) Provided that Tenant is not in default under this Lease beyond the grace period applicable to such default, if any, at the time of exercise of its option under this Section 50 or on the Expiration Date, the tenant first named herein (the "Named Tenant") shall occupy not less than ninety (90%) percent of the entire Premises for the conduct of its business on the Expiration Date, the Named Tenant shall have the right (the "Extension Right") to extend the term of the Lease with respect to the entire Premises for a single five (5) year period (the "Extension Term"). The Extension Term shall commence on the day after the Expiration Date (the "Extension Term Comm. Date") and shall expire on the fifth (5th) anniversary of the Expiration Date, unless the Extension Term shall sooner end pursuant to any of the terms, covenants or conditions of the Lease or pursuant to Law. Tenant must give Landlord written notice of Tenant's intention to exercise such option no later than three hundred sixty-five (365) days prior to the Expiration Date, as to which date time is of the essence, and upon the giving of such notice, subject to the provisions of the first sentence of this Section 50.01 and Subsection (vii), the term of the Lease shall be extended without execution or delivery of any other or further document, with the same force and effect as if the Extension Term had originally been included in the original term of the Lease. All of the t erms, covenants and conditions of the Lease shall continue in full force and effect during the Extension Term, including items of additional rent and escalation which shall remain payable on the terms herein set forth (provided, however that the provisions of Section 3.02 and Article 22 hereof shall not be applicable during the Extension Term) and Tenant shall have no further right to extend the term of the Lease for any reason; provided, however, that in the event that the fixed annual rent payable by Tenant for the Premises during the Extension Term is

equal to the Escalated Rent (as more particularly defined below) (1) the phrase “Base Tax Year” as such term is defined in Article 32.0(iii) of the Lease, shall mean the average of the Real Estate Taxes payable for (x) New York City real estate tax year commencing on July 1, 2017 and ending on June 30, 2018, and (y) the New York City real estate tax year commencing on July 1, 2018 and ending on June 30, 2019, and (2) the phrase “Base Year” and “Base Insurance Year” as such terms are defined in Article 49.02 shall mean the average of the Expenses or Building Insurance Expenses, as applicable, incurred in calendar year 2017 and calendar year 2018.

(ii) The Fixed Annual Rent payable by Tenant for the Premises during the Extension Term shall be the greater of (i) the Fixed Annual Rent in effect during the last twelve (12) months of the term without giving effect to any abatement of rent or other credit, plus an amount equal to all Additional Rent payable under Article 32 and Article 49 of the Lease for the last twelve (12) months thereof (such sum being called the "Escalated Rent"), or (ii) the fair market rental value of the Premises based upon the criteria set forth in subsection (v) of this Article (the "FMRV"), determined as of the Expir ation Date. The FMRV shall be determined as follows:

(1) Nine (9) months before the Expiration Date as initially herein set forth, Landlord and Tenant shall commence negotiations in good faith to attempt to agree upon the FMRV. If Landlord and Tenant cannot reach agreement by seven (7) months before the Expiration Date, Landlord and Tenant shall, no later than six (6) months before the Expiration Date, each select a reputable, qualified, independent, licensed real estate broker with at least ten (10) years experience in office leasing in midtown Manhattan, having an office in New York County and familiar with the rentals then being charged in the Building and in buildings of comparable quality and character in midtown Manhattan (“Midtown”) (such brokers are referred to, respectively, as “Landlord's Broker" and “Tenant's Broker"), who shall confer promptly after their selection by Landlord and Tenant and shall exercise good faith efforts to attempt to agree upon the FMRV. If Landlord's Broker and Tenant's Broker cannot reach agreement by four (4) months prior to the Expiration Date, then, within twenty (20) days thereafter, they shall designate a third reputable, qualified, independent, licensed real estate broker with at least ten (10) years experience in office leasing in midtown Manhattan, having an office in New York County and familiar with the rentals then being charged in the Building and in comparable buildings in Midtown (the “Independent Broker"). Upon failure of Landlord's Broker and Tenant's Broker timely to agree upon the designation of the Independent Broker, then the Independent Broker shall be appointed by the President of the Real Estate Board of New York, Inc., or the successor thereto, upon ten (10) days notice. Within ten (10) days after such appointment, Landlord's Broker and Tenant's Broker shall each submit a letter to the Independent Broker, with a copy to Landlord and Tenant, setting forth such broker's estimate of the FMRV and the rationale used in determining it (respectively, “Landlord's Broker's Letter" and "Tenant's Broker's Letter").

(2) If the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter differ by five (5%) percent per annum or less, then the FMRV shall not be determined by the Independent Broker, and the FMRV shall be the average of the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter. If the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter differ by more than five (5%) percent per annum, the Independent Broker shall conduct such investigations and hearings as he or she may deem appropriate and shall, within sixty (60) days after the date of his or her appointment, choose either the estimate set forth in Landlord's Broker's Letter or the estimate set forth in Tenant's Broker's Letter to be the FMRV and such choice shall be binding upon Landlord and Tenant. Landlord and Tenant shall each pay the fees and expenses of its respective broker. The fees and expenses of the Independent Broker shall be shared equally by Landlord and Tenant.

(iii) If the Extension Term commences prior to a determination of the Fixed Annual Rent for the Extension Term as herein provided, then the amount to be paid by Tenant on account of Fixed Annual Rent until such determination has been made shall be the greater of the Escalated Rent or the estimate set forth in Landlord's Broker's Letter. After the Fixed Annual Rent during the Extension Term has been determined as aforesaid, any amounts theretofore paid by Tenant to Landlord on account of fixed rent in excess of the amount of Fixed Annual Rent as finally determined shall be credited by Landlord against the next ensuing monthly Fixed Annual Rent payable by Tenant to Landlord.

(iv) Promptly after the Fixed Annual Rent has been determined, Landlord and Tenant shall execute, acknowledge and deliver an agreement setting forth the Fixed Annual Rent for the Extension Term, as finally determined, provided that the failure of the parties to do so shall not affect their respective rights and obligations hereunder.

(v) The FMRV shall be the fair market rental value, as of the Expiration Date, of space comparable to the Premises in Midtown, taking into account all then relevant factors (including escalations thereon, as applicable) applicable to a party renting such space on a renewal basis.

(vi) Notwithstanding anything to the contrary contained in this Article, Landlord shall have the right, in its sole discretion, to waive the conditions to the effectiveness of Tenant’s exercise of its Extension Right set forth in Section 50.01 of this Article 50 without thereby waiving any default by Tenant, in which event (i) the term of the Lease shall be extended without execution or delivery of any other or further document in accordance with the provisions of this Article with the same force and effect as if the Extension Term had originally been included in the term of the Lease, and (ii) Landlord shall be entitled to all of the remedies provided by the Lease and at law with respect to any such default by Tenant .

ARTICLE 51

EXPANSION OPTION

51.01 Annexed hereto as "**Exhibit F**" is the floor plan of certain space in the Building designated by Landlord as Room 3500, which is under lease to a third party as of the date hereof, and attached hereto as "**Exhibit G**" is a schedule which sets forth the currently scheduled expiration date of the term of such lease, the deemed rentable square foot area of such space and Tenant's Share applicable thereto for purposes of calculating Additional Rent payable under the provisions of Article 32 and Article 49 of the Lease (the "Option Space"). Th e Tenant first named herein ("Named Tenant") shall have the right ("Named Tenant's Expansion Right") to add to the Option Space to the Premises subject to and in strict compliance with the terms and conditions hereinafter set forth and provided that: (i) Tenant is not in default under the Lease beyond the grace period applicable to such default, if any, at the time of exercise of its option under this Section 51.01 or on the Option Space Commencement Date (as such term is hereinafter defined), (ii) Named Tenant shall occupy not less than ninety (90%) percent of the Premises for the conduct of its business as of the Option Space Commencement Date; and (iii) the Tenant has exercised Tenant's Extension Right in accordance with Article 50 prior to, or contemporaneously with, the giving of the Option Space Election Notice. The term with respect to the Option Space added to the Premises hereunder shall (i) commence as of the date (the "Option Space Commencement Date") that possession of the Option Space is made available to Tenant by Landlord and (ii) expire on the Expiration Date. As soon as the Option Space Commencement Date is known, Landlord and Tenant shall execute a memorandum prepared by Landlord confirming the same within fifteen (15) days of written demand therefor, but any failure to execute such a memorandum shall not affect such dates as determined by Landlord.

51.02 Subject to the other provisions of this Article, the Option Space may be added to the Premises as follows: Tenant shall give Landlord notice of its election (the "Option Space Election Notice") to add the Option Space to the Premises not later than three hundred sixty five (365) days prior to the expiration date of the term of the lease with respect to the Option Space (as such expiration dates are set forth in "**Exhibit G"** hereto); provided, however, that notwithstanding anything contained herein to the contrary, if the Option Space becomes available for leasing by Landlord prior to the scheduled expiration date with respect thereto, Landlord may so inform Tenant by notice (the "Accelerated Option Space Notice") and, in such event, in order to exercise its option hereunder, Tenant shall give Landlord notice of its election to add the Option Space to the Premises by notice given to Landlord on or before the date occurring ten (10) business days following the date upon which the Accelerated Option Space Notice is given by Landlord to Tenant hereunder. Time shall be of the essence in connection with the exercise by Tenant of any or its rights hereunder.

51.03 In the event Tenant shall fail to notify Landlord of its election within the applicable time periods as provided herein, Tenant shall be conclusively deemed to have failed to have exercised its said option with respect to the Option Space, and Tenant agrees upon request of Landlord to confirm such non-exercise in writing, but failure to do so by Tenant shall not operate to revive any rights of Tenant under this Article.

51.04 In the event that Tenant properly and timely exercises its option under this Article with respect to the Option Space, the Option Space shall be added to the Premises as of the Option Space Commencement Date under the same terms, covenants and conditions of this Lease, as modified by this Agreement, except:

(i) The Fixed Annual Rent for the Option Space shall commence as of the Option Space Commencement Date and shall be at a rate which is one-hundred percent (100%) of the fair market rental value of the Option Space based upon the criteria set forth in this Article (the "Option Space FMRV"), determined as of the day immediately preceding the Option Space Commencement Date.

(ii) Tenant's Share shall be amended and increased commencing as of the Option Space Commencement Date to reflect the addition to the Premises of the Option Space; and

(iii) The Option Space shall be delivered and accepted by Tenant in its then existing condition, "as-is", and Landlord shall not be obligated to perform any work or provide any contribution to Tenant in order to prepare the Option Space for Tenant's occupancy.

51.05 In the event that Tenant properly and timely exercises its option hereunder, within thirty (30) days following the date upon which Tenant gives to Landlord an Option Space Election Notice, Landlord and Tenant shall commence negotiations in good faith to attempt to agree upon the Option Space FMRV. If Landlord and Tenant cannot reach agreement on or before the date occurring nine (9) months prior to the Option Space Commencement Date with respect to such Option Space (or ninety (90) days following the date upon which an Accelerated Option Space Notice Date is given by Landlord to Tenant, as the case may be), each shall select a reputable, qualified, independent, licensed real estate broker with at least ten (10) years experience in office leasing in midtown Manhattan, having an office in New York County and familiar with the rentals then being charged in the Building and in comparable office buildings (such brokers are referred to, respectively, as "Landlord's Broker" and "Tenant's Broker"), who shall confer promptly after their selection by Landlord and Tenant and shall exercise good faith efforts to attempt to agree upon the Option Space FMRV. If Landlord's Broker and Tenant's Broker cannot reach agreement by four (4) months prior to the Option Space Commencement Date, then, within twenty (20) days thereafter, they shall designate a third reputable, qualified, independent, licensed real estate broker with at least ten (10) years experience in office leasing in midtown Manhattan, having an office in New York County and familiar with the rentals the n being charged in the Building and in comparable office buildings (the "Independent Broker"). Upon failure of Landlord's Broker and

Tenant's Broker timely to agree upon the designation of the Independent Broker, then the Independent Broker shall be appointed by the President of the Real Estate Board of New York, Inc., or the successor thereto, upon ten (10) days notice. Within ten (10) days after such appointment, Landlord's Broker and Tenant's Broker shall each submit a letter to the Independent Broker, with a copy to Landlord and Tenant, setting forth such broker's estimate of the Option Space FMRV and the rationale used in determining the same (respectively, "Landlord's Broker's Letter" and "Tenant's Broker's Letter").

51.06 If the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter differ by three (3%) percent per annum or less, then the Option Space FMRV shall not be determined by the Independent Broker, and the Option Space FMRV shall be the average of the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter. If the estimates set forth in Landlord's Broker's Letter and Tenant's Broker's Letter differ by more than three (3%) percent per annum, the Independent Broker shall conduct such investigations and hearings as he or she may deem appropriate and shall, within sixty (60) days after the date of his or her appointment, choose either the estimate set forth in Landlord's Broker's Letter or the estimate set forth in Tenant's Broker's Letter to be the Option Space FMRV and such choice shall be binding upon Landlord and Tenant. Landlord and Tenant shall each pay the fees and expenses of its respective broker. The fees and expenses of the Independent Broker shall be shared equally by Landlord and Tenant.

51.07 If the Option Space Commencement Date commences prior to a determination of the Option Space FMRV as herein provided, then the amount to be paid by Tenant on account of Fixed Annual Rent until such determination has been made shall be the Option Space FMRV set forth in Landlord's Broker's Letter. After the Option Space FMRV has been determined as aforesaid, any amounts theretofore paid by Tenant to Landlord on account of FMRV in excess of the amount of the FMRV as finally determined shall be credited by Landlord against the next ensuing monthly Fixed Annual Rent payable by Tenant to Landlord with respect to the Option Space.

51.08 In the event Tenant duly and properly exercises its right under this Article, the parties shall immediately be bound thereby without the execution of an amendment to this Lease; however, at the request of Landlord, the parties shall promptly execute and deliver a written amendment to this Lease reflecting the addition of the Option Space to the Premises, the increase of the Fixed Annual Rent and the increase in Tenant's Share, provided that the failure of the parties to do so shall not affect their respective rights and obligations hereunder. Except for such changes, the provisions of this Lease shall apply with respect to the Option Space added to the Premises; provided, further, however, that in the event that the current occupant of the Option Space extends the term of its lease (or enters into a new lease for the Option Space), Landlord shall so notify Tenant and Tenant shall not have any right to add the Option Space to the Premises hereunder, and any previous exercise by Tenant of its rights under this Article with respect to the Option Space shall be void and of no force and effect.

51.09 The Option Space FMRV shall be the fair market rental value, as of the Option Space Commencement Date, of space comparable to the Option Space in Midtown Manhattan, leased by an existing tenant on an expansion basis taking into account all then relevant factors assuming that (i) the Option Space is free and clear of all leases and tenancies (including this Lease) and (ii) the Option Space is available in the then rental market for comparable office buildings in Midtown Manhattan.

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*i.e. Building electric current shall be deemed to mean all electricity purchased for the Building except that which is redistributed to tenants in the Building; the parties acknowledge and agree that forty-five percent (45%) of the Building's payment to the public utility for the purchase of electricity shall be deemed to be payment for Building electric current.

51.10 Notwithstanding anything to the contrary contained in this Article, Landlord shall have the right, in its sole discretion, to waive the conditions which limit or restrict the effectiveness of Named Tenant's Expansion Right set forth in Section 51.01, above, without thereby waiving a default, if any, by Tenant, in which event (i) the Option Space shall be added to the Premises without execution or delivery of any other or further document in accordance with the provisions of this Article with the same force and effect as if such default did not occur or such conditions had been complied with, and (ii) Landlord shall be entitled to all of the remedies provided by this Lease and at law with respect to any such default.

IN WITNESS WHEREOF, the said Landlord, and Tenant have duly executed this Lease as of the day and year first above written.

SLG 810 Seventh Lessee LLC, as Landlord

/s/Steven M. Durels
Steven M. Durels
Executive Vice President

Witness:

/s/Lisa Manning
Lisa Manning
Executive Leasing Assistant

Delcath Systems, Inc., as Tenant

/s/David McDonald
David McDonald
Chief Financial Officer

Witness:

/s/Mei Gong
Mei Gong
Executive Assistant

ARTICLE 52

RULES AND REGULATIONS
MADE A PART OF THIS LEASE

1. No animals, birds, bicycles or vehicles shall be brought into or kept in the Premises. The Premises shall not be used for manufacturing or commercial repairing or for sale or display of merchandise or as a lodging place, or for any immoral or illegal purpose, nor shall the Premises be used for a public stenographer or typist; barber or beauty shop; telephone, secretarial or messenger service; employment, travel or tourist agency; school or classroom; commercial document reproduction; or for any business other than specifically provided for in Tenant's lease. Tenant shall not cause or permit in the Premises any disturbing noises which may interfere with occupants of this or neighboring Buildings, any cooking or objectionable odors, or any nuisance of any kin d, or any inflammable or explosive fluid, chemical or substance. Canvassing, soliciting and peddling in the Building are prohibited, and each tenant shall cooperate so as to prevent the same.

2. The toilet rooms and other water apparatus shall not be used for any purposes other than those for which they were constructed, and no sweepings, rags, ink, chemicals or other unsuitable substances shall be thrown therein. Tenant shall not place anything out of doors, windows or skylights, or into hallways, stairways or elevators, nor place food or objects on outside window sills. Tenant shall not obstruct or cover the halls, stairways and elevators, or use them for any purpose other than ingress and egress to or from Tenant's Premises, nor shall skylights, windows, doors and transoms that reflect or admit light into the Building be covered or obstructed in any way. All drapes and blinds installed by Tenant on any exterior window of the Premises shall conform in style and color to the Building standard.

3. Tenant shall not place a load upon any floor of the Premises in excess of the load per square foot which such floor was designed to carry and which is allowed by law. Landlord reserves the right to prescribe the weight and position of all safes, file cabinets and filing equipment in the Premises. Business machines and mechanical equipment shall be placed and maintained by Tenant, at Tenant's expense, only with Landlord's consent and in settings approved by Landlord to control weight, vibration, noise and annoyance. Smoking or carrying lighted cigars, pipes or cigarettes in the elevators of the Building is prohibited.

4. Tenant shall not move any heavy or bulky materials into or out of the Building or make or receive large deliveries of goods, furnishings, equipment or other items without Landlord's prior written consent, and then only during such hours and in such manner as Landlord shall approve and in accordance with Landlord's rules and regulations pertaining thereto. If any material or equipment requires special handling, Tenant shall employ only persons holding a Master Rigger's License to do such work, and all such work shall comply with all legal requirements. Landlord reserves the right to inspect all freight to be brought into the Building, and to exclude any freight which violates any rule, regulation or other provision of this Lease.

5. No sign, advertisement, notice or thing shall be inscribed, painted or affixed on any part of the Building, without the prior written consent of Landlord. Landlord may remove anything installed in violation of this provision, and Tenant shall pay the cost of such removal and any restoration costs. Interior signs on doors and directories shall be inscribed or affixed by Landlord at Tenant's expense. Landlord shall control the color, size, style and location of all signs, advertisements and notices. No advertising of any kind by Tenant shall refer to the Building, unless first approved in writing by Landlord.

6. No article shall be fastened to, or holes drilled or nails or screws driven into, the ceilings, walls, doors or other portions of the Premises, nor shall any part of the Premises be painted, papered or otherwise covered, or in any way marked or broken, without the prior written consent of Landlord.

7. No existing locks shall be changed, nor shall any additional locks or bolts of any kind be placed upon any door or window by Tenant, without the prior written consent of Landlord. Two (2) sets of keys to all exterior and interior locks shall be furnished to Landlord . At the termination of this Lease, Tenant shall deliver to Landlord all keys for any portion of the Premises or Building. Before leaving the Premises at any time, Tenant shall close all windows and close and lock all doors.

8. No Tenant shall purchase or obtain for use in the Premises any spring water, ice, towels, food, bootblacking, barbering or other such service furnished by any company or person not approved by Landlord such approval not to be unreasonably withheld. Any necessary exterminating work in the Premises shall be done at Tenant's expense, at such times, in such manner and by such company as Landlord shall reasonably require upon notice given reasonably in advance (which notice may be oral) to Tenant. Landlord reserves the right to exclude from the Building, from 6:00 p.m. to 8:00 a.m., and at all hours on Sunday and legal holidays, all persons who do not present a pass to the Building signed by Landlord. Landlord will furnish passes to all pe rsons reasonably designated by Tenant. Tenant shall be responsible for the acts of all persons to whom passes are issued at Tenant's request.

9. Whenever Tenant shall submit to Landlord any plan, agreement or other document for Landlord's consent or approval, Tenant agrees to pay Landlord as Additional Rent, on demand, an administrative fee equal to the sum of the reasonable fees of any architect, engineer or attorney employed by Landlord to review said plan, agreement or document and Landlord's administrative costs for same.

10. The use in the Premises of auxiliary heating devices, such as portable electric heaters, heat lamps or other devices whose principal function at the time of operation is to produce space heating, is prohibited.

11. Tenant shall keep all doors from the hallway to the Premises closed at all times except for use during ingress to and egress from the Premises. Tenant acknowledges that a violation of the terms of this paragraph may also constitute a violation of codes, rules or regulations of governmental authorities having or asserting jurisdiction over the Premises, and Tenant agrees to indemnify Landlord from any fines, penalties, claims, action or increase in fire insurance rates which might result from Tenant's violation of the terms of this paragraph.

12. Tenant shall be permitted to maintain an "in-house" messenger or delivery service within the Premises, provided that Tenant shall require that any messengers in its employ affix identification to the breast pocket of their outer garment, which shall bear the following information: name of Tenant, name of employee and photograph of the employee. Messengers in Tenant's employ shall display such identification at all time. In the event that Tenant or any agent, servant or employee of Tenant, violates the terms of this paragraph, Landlord shall be entitled to terminate Tenant's permission to maintain within the Premises in-house messenger or delivery service upon written notice to Tenant.

13. Tenant will be entitled to three (3) listings on the Building lobby directory board, without charge. Any additional directory listing (if space is available), or any change in a prior listing, with the exception of a deletion, will be subject to a fourteen ($14.00) dollar service charge, payable as Additional Rent.

14. In case of any conflict or inconsistency between any provisions of this Lease and any of the rules and regulations as originally or as hereafter adopted, the provisions of this Lease shall control.

EXHIBIT A

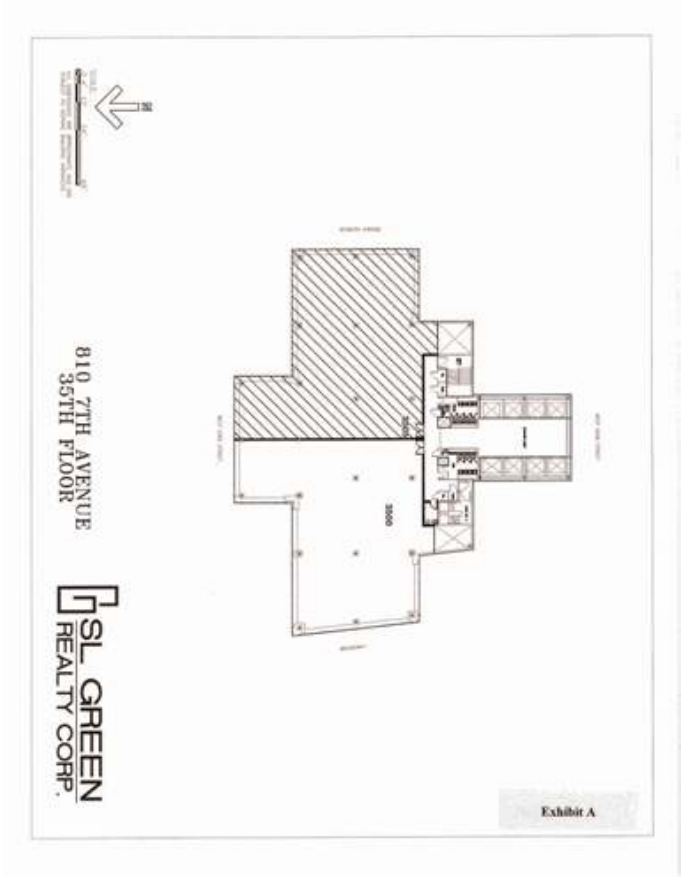


EXHIBIT B

FIXED ANNUAL RENT

For purposes of this Exhibit, the term "Lease Year 1" shall mean the period from the Commencement Date through (i) the last day of the month during which the first (1st) year anniversary of the Commencement Date occurs, or (ii) in the event that the Commencement Date occurs on the first (1st) day of the month, the day immediately preceding the first (1st) year anniversary of the Commencement Date, and each succeeding "Lease Year" shall mean each successive twelve (12) month period following Lease Year 1 through and including the Expiration Date.

(i) For Lease Years 1, 2, 3 and the first half of Lease Year 4, the sum of Four Hundred Fifty Seven Thousand Three Hundred Thirty Seven and 00/100 ($457,337.00) Dollars per annum ($38,111.42 per month); and

(ii) For the second half of Lease Year 4 through the Expiration Date, the sum of Four Hundred Ninety One Thousand Eight Hundred Fifty Three and 00/100 ($491,853.00) Dollars per annum ($40,987.75 per month).

EXHIBIT C

LANDLORD'S WORK

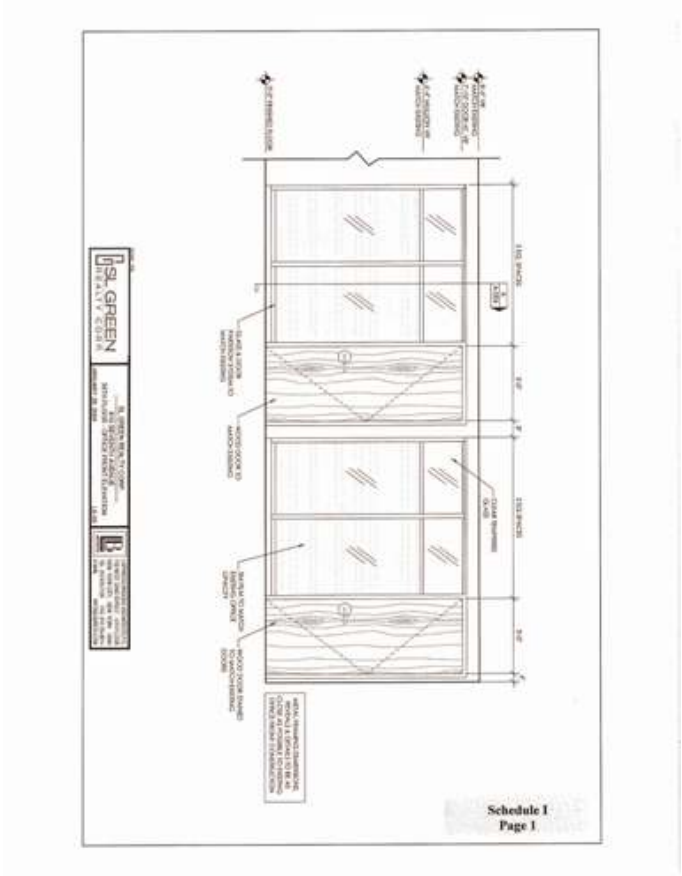
Landlord shall:

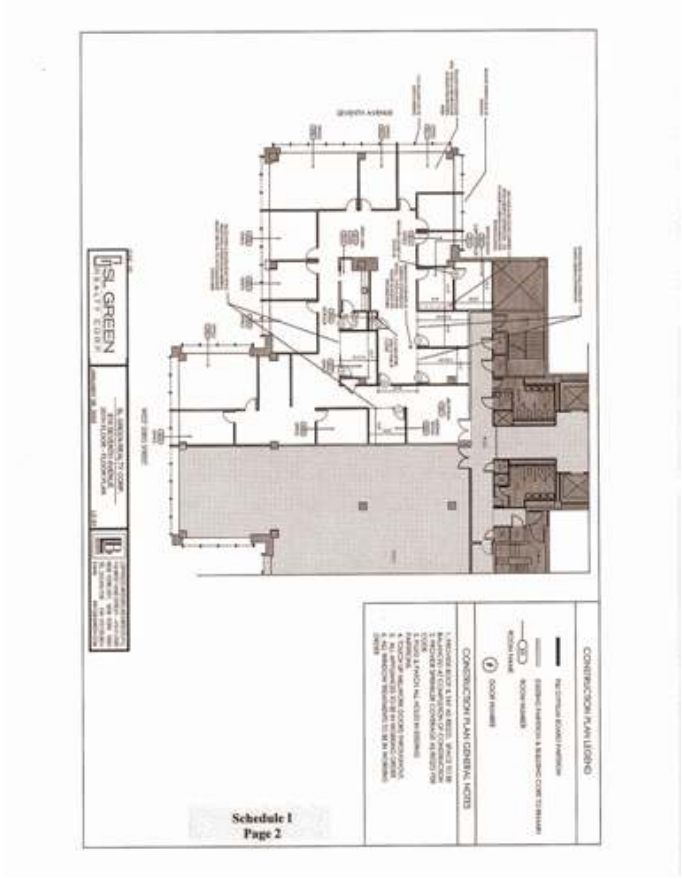
(i) perform the work set forth on the floor, office front elevation, finish, power/telephone and reflected ceiling plans prepared by Loffredo Brooks Architects P.C. dated January 28, 2009 and annexed hereto as Schedule I (collectively, "Plans") in the Premises in a building standard manner using building standard materials as indicated on the Plans;

(ii) paint Premises as indicated on the Plans;

(iii) furnish and install new building carpet throughout the Premises as indicated on the Plans; and

(iv) the existing supplemental HVAC system (together with the ducts, dampers, registers, grilles and appurtenances, if any, which are located in the Premises and are utilized by Tenant in connection with such existing supplement system, being, collectively, the "Existing Supplemental HVAC Equipment") currently in the Premises to remain in the Premises. The Existing Supplemental HVAC Equipment is being delivered to Tenant "as is", with no warranty or representation whatsoever by Landlord, except that such system will be in good working order on the Commencement Date. Landlord shall have no liability in the event the Existing Supplemental HVAC Equipment malfunctions or does not operate after the Commencement Date, and Landlord sha ll have no obligation to maintain, repair or replace the Existing Supplemental HVAC Equipment, such maintenance, repair and replacement to be the responsibility of Tenant, and at Tenant's sole cost and expense.


SL GREEN
Schedule I
Page 1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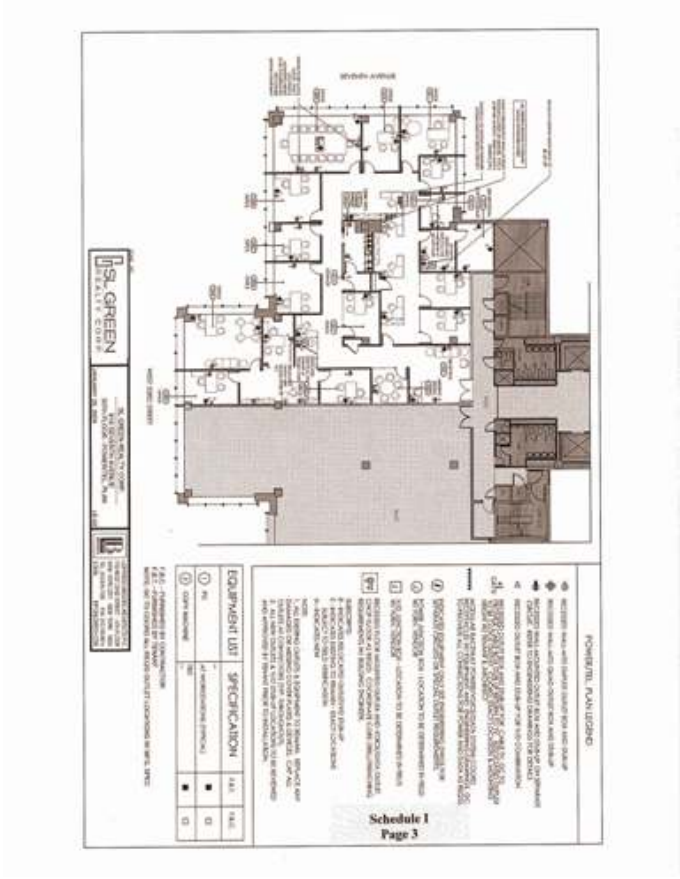
CONSTRUCTION PLAN LEGEND
CONSTRUCTION PLAN GENERAL NOTES
Schedule 1
Page 2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Schedule 1
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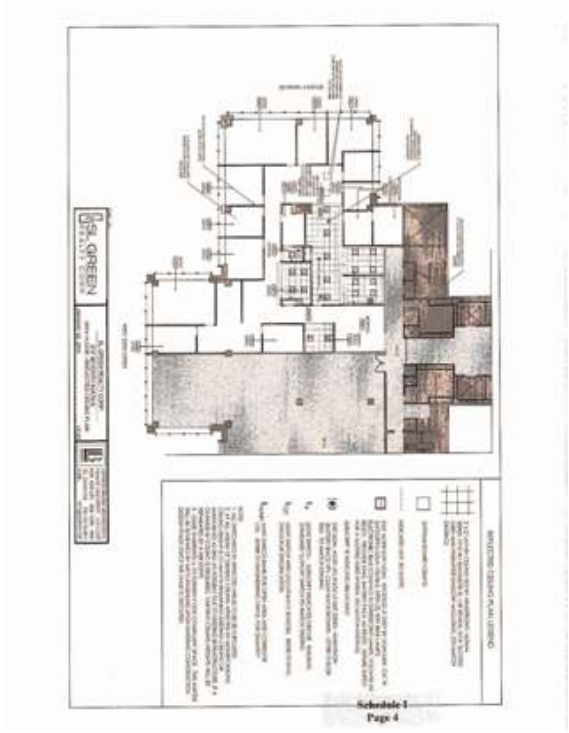
Schedule 1
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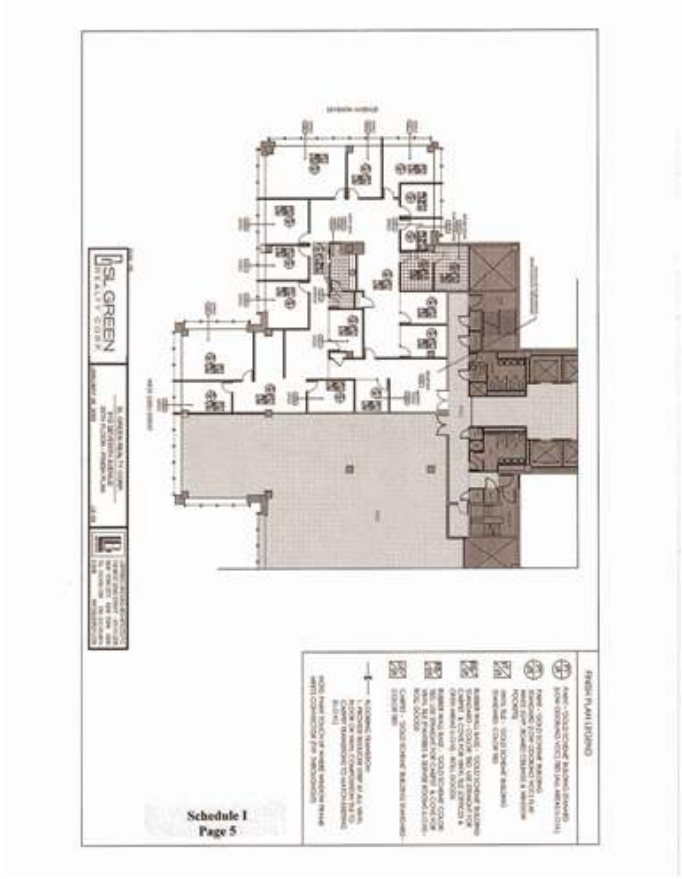
Schedule I
Page 5

EXHIBIT D
CLEANING SPECIFICATIONS

A) GENERAL CLEANING — NIGHTLY

- Dust sweep all stone, ceramic tile, marble terrazzo, asphalt tile, linoleum, rubber, vinyl and other types of flooring
- Carpet sweep all carpets and rugs four (4) times per week
- Vacuum clean all carpets and rugs, once (1) per week
- Police all private stairways and keep in clean condition
- Empty and clean all wastepaper baskets, ash trays and receptacles; damp dust as necessary
- Clean all cigarette urns and replace sand or water as necessary
- Remove all normal wastepaper and tenant rubbish to a designated area in the premises. (Excluding cafeteria waste, bulk materials, and all special materials such as old desks, furniture, etc.)
- Dust all furniture, and window sills as necessary
- Dust clean all glass furniture tops
- Dust all chair rails, trim and similar objects as necessary
- Dust all baseboards as necessary
- Wash clean all water fountains
- Keep locker and service closets in clean and orderly condition

B) LAVATORIES — NIGHTLY (EXCLUDING PRIVATE & EXECUTIVE LAVATORIES)

- Sweep and mop all flooring
- Wipe clean all mirrors, powder shelves and brightwork, including flushometers, piping

toilet seat hinges
- Wash and disinfect all basin, bowls and urinals
- Wash both sides of all toilet seats
- Dust all partitions, tile walls, dispensers and receptacles

- Empty and clean paper towel and sanitary disposal receptacles
- Fill toilet tissue holders, soap dispensers and towel dispensers; materials to be furnished by Landlord
- Remove all wastepaper and refuse to designated area in the premises

C) LAVATORIES — PERIODIC CLEANING (EXCLUDES PRIVATE & EXECUTIVE LAVATORIES

- Machine scrub flooring as necessary
- Wash all partitions, tile walls, and enamel surfaces periodically, using proper disinfectant when necessary

D) DAY SERVICES — DUTIES OF THE DAY PORTERS

- Police ladies' restrooms and lavatories, keeping them in clean condition
- Fill toilet dispensers; materials to be furnished by Landlord
- Fill sanitary napkin dispensers; materials to be furnished by Landlord

E) SCHEDULE OF CLEANING

- Upon completion of the nightly chores, all lights shall be turned off, windows closed, doors locked and offices left in a neat and orderly condition
- All day, nightly and periodic cleaning services as listed herein, to be done five nights each week, Monday through Friday, except Union and Legal Holidays
- All windows from the 2nd floor to the roof will be cleaned inside out quarterly, weather permitting

EXHIBIT E

FORM STANDBY LETTER OF CREDIT

Date:

Beneficiary:

[Landlord]
c/o SL Green Realty Corporation 420 Lexington Avenue
New York, NY 10170

Letter of Credit No. Gentlemen:

By order of our client, **[Tenant Name and Address],** we hereby establish our irrevocable, unconditional Standby Letter of Credit No. in your favor for an amount not to exceed in aggregate USD $ effective immediately and expiring at our office located at, New York, New York with at the close of business on

Funds hereunder are available to you or your transferee against presentation of your sight draft(s), drawn on us, mentioning thereon this Letter of Credit Number

,which may be executed on your behalf by your agent or on behalf of your transferee(s) by its agent(s), without presentation of any other documents, statements or authorizations.

This Letter of Credit shall be deemed automatically extended, without amendment, for additional period(s) of one (1) year from the current expiration date hereof and each successive expiration date, the last renewal of which shall be for a term set to expire not earlier than **[the date occurring ninety (90) days following the Expiration Date of the term of the Lease],** unless we notify you not less than sixty (60) days prior to then applicable expiration date hereof that we elect not to consider this Letter of Credit renewed for such additional period(s). In order to be effective, any such notice of non-renewal must be sent by registered mail (return receipt requested) (i) to you at the above address and (ii) simultaneously to the "Leasing Counsel", SL Green Realty Corporation, 420 Lexington Avenue, New York, NY 10170, (or to such other addresses as you or your transferee(s) shall designate in writing).

This Letter of Credit is transferable and may be transferred in its entirety, but not in part, and may be successively transferred by you or any transferee hereunder to a successor transferee(s) upon execution and delivery to us of the transfer form annexed hereto. All transfer fees shall be payable by our client.

We hereby agree with drawers, endorsers, and all bona fide holders that drafts drawn under and in compliance with the terms hereof will be duly honored upon presentation to us at our office located at **[New York, New York].**

Except as otherwise expressly stated herein, this Letter of Credit is subject to the Uniform Customs and Practice ("UCP") for Documentary Credits, (1993 Revision), International Chamber of Commerce, Publication No. 500.

Very truly yours,
[NAME OF BANK]

BY:
[**AUTHORIZED SIGNATURE]**
New York, NY
Date:

EXHIBIT F

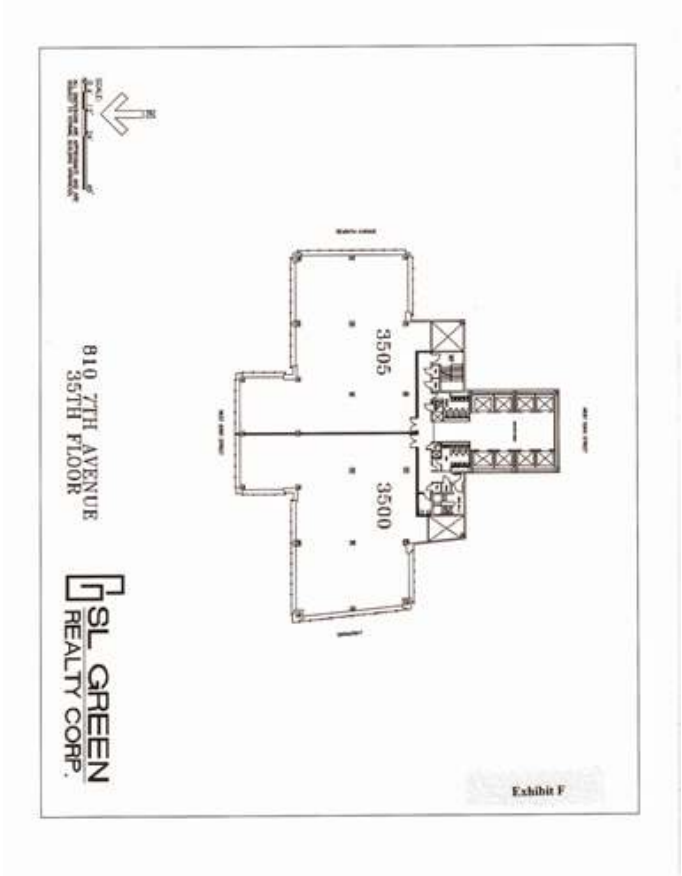
810 7TH AVENUE
35TH FLOOR
3505
3500
SL GREEN
REALTY CORP.
Exhibit F

EXHIBIT G Option Space

Suite	Area	Tenant's Proportionate Share	Lease Expiration Date
3500	8,629 rsf	1.341% for purposes of computing tax escalation; 1.367% for purposes of computing operating expense escalation	November 30, 2016

AMENDMENT NO. 1 TO FORM OF EMPLOYEE STOCK OPTION GRANT LETTER, DELCATH SYSTEMS, INC., 2009 STOCK INCENTIVE PLAN

This Amendment No. 1 to Form of Employee Stock Option Grant Letter, Delcath Systems, Inc., 2009 Stock Incentive Plan ("Amendment") is entered into as of the 11th day of March, 2010 by and among Delcath Systems, Inc., a corporation organized and existing under the laws of the State of Delaware, and having offices at Rockefeller Center, 600 Fifth Avenue, 23rd Floor, New York, NY 10020, U.S.A. ("Delcath"), and Eamonn P. Hobbs, CEO of Delcath ("Hobbs").

WHEREAS, Delcath and Hobbs, on or about July 6, 2009, entered into an Employment Agreement (the "Employment Agreement"); and

WHEREAS, the Employment Agreement included provisions indicating that certain awards of stock options were being granted to Hobbs; and

WHEREAS, on or about July 6, 2009, Delcath and Hobbs entered into a Form of Employee Stock Option Grant Letter, Delcath Systems, Inc., 2009 Stock Incentive Plan (the "Stock Option Agreement"); and

WHEREAS, the Stock Option Agreement was intended to set forth the terms and conditions of the stock options granted to Hobbs by the Employment Agreement; and

WHEREAS, the Stock Option Agreement contained an error, whereby the Stock Option Agreement failed to properly provide for the accelerated vesting of certain of the options pursuant to Section 3.3(b) of the Employment Agreement, and was not consistent with the stock option grant set forth in the Employment Agreement; and

WHEREAS, the parties now desire to amend the Stock Option Agreement to correct the error and to make the Stock Option Agreement consistent with the Employment Agreement, as was the original intention of the parties;

NOW, THEREFORE, in consideration of the mutual premises and covenants contained herein, and for other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Delcath and Hobbs agree as follows:

1. Section 3(c) of the Stock Option Agreement is deleted in its entirety and is replaced by the following:

> If earlier than provided in Section 3(b) (and, without duplication, reduced by any shares that have previously become exercisable pursuant to Section 3(b)), provided you remain in continuous service as an employee of the Company or its Subsidiaries on such date: (i) 125,000 of the shares subject to the Option shall become exercisable upon receipt by the Company of financing from third party investors of $15 million or more (gross proceeds), (ii) 125,000 of the shares subject to the Option shall become exercisable on submission to the U.S. Food and Drug Administration (the "FDA"), with the consent of the Board, of a Premarket Approval or New Drug Approval (as such terms are used by the FDA) for the Company's p ercutaneous hepatic perfusion treatment system, and (iii) 200,000 of the shares subject to the Option shall become exercisable upon the FDA's formal written notice of such approval including FDA-approved labeling language for the percutaneous hepatic perfusion treatment.

2. This Amendment may be executed in one or more counterparts, any one or all of which shall constitute but one agreement. Delivery of an executed signature page by facsimile transmission shall be as effective as delivery of a manually signed counterpart.

3. Except as otherwise modified herein, the Stock Option Agreement remains in full force and effect without modification.

DELCATH SYSTEMS, INC.

/s/ Barbra Keck
By: Barbra Keck
Title: Vice President Controller
Date: March 11, 2010

/s/ Eamonn P. Hobbs
Eamonn P. Hobbs

EMPLOYEE STOCK OPTION GRANT LETTER
DELCATH SYSTEMS, INC.
2009 STOCK INCENTIVE PLAN

March 11, 2010

Eamonn Hobbs
c/o Delcath Systems, Inc. Rockefeller Center
600 Fifth Avenue, 23rd Floor New York, NY 10020

Dear Mr. Hobbs:

This letter sets forth the terms and conditions of the stock option granted to you by Delcath Systems, Inc. (the "**Company**") on January 4, 2010, in accordance with the provisions of its 2009 Stock Incentive Plan (the "**Plan**"). You have been granted an option (the "**Option**") to purchase 50,000 shares of the Company's Common Stock ("**Common Stock**"). The Option is not intended to be an incentive stock option within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the "**Code**"). You are party to an employment agreement entered into with the Company on or about July 4, 2009 (as the same may be amended or restated from time to time, the "**Employment Agreement**").

The Option is subject to the terms and conditions set forth in the Plan, any rules and regulations adopted by the Committee (as defined in the Plan) from time to time**,** and this letter. Any terms used in this letter and not defined herein have the meanings set forth in the Plan.

1. Option Price

The price at which you may purchase the shares of Common Stock covered by the Option is $5.28 per share, which is the Fair Market Value of a share on the date of grant of your Option.

2. Term of Option

Your Option expires on January 4, 2020. However, your Option may terminate prior to such expiration date as provided in paragraph 6 of this letter or pursuant to the Plan. Regardless of the provisions of paragraph 6 and the Plan, in no event can your Option be exercised after the expiration date set forth in this paragraph 2.

3. Exercisability of Option

(a) Unless it becomes exercisable on an earlier date as provided in paragraph 6 or pursuant to the Plan, your Option will become exercisable in installments as provided below.

(b) Provided that you remain in continuous service as an employee of the Company or its Subsidiaries on such date:

Date	Number of shares as to which Option becomes exercisable
July 6, 2010	16,667
July 6, 2011	16,667
July 6, 2012	16,666

(c) If earlier than provided in Section 3(b) (and, without duplication, reduced by any shares that have previously become exercisable pursuant to Section 3(b)), provided you remain in continuous service as an employee of the Company or its Subsidiaries on such date, 50,000 of the shares subject to the Option shall become exercisable upon the U.S. Food and Drug Administration’s formal written notice of approval of a Premarket Approval or New Drug Approval (as such terms are used by the FDA) for the Company's percutaneous hepatic perfusion treatment system including FDA-approved labeling language for t he percutaneous hepatic perfusion treatment.

(d) Notwithstanding the foregoing, all shares subject to the Option shall immediately become exercisable upon (i) your Involuntary Termination (as defined in the Employment Agreement) after July 6, 2010 or (ii) a Change of Control (as such term is defined in subsections (a)-(d) of the definition of "Change of Control" contained in the Plan). Upon your Involuntary Termination before July 6, 2010, an additional number of shares subject to the Option shall become exercisable such that the Option shall be exercisable as to a total of 25,000 shares as of your employment termination date.

(c) To the extent your Option has become exercisable, you may exercise the Option to purchase all or any part of such shares at any time on or before the date the Option expires or terminates.

4. Exercise of Option

You may exercise your Option by giving written notice to the Company of the number of shares of Common Stock you desire to purchase and paying the option price for such shares. The notice must be in the form provided by the Company from time to time (the "**Option Exercise Form**"), which may be obtained from the Company's Controller. The notice must be hand delivered or mailed to the Company at the address of its executive offices, 600 Fifth Avenue, 23rd Floor, New York, NY 10020; Attention: Controller, or may be provided electronically to the extent and in the manner provided under procedures adopted by the Company. Payment of the option price may be made in any manner permitted under paragraph 5. The cash, Common Stock or documentation described in the applicable provision of paragraph 5 must accompany the Option Exercise Form. Subject to Section 5, your Option will be deemed exercised on the date the Option Exercise Form (and payment of the option price) is hand delivered, received by electronic transmission (if permitted), received by overnight courier, or if mailed, postmarked.

5. Satisfaction of Option Price.

Your Option may be exercised by payment of the option price in cash (including check, bank draft, money order, or wire transfer to the order of the Company). Unless prohibited by the Committee in its discretion (at any time prior to completion of the desired Option exercise), your Option may also be exercised using any of the following methods or a combination thereof:

(a) **Payment of Common Stock.** You may satisfy the option price by tendering shares of Common Stock that you own. For this purpose, the shares of Common Stock so tendered shall be valued at the closing sales price of the Common Stock on The Nasdaq Capital Market (or the exchange or market determined by the Committee to be the primary market for the Common Stock) for the day before the date of exercise or, if no such sale of Common Stock occurs on such date, the closing sales price on the nearest trading date before such date. The certificate(s) evidencing shares tendered in payment of the option price must be duly endorsed or accompanied by appropriate stock powers. Only stock certificates issued solely in your name may be tendered to exercise your Option. Fractional shares may not be tendered in satisfaction of the option price; any portion of the option price that is in excess of the aggregate value (as determined under this paragraph 5(a)) of the number of whole shares tendered must be paid in cash. If a certificate tendered in exercise of the Option evidences more shares than are required pursuant to the immediately preceding sentence for satisfaction of the portion of the option price being paid in Common Stock, an appropriate replacement certificate will be issued to you for the number of excess shares.

(b) **Broker-Assisted Cashless Exercise.** You may satisfy the option price by delivering to the Company a copy of irrevocable instructions to a broker acceptable to the Company to sell shares of Common Stock (or a sufficient portion of such shares) acquired upon exercise of the Option and remit to the Company a sufficient portion of the sale proceeds to pay the total option price and withholding tax obligation resulting from such exercise. The broker must agree to deposit the entire sale proceeds into a Company-owned account pending delivery to the Company of the option price and tax withholding amount. Shares issued under this method of exercise will be issued to the designated br okerage firm for your account. The ability to use this method of exercise is subject to the Company's approval of the broker and of the specific mechanics of exercise.

(c) **Net Share Exercise.** You may satisfy the option price by delivering to the Company an Option Exercise Form that directs the Company to withhold a sufficient number of the shares acquired upon exercise to satisfy the aggregate option price and tax withholding obligation with respect to the shares as to which the Option is being exercised. For purposes of this provision, the shares of Common Stock applied to satisfy the option price and withholding obligation shall be valued in the same manner as provided under paragraph 5(a).

Termination of Employment

(a) **General.** The following, special rules apply to your Option in the event of your death, disability, retirement, or other termination of employment. Following your employment termination, your Option will be exercisable only with respect to the number of shares you were entitled to purchase on the date of the termination of your employment and only for the period of time specified below. The Option shall terminate upon the date of the termination of your employment with respect to any shares that were not exercisable as of your employment termination date.

(i) **Termination of Employment for Cause.** If the Company or a Subsidiary terminates your employment for Cause, your Option will terminate on the date of such termination of employment. For this purpose, "**Cause**" shall have the meaning set forth in the Employment Agreement.

(ii) **Resignation.** If you resign from the Company or a Subsidiary other than upon Retirement (as defined below), your Option will terminate 90 days after such termination of employment.

(iii) **Termination Without Cause.** If the Company or a Subsidiary terminates your employment without Cause or if the Subsidiary or division in which you are employed is sold by the Company, your Option will terminate 90 days after such termination of employment.

(iv) **Death or Disability.** If your employment terminates by reason of death or Disability, your Option will terminate one year after such termination of employment. For purposes of this provision, "**Disability**" means that as of the date of your termination of employment, you suffer from a medically determinable physical or mental impairment that renders you unable to perform substantially all of the duties of your position and can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.

(v) **Retirement.** Upon your Retirement from the Company, except as provided in the next sentence, you may exercise your Option for a period of one year following your Retirement, but not beyond the term of the Option. If you serve as a director of the Company immediately following your Retirement, your Option will terminate one year after the termination of your service as a director, but not beyond the term of the Option. For purposes of this provision, "**Retirement**" means termination of your employment with the Company and its Subsidiaries after you have attained age 60 and ten years of continuous employment with the Company and/or its Subsidiaries.

(vi) **Acceleration and Adjustments of Exercise Period.** The Committee may, in its discretion, declare all or any portion of your Option immediately exercisable and/or permit all or any part of your Option to remain exercisable for such period designated by it after the time when the Option would have otherwise terminated as provided in the applicable portion of this paragraph 6(a), but not beyond the expiration date of your Option as set forth in paragraph 2 above.

(b) **Committee Determinations.** The Committee shall have absolute discretion to make all determinations reserved to it under the Plan or this letter, including without limitation the date and circumstances of termination of your employment, and its determinations shall be final, conclusive and binding upon you and your beneficiaries.

7. Tax Withholding

You must make arrangements satisfactory to the Company to satisfy any applicable federal, state, local or other withholding tax liability. If you exercise your Option by payment of cash or Common Stock, you can satisfy your withholding obligation by making a cash payment to the Company of the required amount. In addition, unless the Committee in its discretion prohibits such method, you may satisfy your withholding obligation by having the Company retain from the Common Stock otherwise deliverable to you upon exercise of your Option shares of Common Stock having a value equal to the minimum amount of any required tax withholding with respect to the exercise. If you exercise your Option using the broker-assisted cashless option exercise method, the Committee may require that any required tax withholding be retained by the Company from t he proceeds of the sale of your shares. If you fail to satisfy your withholding obligation in a time and manner satisfactory to the Company, the Company or a Subsidiary shall have the right to withhold the required amount from your salary or other amounts payable to you.

Any election to have shares withheld must be made on or before the date you exercise your Option. A copy of the withholding election form may be obtained from the Company's Controller. The election form does not apply to exercises under the cashless option exercise method or the net share exercise method. Share withholding is mandatory if you are using the net share method of exercise.

The amount of withholding tax retained by the Company or paid by you to the Company will be paid to the appropriate tax authorities in satisfaction of the withholding obligations under the tax laws. The total amount of income you recognize by reason of exercise of the Option will be reported to the tax authorities in the year in which you recognize income with respect to the
exercise. Whether you owe additional tax will depend on your overall taxable income for the applicable year and the total tax remitted for that year through withholding or by estimated payments.

8. Administration of the Plan

The Plan is administered by the Committee. The Committee has authority to interpret the Plan, to adopt rules for administering the Plan, to decide all questions of fact arising under the Plan, and generally to make all other determinations necessary or advisable for administration of the Plan. All decisions and acts of the Committee are final and binding on all affected Plan participants.

9. Non-transferability of Option

The Option granted to you by this letter may be exercised only by you, and may not be assigned, pledged, or otherwise transferred by you, with the exception that in the event of your death the Option may be exercised (at any time prior to its expiration or termination as provided in paragraph 2 and 6) by the executor or administrator of your estate or by a person who acquired the right to exercise your Option by bequest or inheritance or by reason of your death.

10. Amendment and Adjustments to your Option

The Plan authorizes the Board or the Committee to make amendments and adjustments to outstanding awards, including the Option granted by this letter, in specified circumstances, as provided in the Plan.

11. Effect on Other Benefits

Income recognized by you as a result of exercise of the Option will not be included in the formula for calculating benefits under the Company's other benefit plans.

12. Regulatory Compliance

Under the Plan, the Company is not required to deliver Common Stock upon exercise of your Option if such delivery would violate any applicable law or regulation or stock exchange requirement. If required by law or regulation, the Company may impose restrictions on your ability to transfer shares received under the Plan.

13. Data Privacy

By accepting this Option you expressly consent to the collection, use and transfer, in electronic or other form, of your personal data by and among the Company, its Subsidiaries and any broker or third party assisting the Company in administering the Plan or providing recordkeeping services for the Plan, for the purpose of implementing, administering and managing your participation in the Plan. By accepting this Option you waive any data privacy rights you may have with respect to such information. You may revoke the consent and waiver described in this paragraph by written notice to the Company's Controller; however, any such revocation may adversely affect your ability to participate in the Plan and to exercise any stock options previously granted under the Plan.

14. Consent to Jurisdiction

Your Option and the Plan are governed by the laws of the State of Delaware without regard to any conflict of law rules. Any dispute arising out of this Option or the Plan may be resolved only in a state or federal court located within New York County, New York State, U.S.A. This Option is issued on the condition that you accept such venue and submit to the personal jurisdiction of any such court.

15. Entire Agreement

This letter embodies the entire agreement of the parties hereto respecting the matters within its scope. This Agreement supersedes all prior and contemporaneous agreements of the parties hereto that directly or indirectly bear upon the subject matter hereof, including, without limitation, the Employment Agreement. Any prior negotiations, correspondence, agreements, proposals or understandings relating to the subject matter hereof shall be deemed to have been merged into this Agreement, and to the extent inconsistent herewith, such negotiations, correspondence, agreements, proposals, or understandings shall be deemed to be of no force or effect. There are no representations, warranties, or agreements, whether express or implied, or oral or written, with respect to the subject matter hereof, except as expressly set forth herein.

If you have any questions regarding your Option or would like to obtain additional information about the Plan or its administration, please contact the Company's Controller, Delcath Systems, Inc., 600 Fifth Avenue, 23rd Floor, New York, NY 10020 (telephone (212) 489-2100).

This letter contains the formal terms and conditions of your award and accordingly should be retained in your files for future reference.

Very truly yours,

/s/ Barbra Keck
Name: Barbra Keck
Title: Vice President Controller

Acknowledged and Agreed:

/s/ Eamonn Hobbs
Eamonn Hobbs

NON-STATUTORY STOCK OPTION GRANT LETTER
DELCATH SYSTEMS, INC.
2009 STOCK INCENTIVE PLAN

Date

Name
Address
CSZ

Dear Name:

This Grant Letter sets forth the terms and conditions of the stock option granted to you by Delcath Systems, Inc. (the "**Company**") on **[Insert Grant Date]** (the "**Grant Date**"), in accordance with the provisions of its 2009 Stock Incentive Plan (the "**Plan**"). You have been granted an option (the "**Option**") to purchase **[# of shares subject to the option]** shares of the Company's Common Stock ("**Co mmon Stock**"). The Option is not intended to be an incentive stock option within the meaning of Section 422 of the Internal Revenue Code of 1986, as amended (the "**Code**").

You acknowledge receipt of a copy of the Plan and agree that the Option is subject to all of the terms and conditions set forth in the Plan, including future amendments thereto, if any, pursuant to the terms thereof, which Plan is incorporated herein by reference as a part of this Agreement. Any terms used in this Grant Letter and not defined herein have the meanings set forth in the Plan. The Plan shall be administered by the "Committee", which, with respect to an employee grantee, shall mean the Compensation and Stock Option Committee of the Company's Board of Directors.

1. Option Price

The price at which you may purchase the shares of Common Stock covered by the Option is **[Insert Exercise Price]** per share, which is the Fair Market Value of a share on the date of grant of your Option.

2. Term of Option

Your Option expires on **[Insert Date 10 years from date of grant]** (the "**Expiration Date**"), unless earlier terminated as provided in paragraph 6 of this Grant Letter or pursuant to the Plan. Regardless of the provisions of paragraph 6 and the Plan, in no event can your Option be exercised after the Expiration Date set forth in this paragraph 2.

3. Exercisability of Option

(a) Unless it becomes exercisable on an earlier date as provided in paragraph 6 or pursuant to the Plan, your Option will become exercisable in installments as follows, provided that you remain in continuous service as an employee of the Company or its Subsidiaries or a director of the Company on such date:

Period	Number of Shares Common Stock as to which the Option Becomes Exercisable
Vesting Details	
Final Vesting Date	

(b) To the extent your Option has become exercisable (i.e., vested), you may exercise the Option to purchase all or any part of the shares subject to the vested portion of your Option at any time on or before the date the Option expires or terminates.

4. Exercise of Option

You may exercise your Option by giving written notice to the Company of the number of shares of Common Stock you desire to purchase and paying the option price for such shares. The notice must be in the form provided by the Company from time to time (the "**Option Exercise Form**"), which may be obtained from the Company's Controller. The notice must be hand delivered or mailed to the Company at the address of its executive offices, 600 Fifth Avenue, 23rd Floor, New York, NY 10020; Attention: Controller, or may be provided electronically to the extent and in the manner provided under procedures adopted by the Company. Payment of the option price may be made in any ma nner permitted under paragraph 5. The cash, Common Stock or documentation described in the applicable provision of paragraph 5 must accompany the Option Exercise Form. Subject to Section 5, your Option will be deemed exercised on the date the Option Exercise Form (and payment of the option price) is hand delivered, received by electronic transmission (if permitted), received by overnight courier, or, if mailed, postmarked.

5. Satisfaction of Option Price. Your Option may be exercised by payment of the option price in cash (including check, bank draft, money order, or wire transfer to the order of the Company). Unless prohibited by the Committee in its discretion (at any time prior to completion of the desired Option exercise), your Option may also be exercised using any of the following methods or a combination thereof:

(a) **Payment of Common Stock.** You may satisfy the option price by tendering shares of Common Stock that you own. For this purpose, the shares of Common Stock so tendered shall be valued at the closing sales price of the Common Stock on The Nasdaq Capital Market (or the exchange or market determined by the Committee to be the primary market for the Common Stock) for the day before the date of exercise or, if no such sale of Common Stock occurs on such date, the closing sales price on the nearest trading date before such date. The certificate(s) evidencing shares tendered in payment of the option price must be duly endorsed or accompanied by appropr iate stock powers. Only stock certificates issued solely in your name may be tendered to exercise your Option. Fractional shares may not be tendered in satisfaction of the option price; any portion of the option price that is in excess of the aggregate value (as determined under this paragraph 5(a)) of the number of whole shares tendered must be paid in cash. If a certificate tendered in exercise of the Option evidences more shares than are required pursuant to the immediately preceding sentence for satisfaction of the portion of the option price being paid in Common Stock, an appropriate replacement certificate will be issued to you for the number of excess shares.

(b) **Broker-Assisted Cashless Exercise.** You may satisfy the option price by delivering to the Company a copy of irrevocable instructions to a broker acceptable to the Company to sell shares of Common Stock (or a sufficient portion of such shares) acquired upon exercise of the Option and remit to the Company a sufficient portion of the sale proceeds to pay the total option price and withholding tax obligation resulting from such exercise. The broker must agree to deposit the entire sale proceeds into a Company-owned account pending delivery to the Company of the option price and tax withholding amount. Shares issued under this method of exercise wi ll be issued to the designated brokerage firm for your account. The ability to use this method of exercise is subject to the Company's approval of the broker and of the specific mechanics of exercise.

(c) **Net Share Exercise.** You may satisfy the option price by delivering to the Company an Option Exercise Form that directs the Company to withhold a sufficient number of the shares acquired upon exercise to satisfy the aggregate option price and tax withholding obligation with respect to the shares as to which the Option is being exercised. For purposes of this provision, the shares of Common Stock applied to satisfy the option price and withholding obligation shall be valued in the same manner as provided under paragraph 5(a).

6. Termination of Employment

(a) **General.** The following special rules apply to your Option in the event of your death, disability, retirement, or other termination of employment. Following your employment termination, your Option will be exercisable only with respect to the number of shares you were entitled to purchase on the date of the termination of your employment and only for the period of time specified below. The Option shall terminate upon the date of the termination of your employment with respect to any shares that were not exercisable (i.e., not vested) as of your employment termination date.

(i) **Termination of Employment for Cause.** If the Company or a Subsidiary terminates your employment for Cause, your Option will terminate on the date of such termination of employment. For this purpose, "**Cause**" shall have the meaning set forth in your employment agreement in effect with the Company, or in the absence of such an agreement, shall mean (A) your willful failure to perform the duties of your employment, (B) your engagement in dishonest conduct, fraud, theft, embezzlement or gross negligence in connection with the performance of services, (C) your violation of a material written Company policy, or (D) your commission of a felony or plea of *nolo contendere* thereto.

(ii) **Resignation.** If you resign from the Company or a Subsidiary other than upon Retirement (as defined below), your Option will terminate 90 days after such termination of employment.

(iii) **Termination Without Cause.** If the Company or a Subsidiary terminates your employment without Cause or if the Subsidiary or division in which you are employed is sold by the Company, your Option will terminate 90 days after such termination of employment.

(iv) **Death or Disability.** If your employment terminates by reason of death or Disability, your Option will terminate one year after such termination of employment. For purposes of this provision, "**Disability**" means that by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, you have been receiving income replacement benefits for a period of not less than three months under an accident and health plan covering employees of the Company or Subsidiary that employs you.

(v) **Retirement.** Upon your Retirement from the Company, except as provided in the next sentence, you may exercise your Option for a period of one year following your Retirement, but not beyond the term of the Option. If you serve as a director of the Company immediately following your Retirement, your Option will terminate one year after the termination of your service as a director, but not beyond the term of the Option. For purposes of this provision, "**Retirement**" means termination of your employment with the Company and its Subsidiaries after you have attained age 60 and ten years of continuous employment with the Company and/or its Subsidiaries.

(vi) **Acceleration and Adjustments of Exercise Period.** The Committee may, in its discretion, declare all or any portion of your Option immediately exercisable and/or permit all or any part of your Option to remain exercisable for such period designated by it after the time when the Option would have otherwise terminated as provided in the applicable portion of this paragraph 6(a), but not beyond the Expiration Date of your Option as set forth in paragraph 2 above.

(b) **Committee Determinations.** The Committee shall have absolute discretion to make all determinations reserved to it under the Plan or this Grant Letter, including without limitation the date and circumstances of termination of your employment, and its determinations shall be final, conclusive and binding upon you and your beneficiaries.

7. Tax Withholding

You must make arrangements satisfactory to the Company to satisfy any applicable federal, state, local or other withholding tax liability. If you exercise your Option by payment of cash or Common Stock, you can satisfy your withholding obligation by making a cash payment to the Company of the required amount. In addition, unless the Committee in its discretion prohibits such method, you may satisfy your withholding obligation by having the Company retain from the Common Stock otherwise deliverable to you upon exercise of your Option, shares of Common Stock having a value equal to the minimum amount of any required tax withholding with respect to the exercise. If you exercise your Option using the broker-assisted cashless option exercise method, the Committee may require that any required tax withholdin g be retained by the Company from the proceeds of the sale of your shares. If you exercise your Option using the net share exercise method, the Committee may require that any required tax withholding be retained by the Company from the shares acquired upon exercise. If you fail to satisfy your withholding obligation in a time and manner satisfactory to the Company, the Company or a Subsidiary shall have the right to withhold the required amount from your salary or other amounts payable to you.

Any election to have shares withheld must be made on or before the date you exercise your Option. A copy of the withholding election form may be obtained from the Company's Controller. The election form does not apply to exercises under the cashless option exercise method or the net share exercise method. Share withholding is mandatory if you are using the net share method of exercise.

The amount of withholding tax retained by the Company or paid by you to the Company will be paid to the appropriate tax authorities in satisfaction of the withholding obligations under the tax laws. The total amount of income you recognize by reason of exercise of the Option will be reported to the tax authorities in the year in which you recognize income with respect to the exercise. Whether you owe additional tax will depend on your overall taxable income for the applicable year and the total tax remitted for that year through withholding or by estimated payments.

8. Administration of the Plan

The Plan is administered by the Committee. The Committee has authority to interpret the Plan, to adopt rules for administering the Plan, to decide all questions of fact arising under the Plan, and generally to make all other determinations necessary or advisable for administration of the Plan. All decisions and acts of the Committee are final and binding on all affected Plan participants.

9. Non-transferability of Option

The Option granted to you by this Grant Letter may be exercised only by you, and may not be assigned, pledged, or otherwise transferred by you, with the exception that in the event of your death the Option may be exercised (at any time prior to its expiration or termination as provided in paragraphs 2 and 6) by the executor or administrator of your estate or by a person who acquired the right to exercise your Option by bequest or inheritance or by reason of your death. All unexercised Option rights shall be cancelled immediately upon any assignment, pledge or transfer in violation of this paragraph 9.

10. Amendment and Adjustments to your Option

The Plan authorizes the Board or the Committee to make amendments and adjustments to outstanding awards, including the Option granted by this Grant Letter, in specified circumstances, as provided in the Plan.

11. Effect on Other Benefits

Income recognized by you as a result of exercise of the Option will not be included in the formula for calculating benefits under the Company's other benefit plans.

12. Regulatory Compliance

Under the Plan, the Company is not required to deliver Common Stock upon exercise of your Option if such delivery would violate any applicable law or regulation or stock exchange requirement. If required by law or regulation, the Company may impose restrictions on your ability to transfer shares received under the Plan.

13. Data Privacy

By accepting this Option you expressly consent to the collection, use and transfer, in electronic or other form, of your personal data by and among the Company, its Subsidiaries and any broker or third party assisting the Company in administering the Plan or providing recordkeeping services for the Plan, for the purpose of implementing, administering and managing your participation in the Plan. By accepting this Option you waive any data privacy rights you may have with respect to such information. You may revoke the consent and waiver described in this paragraph by written notice to the Company's Controller; however any such revocation may adversely affect your ability to participate in the Plan and to exercise any stock options previously granted under the Plan.

14. Consent to Jurisdiction

Your Option and the Plan are governed by the laws of the State of Delaware without regard to any conflict of law rules. Any dispute arising out of this Option or the Plan may be resolved only in a state or federal court located within New York County, New York State, U.S.A. This Option is issued on the condition that you accept such venue and submit to the personal jurisdiction of any such court.

15. No Right To Continued Employment

This Grant Letter shall not confer upon you any right to continued employment with the Company or any of its Subsidiaries nor shall it interfere, in any way, with the right of the Company to modify your compensation, duties, and responsibilities, or the Company's authority to terminate your employment.

16. No Rights as a Shareholder

The granting of the Option shall not confer upon you any rights as an owner of shares of Common Stock, unless and until you exercise the Option and the Company issues you shares of Common Stock.

17. Entire Agreement

This Grant Letter embodies the entire agreement of the parties hereto respecting the matters within its scope. This Grant Letter supersedes all prior and contemporaneous agreements of the parties hereto that directly or indirectly bear upon the subject matter hereof. Any prior negotiations, correspondence, agreements, proposals or understandings relating to the subject matter hereof shall be deemed to have been merged into this Grant Letter, and to the extent inconsistent herewith, such negotiations, correspondence, agreements, proposals, or understandings shall be deemed to be of no force or effect. There are no representations, warranties, or agreements, whether express or implied, or oral or written, with respect to the subjec t matter hereof, except as expressly set forth herein.

If you have any questions regarding your Option or would like to obtain additional information about the Plan or its administration, please contact the Company's Controller, Delcath Systems, Inc., 600 Fifth Avenue, 23rd Floor, New York, NY 10020 (telephone (212) 489-2100).

This Grant Letter contains the formal terms and conditions of your award and accordingly should be retained in your files for future reference.

Very truly yours,

_____

Eamonn P. Hobbs, President

and Chief Executive Officer

Acknowledged and Agreed _____, 2010

_____

(signature)

Name_____

(print)

FORM OF RESTRICTED STOCK AGREEMENT

This Restricted Stock Agreement ("**Agreement**") is made as of _____(the "**Grant Date**") between Delcath Systems, Inc. (the "**Company**") and _____ (the "**Employee**").

WHEREAS, the Company maintains the Delcath Systems, Inc. 2009 Stock Incentive Plan, as amended (the "**Plan**"), which, with respect to an employee grantee, is administered by the Compensation and Stock Option Committee of the Company's Board of Directors (the "**Committee**"), and

WHEREAS, in consideration of the Employee's continued employment with the Company, the Committee has determined that the Employee shall be granted an award of Restricted Stock under the Plan, and

WHEREAS, to comply with the terms of the Plan and to further the interests of the Company and the Employee, the parties have set forth the terms of such award in writing in this Agreement;

NOW, THEREFORE, the Company and the Employee agree as follows:

1. Award.

(a) Grant. The Employee is hereby granted ____ shares (the "**Restricted Stock**") of the Company's common stock, par value $.01 per share ("**Stock**"), which shall be issued in the Employee's name subject to the restrictions contained in this Agreement. The Restricted Stock awarded pursuant to this Agreement is separate from and not in tandem with any other award(s) granted to the Employee under the Plan or otherwise.

(b) Plan Incorporated. The Employee acknowledges receipt of a copy of the Plan and agrees that this award of Restricted Stock shall be subject to all of the terms and conditions set forth in the Plan, including future amendments thereto, if any, pursuant to the terms thereof, which Plan is incorporated herein by reference as a part of this Agreement. Any terms used in this Agreement and not defined herein shall have the meanings set forth in the Plan.

2. Restrictions. The shares of Restricted Stock are subject to the following restrictions (collectively, the "**Restrictions**"):

(a) Forfeiture Restrictions. If the Employee's employment with the Company shall terminate for any reason other than a "Change of Control" or the Employee's "Disability" or death as provided in Section 3 below, the Employee shall forfeit the right to receive any shares of Restricted Stock with respect to which the Restrictions have not lapsed as provided in Section 3 as of the effective date of termination of Employee's employment or the date of Employee's death, as applicable.

(b) Restrictions on Transfer. The Employee may not sell, assign, pledge, exchange, hypothecate or otherwise transfer, encumber or dispose of any shares of Restricted Stock with respect to which the Restrictions have not lapsed as provided in Section 3. Upon any violation of this restriction, the shares of Restricted Stock with respect to which the Restrictions have not lapsed as provided in Section 3 below shall be forfeited and the attempted transfer shall be null and void.

3. Lapse of Restrictions.

(a) Unless otherwise accelerated pursuant to this Section or otherwise by the Committee pursuant to its authority under the Plan, the Restrictions will lapse with respect to the shares of Restricted Stock in accordance with the following schedule:

NUMBER	DATE

(b) Notwithstanding the foregoing, all shares subject to the Restricted Stock award shall immediately vest upon a "**Change of Control**" of the Company (as such term is defined in the Plan).

(c) Notwithstanding the foregoing, in the event the Employee's employment is terminated by reason of the Employee's death or "Disability", the Restrictions with respect to all shares of Restricted Stock will lapse immediately and automatically as of the date of the Employee's death or as of the effective date of the Employee's termination of employment by reason of his or her Disability. For purposes of this Agreement, "**Disability**" means that as of the date of the Employee's termination of employment, the Employee suffers from a medically determinable physical or mental impairment that renders the Employee unable to perform substantially all of the duties of the Employee's position and can be expected to result in death or can be expected to last for a continuous period of not less than 12 months.

The shares of Restricted Stock with respect to which the Restrictions have lapsed shall cease to be subject to any Restrictions except as otherwise provided in the Plan.

4. Custody of Restricted Stock.

(a) Custody. The Company shall register, electronically or otherwise, the shares of Restricted Stock granted hereunder in the Employee's name. Any stock certificate(s) issued in connection with the Restricted Stock shall be delivered to and held by the Secretary of the Company until forfeiture occurs or the Restrictions lapse with respect to such shares of Restricted Stock pursuant to the terms of the Plan and this Agreement.

(b) Additional Securities as Restricted Stock. Any securities received as the result of ownership of shares of Restricted Stock, including without limitation, securities received as a stock dividend or stock split, or as a result of a recapitalization or reorganization (all such securities to be considered "Restricted Stock" for all purposes under this Agreement), shall be held in custody in the same manner and subject to the same conditions as the shares of Restricted Stock with respect to which they were issued.

(c) Delivery to the Employee. With respect to shares of Restricted Stock for which the Restrictions have lapsed (without forfeiture), the unrestricted shares of Restricted Stock shall be released to the Employee by electronic transfer or in the form of a stock certificate, and such method of delivery shall be made at the Company's discretion. Notwithstanding any other provisions of this Agreement, the issuance or delivery of any shares of Stock (whether subject to restrictions or unrestricted) may be postponed for such period as may be required to comply with applicable requirements of any national securities exchange or any requirements of any regulation applicable to the issuance or delivery of such Stock. The Company shall not be obligated to issue or deliver any Stock if the issuance or delivery thereof shall constitute a violation of any provision of any law or of any regulation of any governmental authority or any securities exchange. The Company shall not be required to transfer on its books any shares of Stock (whether subject to restrictions or unrestricted) which shall have been sold or transferred in violation of any of the provisions set forth in this Agreement.

5. Status of Stock. Notwithstanding the Restrictions contained herein, and unless and until the shares of Restricted Stock are forfeited pursuant to the provisions of this Agreement, the Employee shall have all rights of a stockholder with respect to the shares of Restricted Stock, including the right to vote such shares and to receive dividends thereon.

6. Relationship to Company.

(a) No Effect on Company's Rights or Powers. The existence of this Restricted Stock Agreement shall not affect in any way the right or power of the Company or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganization, or other changes in the Company's capital structure or its business, or any merger or consolidation of Company or any issue of bonds, debentures, preferred or prior preference stock ahead of or affecting the shares of Restricted Stock or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of its assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

(b) No Guarantee of Employment. Neither this Restricted Stock Agreement nor the shares of Restricted Stock awarded hereby shall confer upon the Employee any right with respect to continued employment with the Company, nor shall this Restricted Stock Agreement or the shares of Restricted Stock awarded hereby interfere in any way with any right the Company would otherwise have to terminate the Employee's employment at any time.

7. Agreement with Respect to Taxes. The Employee shall be liable for any and all taxes, including withholding taxes, arising out of this Restricted Stock award or the lapse of the Restrictions hereunder. Employee may satisfy such tax obligations by electing, in his or her sole discretion, to withhold shares of Stock having a value equal to the minimum amount of any required tax withholding with respect to the Restricted Stock to which the Restrictions have lapsed. Any election to have shares withheld must be made on or before the date the Restrictions lapse. A copy of the withholding election form may be obtained from the Company's Controller. The Em ployee agrees that if he or she does not pay, or make arrangements for the payment of, such amounts, the Company, to the fullest extent permitted by law, rule or regulation, shall have the right to deduct such amounts from any payments of any kind otherwise due to the Employee (including from the Employee's compensation).

8. Committee's Powers. No provision contained in this Agreement shall in any way terminate, modify or alter, or be construed or interpreted as terminating, modifying or altering any of the powers, rights or authority vested in the Committee pursuant to the terms of the Plan, including, without limitation, the Committee's rights to make certain determinations and elections with respect to the shares of Restricted Stock granted hereby.

9. Section 83(b) Election. The Employee is hereby advised that he or she may wish to consult an attorney or accountant concerning the advisability of making an election under Section 83(b) of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder. Such an election (which must be made within 30 days of the date of the grant of the Restricted Stock) may permit the Employee to pay currently income tax based on the present fair market value of the Restricted Stock, as opposed to the fair market value of the Restricted Stock when the restrictions imposed thereon under this Agreement lapse.

10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of any successors and assigns of the Company and all persons lawfully claiming under the Employee.

11. Counterparts. This Agreement may be executed in two or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Delivery of a party's signature hereto by facsimile or PDF shall bind the parties hereto.

12. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the laws of any jurisdiction other than the State of Delaware to be applied.

13. Severability. The provisions of this Agreement are severable and if any one or more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

14. Acceptance of Terms and Conditions. This Restricted Stock award will not be effective until the Employee has acknowledged and agreed to the terms and conditions set forth herein by executing this Agreement in the space provided below and returning the same to the Company.

Awarded subject to the terms and conditions stated above:

DELCATH SYSTEMS, INC.
By:_____
Eamonn P. Hobbs, President and Chief Executive Officer

Accepted under the terms and conditions stated above:
_____

CONFIDENTIAL TREATMENT
[***] Indicates that text has been omitted which is the subject of a confidential treatment request. This text has been separately filed with the Securities and Exchange Commission.

RESEARCH AND DISTRIBUTION AGREEMENT

This RESEARCH AND DISTRIBUTION AGREEMENT, dated as of February 9, 2010, is by and among Delcath Systems, Inc., a corporation organized and existing under the laws of the State of Delaware, U.S.A., and having offices at Rockefeller Center, 600 Fifth Avenue, 23rd Floor, New York, NY 10020, U.S.A. ("Delcath") and CHIFU Trading Co., Ltd., a corporation organized and existing under the laws of Taiwan, and having offices at Rm. 901, No. 142, Min Chuan E. Rd. Sec. 3, Taipei, Taiwan R.O.C. ("Distributor").

WHEREAS, Delcath is developing the Delcath Percutaneous Hepatic Perfusion System™ for use in the field of cancer treatment, which involves the use of a series of catheters and extracorporeal filters to infuse high dose chemotherapeutic agents to specific body regions or organs; and

WHEREAS, Distributor is a company that distributes medical devices and pharmaceuticals in the Territory (as hereinafter defined); and

WHEREAS, Delcath is willing to grant, and Distributor desires to acquire, an exclusive right to distribute the Delcath Percutaneous Hepatic Perfusion System™ in the Territory in the Field of Use (each as hereinafter defined);

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. Definitions

a. "Adverse Event" shall mean any adverse health event to which a PHP System (as hereinafter defined) has or may have contributed. The term is generally limited to those events that would be reportable to Competent Authorities.

b. "Affiliate" shall mean, in regards to either party, any entity directly or indirectly controlling, controlled by, or under common control with, that party.

c. "Applicable Laws" shall mean (1) with respect to Distributor, all applicable laws, rules, regulations and guidelines that may apply to the Research (as hereinafter defined) and promotion, sale and/or distribution of the PHP System (as hereinafter defined) under the laws of the Territory (as hereinafter defined); (2) with respect to Delcath, all applicable laws, rules, regulations and guidelines that may apply to the manufacture and/or sale of the PHP System and including all guidelines promulgated by Competent Authorities in the U.S. including the FD&C Act.

d. "Change in Control" shall mean a transaction or series of related transactions as a result of which a person or entity, or a group of persons or entities acting in concert directly or indirectly acquires control of a party or acquires any of the party's assets that are, individually or in the aggregate, material to its performance under this Agreement. The transaction(s) may be in any form or combination of forms, including an issuance of voting securities, a grant of one or more proxies, the establishment of a voting agreement, a merger (whether or not the party survives), a share exchange, a reorganization, a recapitalization or an asset sale. For this purpose, "control&# 8221; of a party means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the party, whether through the ownership of voting securities, by contract or otherwise.

e. "Competent Authorities" shall mean the entities responsible for the regulation of medical devices intended for use in treating humans, and shall include, to the extent applicable, the FDA and the Taiwan FDA.

f. "Contract Year" shall mean, in relation to the first Contract Year, the twelve month period beginning on the first day of the month in which Taiwan FDA Approval is obtained (as defined below) and, in relation to subsequent Contract Years, shall mean the twelve month period beginning on each anniversary date of the first day of the first Contract Year.

g. "Effective Date" shall mean the day and date first written above.

h. "FDA" shall mean the United States Food and Drug Administration.

i. "FD&C Act" shall mean the United States Federal Food, Drug and Cosmetic Act and applicable regulations promulgated thereunder, as amended from time to time.

j. “Field of Use” shall mean treatment of hepatic malignancies and infectious disease, and any other Taiwan FDA approved indication.

k. “Governmental Approvals” shall mean any and all national, state, provincial and/or local government licenses, permits, authorizations, registrations and/or other approvals required for the marketing, importation, distribution, sale and/or use of the PHP System and for government and/or private insurance reimbursement for use of the PHP System, specifically including, without limitation, Taiwan FDA Approval (as hereinafter defined).

l. “PHP System” shall mean the Delcath Percutaneous Hepatic Perfusion System™ which shall include a series of catheters, but will not include any drug(s).

m. “Taiwan FDA” shall mean the Taiwan Food and Drug Administration.

n. “Territory” shall mean Taiwan.

2. Research

Distributor shall plan, fund, and manage at least two (2), but no more than four (4) reference/clinical centers in the Territory where it will conduct clinical studies of the PHP System in the Field of Use (the “Research”). Distributor will submit to Delcath a listing of the sites with the appropriate criteria for consideration as reference/clinical centers. Delcath will approve all reference/clinical center sites. The parties agree that the Research will focus on the treatment of hepatic malignancies.

a. Distributor will use commercially reasonable efforts to obtain approvals to operate a third reference/clinical center in the Territory. If such approvals are obtained, Distributor shall plan, fund and manage the third reference/clinical center.

b. Delcath will train the personnel that will be directly involved in the performance of the Research at each reference/clinical center.

c. Distributor will secure all necessary approvals, including approvals from the applicable hospitals or health care facilities and/or the Taiwan FDA, including but not limited to Institutional Review Board (“IRB”) approval(s), to conduct the Research. Delcath agrees to assist Distributor to obtain IRB approval(s).

d. The Research will be conducted in accordance with clinical protocol(s) which will be created by Delcath. The initial clinical protocol will focus on hepatocellular carcinoma (“HCC,” also known as malignant hepatoma) and will be sent by Delcath to Distributor within ninety (90) days of the Effective Date (the “Initial Protocol”). The clinical protocol(s)will be FDA approved, if such approval is necessary in Delcath’s sole discretion. The Research will also be conducted in accordance with all applicable state and federal laws, rules and regulations, including but not limited to, statutes and regulations pertaining to the protection of human subjects in medical research in the Territory. Delcath shall have the right, but not the obligation, to retain scientific advisors to review the results of the Research to determine, amongst other things, whether the results are clinically adequate.

e. Distributor shall perform clinical studies on not less than 25 and up to a maximum of 50 patients per reference/clinical center, or a maximum of 200 patients for all of the reference/clinical centers combined.

f. Delcath shall provide the support personnel required to support the initiation, training and clinical proctoring of the reference/clinical centers as it deems necessary in its sole discretion.

g. Distributor agrees that at least two (2) of the reference/clinical centers will be operational and conducting the Research within [***] months after Delcath provides the Initial Protocol.

3. Government Approvals

a. Delcath will apply for FDA Approval of the PHP System.

b. Promptly after Delcath’s receipt of FDA Approval, Distributor shall file for, at Distributor’s sole cost and expense, approval of the use of the PHP System in the Field of Use in the Territory from the Taiwan FDA with as many indications as possible (“Taiwan FDA Approval”). Delcath agrees to provide to Distributor, within thirty (30) days of receipt of FDA Approval of the PHP System, any documentation in its possession regarding the PHP System that is necessary for Distributor’s application for Taiwan FDA Approval. Distributor is expected to obtain Taiwan FDA Approval within [***] of Delcath’s receipt of FDA Approval. If Distributor is unable to obtain Taiwan FDA Approval within this time period, Delcath will be entitled to terminate this Agreement.

c. The application for Taiwan FDA Approval shall be made and held in the name of Delcath if permitted by Applicable Laws, and shall be owned by and belong solely to Delcath. Distributor shall take all necessary steps to ensure that the Taiwan FDA Approval is the property of Delcath. If Applicable Laws do not permit the Taiwan FDA Approval to be made and held in the name of Delcath, then the Taiwan FDA Approval may be made and held in the name of Distributor, provided that, upon Delcath's request, and at no cost to Delcath, Distributor will take all necessary steps and execute all necessary documents to transfer the Taiwan FDA Approval to Delcath or to another entity as designated by Delca th.

d. If any other Governmental Approval other than Taiwan FDA Approval are necessary and required for the marketing, importation, distribution, sale and/or use of the PHP System and for government and/or private insurance reimbursement for use of the PHP System in the Field of Use in the Territory, Distributor agrees to obtain the necessary and required Governmental Approvals within [***] of Delcath's receipt of FDA Approval. If any such other Governmental Approvals for the PHP System are not obtained within this time period, Delcath shall have the right to terminate this Agreement.

e. All such Governmental Approvals shall be made and held in the name of Delcath if permitted by Applicable Laws, and shall be owned by and belong solely to Delcath. If Applicable Laws do not permit the Governmental Approvals to be made and held in the name of Delcath, then such Governmental Approvals may be made and held in the name of Distributor, provided that, upon Delcath's request, and at no cost to Delcath, Distributor will take all necessary steps and execute all necessary documents to transfer the Governmental Approvals to Delcath or to another entity as designated by Delcath.

f. Distributor shall be responsible, including all costs and fees, for pursuing, obtaining and, during the Term, amending and maintaining, any Governmental Approvals, including Taiwan FDA Approval, required for the proper and fully authorized importation, marketing and sale of the PHP Systems in the Territory.

g. Distributor shall undertake any necessary local testing and the development of such additional data and information as may be necessary to obtain and maintain the Governmental Approvals, including Taiwan FDA Approval, and shall use its best efforts to bring about the issuance of all Governmental Approvals, including Taiwan FDA Approval, required for the PHP Systems.

h. All clinical and other test protocols for the PHP System shall be subject to prior written approval by Delcath before testing is undertaken; Distributor shall promptly provide Delcath with all data and information resulting from such tests or otherwise becoming available to Distributor during the Term hereof.

i. All files, documents, clinical and other data, studies, protocols and other information and materials, regardless of medium (including but limited to paper, computer diskettes, CD, videos, drawings, graphs, and photographs) with regards to the Governmental Approvals, including Taiwan FDA Approval, or the applications for Governmental Approvals, including Taiwan FDA Approval, shall be the sole property of Delcath.

4. Distribution Rights

a. Subject to the terms set forth in this Agreement, Delcath hereby grants to Distributor, and Distributor hereby accepts, the exclusive right to promote, market, sell and distribute the PHP System throughout the Territory in the Field of Use commencing on the date that Taiwan FDA Approval is granted and continuing for the Term of this Agreement. As used in this Section 4, the term "exclusive" means to the exclusion of Delcath and any third party, except any subcontractors of Distributor.

b. Distributor shall refer to Delcath all orders or inquiries received by it in connection with the sales and distribution of the PHP System outside the Field of Use and/or outside of the Territory, and Delcath shall refer to Distributor all orders or inquiries received by it in connection with the sale and distribution of the PHP System in the Field of Use in the Territory.

c. Distributor will be responsible for the costs associated with commercializing the PHP System in the Territory, including sales, marketing, training and inventory management.

d. Distributor agrees that during the Term and subject to the provisions of this Agreement, Distributor shall:

i. use its best efforts to promote and market the PHP System in the Territory;

ii. purchase no less than the Minimum Purchase Requirements as described below in Section 6;

iii. not, directly or indirectly, whether through Affiliates or otherwise, promote, market or sell in or to the Territory any product that competes with the PHP System;

iv. not, directly or indirectly, whether through Affiliates or otherwise, sell any PHP System to competitors of Delcath or of Delcath's Affiliates, without Delcath's written consent;

v. not, directly or indirectly, whether through Affiliates or otherwise, promote, market or sell any PHP System outside the Territory or for use outside of the Field of Use; and

vi. not, directly or indirectly, whether through Affiliates or otherwise, take any action that could diminish or harm the goodwill or reputation of Delcath or its Affiliates, the PHP System or any related assets, including but not limited to intellectual property rights and regulatory approvals.

5. Payments from Distributor to Delcath

a. Within thirty (30) days of the Effective Date, Distributor will pay to Delcath Three Hundred Thousand Dollars ($300,000.00) (USD).

b. Within [***] of Delcath's receipt of CE Approval of the PHP System, Distributor will pay to Delcath [***] (USD).

c. Within [***] of Delcath's receipt of FDA Approval of the PHP System, Distributor will pay Delcath an additional [***] (USD).

d. All payments made pursuant to this Section 5 shall be non-refundable.

6. Orders and Minimum Purchase Requirements

a. Distributor shall submit to Delcath annual sales forecast reports, by quarter, not later than sixty (60) days prior to the beginning of each Contract Year.

b. Distributor shall submit to Delcath a rolling four (4) quarter sales forecast report not later than forty-five (45) days prior to the beginning of each quarter.

c. Distributor shall submit firm orders for PHP Systems at least sixty (60) days prior to the requested delivery date. Orders may be submitted by fax or e-mail. The only effective portions of any purchase orders issued on Distributor's forms shall be product quantities and requested delivery dates, subject to the restrictions set forth in this Agreement.

d. Distributor will be required to purchase the following minimum number of PHP Systems (excluding units used in the Research and purchased at the "Research Purchase Price" as hereinafter defined) from Delcath (the "Minimum Purchase Requirements"):

First Contract Year:	[***]
Second Contract Year:	[***]
Third Contract Year:	[***]

Delcath and Distributor shall agree upon annual Minimum Purchase Requirements for the Fourth and Fifth Contract Years of the Initial Term before the last quarter in the Third Contract Year, with the understanding that the Minimum Purchase Requirements for the Fourth and Fifth Contract Years shall be no less than [***] of the Minimum Purchase Requirements for the Third and Fourth Contract Years, respectively.

e. If Distributor fails to purchase the Minimum Purchase Requirements in any Contract Year, Delcath shall provide written notice of such failure to Distributor. Distributor shall have ninety (90) days from the date of Delcath's written notice to remedy such failure to purchase the Minimum Purchase Requirements; if Distributor fails to do so, Delcath may terminate this Agreement.

f. Subsequent to the Date that Taiwan FDA Approval is granted and continuing for the Term, Distributor agrees to maintain at all times a [***] minimum inventory of PHP Systems based upon current sales forecasts, provided that such minimum inventory shall in no event be less than one quarter of the annual minimum purchase obligation.

g. On an annual basis, Distributor shall provide Delcath with Distributor's suggested price list in effect for the PHP Systems and shall promptly inform Delcath of changes made or contemplated in such prices. The parties acknowledge and agree that price lists will not be developed until after Taiwan FDA Approval is obtained and distribution has begun.

7. Option Regarding Distribution in Singapore

a. Distributor shall have the right of first refusal, but not the obligation, to extend its exclusive distribution rights pursuant to this Agreement to include distribution in Singapore of the PHP Systems (the "Singapore Option").

b. The Singapore Option may only be exercised upon the occurrence of the following conditions:

i. The parties shall have agreed on annual minimum purchase requirements for Singapore;

ii. Distributor can establish that it has adequate facilities in Singapore and the capacity to distribute the PHP System in Singapore, which determination shall be made in Delcath's sole discretion; and

iii. The parties shall have agreed on appropriate provisions for gaining the necessary Governmental Approvals of the PHP System in Singapore.

c. The Singapore Option may be exercised by providing written notice to Delcath, no later than twenty four (24) months after the Effective Date of this Agreement. This Singapore Option will terminate twenty four (24) months after the Effective Date of this Agreement.

8. Quality Agreement

The parties agree that they will negotiate, in good faith, a Quality Agreement regarding the PHP System, which will be executed within one hundred eighty (180) days of the Effective Date of this Agreement.

9. Safety Data and Exchange Agreement

The parties agree that they will negotiate, in good faith, a Safety Data and Exchange Agreement, which will be executed within one hundred eighty (180) days of the Effective Date of this Agreement.

10. Pricing and Delivery

a. Each PHP System that is being used in the Research will be sold by Delcath to Distributor at a price of [***] (USD) per unit, ex-works (EXW) (Incoterms 2000) Queensbury, New York (the "Research Purchase Price"). The parties expect that no more than [***] PHP Systems will be used for the Research. If Distributor desires to purchase more than [***] PHP Systems at the Research Purchase Price, Distributor shall provide Delcath with documentation to establish that the additional PHP Systems are necessary for the Research; such documentation shall be satisfactory to Delcath, in its sole discretion.

b. All other PHP Systems sold by Delcath to Distributor will be sold at a price of [***] (USD) per unit, ex-works Queensbury, New York. This pricing will be fixed for the Term (as defined below). Delivery shall be ex-works (EXW)(Incoterms 2000) Queensbury, New York.

c. [***]

d. Transfer of title to the PHP Systems shall occur when they are made available for pick-up by Distributor at Delcath's Queensbury, New York facility.

e. The cost of freight and insurance will be prepaid by Delcath on behalf of Distributor and will be added to each invoice sent to Distributor.

11. Payment

All payments for PHP Systems shall be made by an irrevocable letter of credit, confirmed by a New York, U.S.A. banking institution, at or before the date of shipment, with actual payment being made within [***] days from the date of shipment to Distributor.

12. Reports Distributor shall furnish the following reports to Delcath:

a. annual inventory report by month, not later than sixty (60) days prior to the beginning of each Contract Year.

b. annual report of end users and number of units sold to each, not later than thirty (30) days after the end of each Contract Year.

c. monthly reports showing inventory of PHP Systems at the beginning of the period, sales during the period, inventory of PHP Systems at the end of the period, and cumulative sales since the first date of the Contract Year by month, by quarter and on a year-to-date basis and also showing end users and the number of units sold to each.

d. annual report on the medical economy, general competitive situation and subjective analysis of the performance of the PHP Systems in the Territory; and

e. such other information as Delcath may reasonably request.

13. Returns

PHP Systems may only be returned with the prior written approval of Delcath. Any such approval shall reference a return material authorization number issued by Delcath. Transportation costs for returned PHP Systems not under warranty shall be borne by Distributor. Transportation costs for PHP Systems under warranty shall be borne by Delcath, provided, if Delcath determines that the returned PHP Systems were not defective, such costs shall be borne by Distributor.

14. Recalls

If, for any reason, it shall become necessary to trace back or recall any particular batch of PHP Systems, or to identify the customer or customers to whom any PHP System from such batch has been delivered, the parties shall co-operate fully with each other in doing so. In the event that either party has reason to believe that one or more batches of PHP Systems should be recalled or withdrawn from sale or distribution, such party shall immediately notify the other party in writing. The decision as to whether or not to initiate a recall of any of the PHP Systems shall be made by Delcath. If the recall is required because of an act or omission by Distributor, Distributor shall promptly reimburse Delcath for any costs and expenses Delcath incurs in carrying out such recall. If the recall is r equired because of an act or omission of Delcath, then such recall shall be conducted by Delcath at its sole cost and expense. If such recall is required because of a joint act or omission of the parties hereunder, the parties shall share equally in all of the costs and expenses of such recall.

15. Right of First Refusal.

Delcath grants to Distributor a right of first refusal to become the distributor in the Territory of any new products which are intended for targeted drug delivery that Delcath begins to market and/or develop during the Term, on terms to be agreed to by the parties in good faith.

16. Term and Termination

a. The term of this Agreement shall begin upon the Effective Date and shall extend to the end of the Fifth Contract Year ("Term").

b. This Agreement will automatically renew for another five (5) years, provided that Distributor has met all of its obligations pursuant to this Agreement, including but not limited to its Minimum Purchase Requirements.

c. This Agreement may be terminated by either party upon one hundred eighty (180) days written notice in the event that:

i. there is a breach of this Agreement by the non-terminating party, provided that the non-terminating party does not cure its breach within the first ninety (90) days after said notice; or

ii. the non-terminating party becomes bankrupt, is placed into the hands of a trustee, receiver, or manager on behalf of creditors as to the whole or a substantial part of its business, makes an assignment for the benefit of creditors, or ceases to carry on business.

d. This Agreement may be terminated immediately upon the mutual written consent of both parties.

e. Upon expiration or termination of this Agreement, Delcath shall have the option, solely at its discretion, to repurchase any PHP Systems remaining in Distributor's stock for an agreed upon price, not to exceed the price paid by Distributor for such PHP System. Distributor shall not sell to any party other than Delcath any PHP Systems remaining in its inventory after the termination or expiration of this Agreement.

f. Upon expiration or termination of this Agreement for any reason and at any time, whether or not at the end of the Term, Distributor shall take all necessary or appropriate steps at no charge to Delcath and without delay, to transfer to Delcath or to Delcath's nominee, any Governmental Approvals and/or tenders related to the PHP System held in the name of Distributor (or if such transfer is not permitted, to cooperate in the cancellation of such Governmental Approvals and/or tenders and the reissuance thereof to Delcath or its designee). Distributor shall provide Delcath with a list of all of Distributor's customers for the PHP System including contact information and information on items purchased by customers, and all information regarding pending tenders.

g. Upon termination of this Agreement, any amount due and owing to Delcath from Distributor shall remain owed to Delcath and shall be paid by Distributor either immediately upon termination or according to the applicable payment terms of this Agreement, whichever is later.

17. Representations and Warranties

a. Distributor warrants as follows:

i. It is duly organized and existing under the applicable laws of its jurisdiction and has full corporate power and authority under any applicable laws to enter into this Agreement and to carry out the provisions hereof.

ii. It is duly authorized to execute and deliver this Agreement and to perform its obligations hereunder.

iii. This Agreement is a legal and valid obligation binding upon it of and is enforceable in accordance with its terms. The execution, delivery and performance of this Agreement by each of the parties does not conflict with, violate or give any person or entity rights under any agreement, instrument or understanding, oral or written, to which it is a party or by which it or its assets may be bound or affected, and does not violate any applicable laws.

18. Distributor Obligations and Covenants

a. Distributor shall be fully responsible for all patient tracking and similar obligations in order to be in compliance with all Applicable Laws. Distributor is required to keep proper records to ensure lot number traceability for all PHP Systems dispatched to its customers.

b. Distributor shall (i) use its best efforts to promote the sale of the PHP Systems within the Territory and to maintain Delcath's trademarks and trade names on all PHP Systems; (ii) provide and maintain, at its own expense and to the satisfaction of Delcath, an adequate organization for the continuous sale, distribution and support of PHP Systems throughout the Territory; (iii) use its best efforts to create and maintain a market for and to increase the sale of PHP Systems within the Territory; (iv) promote the use of PHP Systems only in accordance or consistent with the instructions, limitations and safeguards promulgated by Delcath for the use of PHP Systems and in accordance with any Applicable Laws; (v) not alter or modify the PHP Systems or packaging in any way without the express prior written approval of Delcath; and (vi) store, handle and ship PHP Systems in strict accordance with all specifications, instructions and guidance from Delcath and any Applicable Laws.

c. Distributor shall be responsible for all costs in connection with distribution of the PHP Systems, including, without limitation, brochures, literature, graphics, trade shows, websites, demonstration and training, and other materials needed to responsibly promote the sales of the PHP Systems in the Territory. All materials must be approved by Delcath before distribution to the public.

d. Distributor shall be responsible for complying with all Applicable Laws in the Territory and for translating any materials in connection with the sale of the PHP Systems. The foregoing not withstanding, Delcath shall retain all copyrights to label design, contents and placement (including, without limitation, insert leaflets) and shall have the right to review and approve (in its sole discretion) the same prior to commercial release, and to have the same amended in any way, at Delcath's sole discretion, so long as such changes are permissible under all Applicable Laws. For such review, Distributor shall provide accurate English language translations of all proposed non-English language labeling. In no event shall Distributor engage in or permit any labeling or re-labeling.

e. In the event of any customer complaints regarding the PHP Systems, whether or not Distributor would like the assistance of Delcath, Distributor shall immediately notify Delcath of the complaints and, as soon thereafter as possible, provide Delcath with a written notice in English.

f. Distributor shall promptly comply with any and all recall notices issued by Delcath and Distributor shall cooperate and provide reasonable assistance to Delcath in connection with any and all recalls. Distributor shall be responsible for obtaining from its customers any PHP System that is the subject of a recall.

g. Distributor shall ensure that any sales of the PHP Systems Distributor makes for resale are resold only within the Territory and Distributor shall take all reasonable and appropriate action to enforce this obligation, including but not limited to discontinuing to sell to any party reasonably believed to be reselling the PHP Systems outside the Territory and reimbursing Delcath for any damages sustained by Delcath as a result of any unauthorized sales or resales.

h. Distributor shall, upon Delcath's request, provide copies of any tenders for the PHP Systems in the Territory. All activities with respect to tenders shall be conducted so as to allow, upon termination of this Agreement for any reason, transfer of such tenders to Delcath or to such party as Delcath designates in writing.

19. Trademarks and Proprietary Property of Delcath

a. Delcath shall apply for patent protection of the PHP System in the Field of Use in the Territory.

b. During the Term, Delcath hereby grants Distributor a license and permission to use the trademarks and trade names used by Delcath in connection with PHP Systems. Such permission is expressly limited to uses by Distributor necessary for the performance of Distributor's obligations under this Agreement. It is agreed that Distributor's use of such trademarks and trade names shall inure solely to the benefit of Delcath.

c. Distributor hereby acknowledges Delcath's exclusive ownership of the trademarks and trade names covered by the license set forth in Section 19(a) and the renown of such trademarks and trade names both worldwide and in the Territory. Distributor agrees not to take any action inconsistent with such ownership and names, logos and symbols and to cease any and all use or reference to such names, logos and symbols immediately upon termination of this Agreement. At the request of Delcath, Distributor shall cooperate with Delcath in any action taken by Delcath in the Territory to protect Delcath's trademarks. Distributor shall promptly notify Delcath of any infringe ment or apparent infringement of Delcath's trademarks in the Territory.

d. Distributor expressly acknowledges and agrees that it does not have and shall not acquire under this Agreement any rights in or to any of Delcath's patents or other proprietary property related to the PHP System.

20. Warranty

a. Delcath hereby warrants that at the time of manufacture, the PHP Systems were free from defects in material or workmanship. Descriptions or specifications in Delcath's literature are meant solely to describe the PHP Systems at the time of manufacture and do not constitute any warranty of any type, express or implied, including but not limited to a warranty of merchantability. The duration of this warranty is only until the stated expiration date indicated on the applicable PHP System. Due to biological differences in individuals, no PHP System is one hundred percent (100%) effective under all circumstances. In addition, because Delcath has no control over the cond itions under which the PHP Systems are used, diagnosis of the patient, the method of use or administration, and handling of the PHP Systems after they leave Delcath's possession, Delcath does not warrant either a good effect or against ill effect following the use of the PHP Systems. The sole obligation of Delcath under this warranty shall be to provide Distributor free of charge with replacements for parts of the PHP Systems, or, in the sole discretion of Delcath, complete PHP Systems, which are found to be defective within this warranty period with the same delivery terms as the original PHP Systems. Distributor agrees to (i) extend the benefit of this warranty to its customers, and (ii) provide Delcath with an opportunity to inspect and recover defective parts replaced by Distributor under warranty to verify warranty coverage.

b. THE FOREGOING WARRANTIES ARE EXCLUSIVE IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS SOLD, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

c. Delcath shall from time to time provide Distributor with Delcath's standard specifications as then in effect for the PHP Systems and with any test methods to be used in checking compliance with such specifications. Within thirty (30) days after receipt of each shipment, Distributor shall carry out quality control checking and notify Delcath of any claimed failure of the shipment to meet specifications. If Delcath agrees that a PHP System fails to meet specifications, it shall promptly and at its expense provide replacement quantities or make arrangements for correction of the below-specification PHP System. If Distributor has not notified Delcath of claimed failure of a ship ment to meet specifications within thirty (30) days after receipt thereof, such shipment shall be irrevocably considered accepted by Distributor.

d. Delcath agrees that all PHP Systems provided to Distributor pursuant to this Agreement, excluding any and all PHP Systems purchased at the Research Purchase Price, shall have a labeled expiration date that is at least twenty four (24) months from the date of manufacture of the applicable PHP System.

e. Distributor shall be responsible for all costs associated with any PHP System that exceeds its expiration date.

f. Distributor agrees to store all PHP Systems in strict accordance with the applicable labeling of the PHP System. Failure to store any PHP System in accordance with labeling shall invalidate and render void any applicable warranty with regard to that PHP System.

21. Indemnification and Liability Actions

a. With respect to any claim arising from this Agreement or from any PHP Systems sold hereunder, Distributor agrees that (i) Delcath shall not be liable to Distributor or to any third party for indirect, incidental or consequential damages and (ii) the liability of Delcath (whether arising from a claim based on contract, warranty, tort or otherwise) shall not exceed the amount paid by Distributor to Delcath for the actual PHP Systems directly involved with the liability.

b. Distributor agrees to defend, indemnify and hold harmless Delcath and its Affiliates, and their respective directors, officers, employees and agents from and against any and all claims, actions, suits, losses, judgments, damages and expenses, including but not limited to, reasonable attorneys' fees, (collectively "Claims"), arising from (i) the unlawful sale, promotion and distribution of the PHP Systems by Distributor; (ii) any representation made or warranty given by Distributor to its customers with respect to the PHP Systems which is inconsistent with the approved labeling; (iii) any modification or alteration made by Distributor to the PHP System and/or packaging; (iv) any negligent or will ful misconduct or omission of Distributor in connection with the marketing, sale or distribution of the PHP Systems; (v) the improper storage, handling or shipping of the PHP Systems by Distributor; (vi) the Research by Distributor; or (vii) a breach by Distributor of its representations and warranties, covenants, obligations or responsibilities to Delcath hereunder.

c. Distributor shall give Delcath immediate written notice if it becomes aware of any legal action deriving from the use of the PHP Systems by customers and include in such notice all facts relating to the legal action of which it is aware. Delcath shall have the right, but not the obligation, to defend any such claim during or after the Term of this Agreement, and Delcath shall have the right, but not the obligation, to settle any such claim on such terms as Delcath deems appropriate. Distributor shall cooperate fully with Delcath in connection with such defense.

22. Insurance

Each party shall carry comprehensive general liability insurance of a type as may be necessary to protect their interests and fulfill their obligations under this Agreement and comply with any Applicable Laws (including without limitation product liability insurance) in an amount of at least [***] dollars (US $[***]) per occurrence during the term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement. Upon request, each party shall provide the other party with a certificate of insurance evidencing the minimum coverage required by this Section 22. For greater certainty, this Section 22 shall not limit the liability of either party pursuant to this Agreement.

23. Notice of Adverse Event

Distributor shall provide written notice to Delcath of any Adverse Event within twenty four (24) hours of Distributor becoming aware of the Adverse Event.

24. Disclaimer of Goodwill

Distributor disclaims any goodwill built up with respect to PHP Systems or the advertising of the same. Any amounts spent by Distributor (or by Delcath mentioning Distributor) are spent with the knowledge that this Agreement may be terminated; neither Delcath nor Distributor shall have claims against each other as the result of any investment or amount spent for any advertising purposes as the result of this Agreement.

25. Independent Contractors

Delcath and Distributor shall act as independent contractors under the terms of this Agreement. Delcath and Distributor are not and shall not be deemed to be employees, agents, co-venturers, partners or legal representatives of each other for any purpose. Distributor is not granted any express or implied right or authority by Delcath to assume or create any obligation or responsibility on behalf of or in the name of Delcath, or to bind Delcath vis-à-vis any third party in any manner whatsoever.

26. Confidentiality

Distributor agrees to abide by the terms of its Confidentiality Agreement with Delcath dated November 25, 2009 for the entire Term of this Agreement and any renewals hereof.

27. Notices

Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon the sooner of (i) the date of personal delivery, (ii) the date of confirmed transmittal by facsimile, or (iii) one (1) business day following delivery to a nationally recognized United States overnight courier service, costs prepaid for overnight delivery, to the addresses set forth below or at such other addresses as any party may designate at any time by notice to the other party hereunder:

a. If to Distributor: CHIFU Trading Co., Ltd.
Attention: Wayne Hsu, Managing Director
Rm. 901, No. 142
Min Chauan E. Rd Sec. 3
Taipei, Taiwan R.O.C.

b. If to Delcath: Delcath Systems, Inc.
Attention: Eamonn P. Hobbs
Rockefeller Center
600 Fifth Avenue, 23rd Floor
New York, NY 10020

28. Governing Law and Venue

This Agreement will be governed by and construed under the laws of the State of New York without regard to conflicts of laws principles. Any claim or controversy arising out of or related to this Agreement or any breach hereof shall be venued in a State or Federal court located in New York State. Both parties hereby consent to and submit to the jurisdiction and venue of such courts and agree to accept service of process by mail.

29. Severability

Should any non-material provision of this Agreement be found to be unenforceable in any jurisdiction, then for such jurisdiction (defined in the most limited context legally applicable) the remainder of the Agreement shall remain in full force and effect as to the parties hereto but the unenforceable provisions shall not be applicable in such jurisdiction.

30. Survival

Termination or expiration of this Agreement shall not relieve either of the parties of their respective obligations under Sections 3(e), 11, 13, 14, 16, 18(e), 18(f), 21, 23, 26 and 28 of this Agreement.

31. Assignment, Integration, Amendment and Waiver

a. This Agreement may not be assigned or transferred by Distributor without the prior written approval of Delcath. Furthermore, Distributor may not appoint sub-distributors without the prior written approval of Delcath.

b. Delcath may assign at its sole discretion this Agreement to any Affiliate of Delcath or if it undergoes a Change in Control.

c. This Agreement constitutes the entire agreement between the parties hereto with regard to the subject matter hereof and supersedes and cancels all prior agreements pertaining to the subject or subjects hereof.

d. This Agreement shall not be modified or amended in any manner except by an instrument in writing of subsequent date hereto duly executed by the duly authorized representatives of each party.

e. All waivers must be made in writing. Course of conduct between the parties, whether or not contrary to the terms of this Agreement, shall not be construed as a waiver of any term or condition of this Agreement. The failure by either party to require the other party's performance of any obligation under this Agreement shall not affect, limit or waive such other party's right to require strict compliance with this Agreement any time thereafter. The waiver of any breach of a provision of this Agreement shall not be construed in any way as a waiver of any continuing or succeeding breach of such provision or as a modification of such provision.

32. Agreement Language

This Agreement is in the English language only, which language shall be controlling in all respects, and all versions in any other language shall be for accommodation only and shall not be binding upon the parties hereto. All communications made or given pursuant to this Agreement shall be in the English language.

33. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be seemed an original but all of which together will constitute one and the same agreement. Delivery of an executed counterpart by facsimile or by electronic transmission shall be as effective as a manually signed counterpart.

IN WITNESS WHEREOF, Delcath and Distributor have caused this Research and Distribution Agreement to be executed by their respective authorized representatives to be effective as of the date first above written.

DELCATH SYSTEMS, INC.

By: /s/ Agustin Gago
Name: Agustin Gago
Title: Executive Vice President, Global Sales and Marketing

CHIFU TRADING CO., LTD.

By: /s/ Wayne Hsu
Name: Wayne Hsu
Title: Managing Director

AMENDED AND RESTATED SUPPLY AGREEMENT

THIS AMENDED AND RESTATED SUPPLY AGREEMENT (the "Agreement") dated as of May 4, 2010, by and between **B. BRAUN MEDICAL INC.**, a Pennsylvania corporation having offices at 824 Twelfth Avenue, Bethlehem, Pennsylvania 18018 ("B.Braun") and **DELCATH SYSTEMS, INC.**, a Delaware corporation, having offices at 810 Seventh Avenue, Suite 3505, New York, NY 10019 ("Company").

BACKGROUND

Company desires to purchase from B.Braun and B.Braun desires to supply Company as a general rule with at least eighty percent (80%) of its requirements of the products described herein, and in return, Company desires to obtain from B.Braun a confirmed, reliable supply of the Products described herein, under and subject to the terms and conditions set forth in this Agreement.

B.Braun and Company previously entered into a Supply Agreement dated January 11, 2010 (the "Prior Agreement"). The parties now desire to amend and restate the Prior Agreement, and hereby agree and acknowledge that the Prior Agreement is of no further force and effect.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements provided herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Definitions. When used in this Agreement, capitalized terms, including their plural form, shall have the following meanings:

1.1 "Agreement" means this Agreement and all appendixes, exhibits and schedules hereto, and all modifications, amendments and supplements hereof.

1.2 "Approved PMA" means the FDA approved PMA Application for and with respect to the Product.

1.3 "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the policies and management of a person or entity, whether by the ownership of stock, by contract or otherwise.

1.4 "Commercial Start Date" means the date on which Company shall have obtained an Approved PMA and any other regulatory approvals necessary for Company's marketing and sale of the Product in the United States.

1.5 "Company Products" mean the Products and any and all products manufactured, assembled, marketed, distributed or sold by Company that includes or incorporates a Product therein.

1.6 "Contract Year" means each twelve (12) month period commencing on the Commercial Start Date and each annual anniversary of this date, and ending one day prior to the commencement of the succeeding Contract Year.

1.7 "Delivery Date" means the date on which the Products are available at B.Braun's manufacturing plant for shipment to Company.

1.8 "Product or Products" means, individually and collectively, the Products listed on Appendix A hereto, as further described in the Specifications.

1.9 "Receipt Date" means the date on which Company receives the Products at Company's facility.

1.10 "Specifications" means the Product specifications attached to Appendix B hereto, and hereby made a part of this Agreement, and any modifications, amendments and supplements thereof and thereto.

2. Manufacture and Supply of Product; Development Services.

2.1 During the term of this Agreement and any extension or renewal thereof, commencing on the Commercial Start Date B.Braun shall manufacture and supply to Company and Company shall purchase from B.Braun at least eighty percent (80%) of its requirements of the Products.

2.2 Company shall submit binding purchase orders for Products in accordance with order lead times established by B.Braun prior to the Commercial Start Date (but in no event shall the established lead times be longer than one hundred twenty (120) days). Company shall provide non-binding forecasts from time to time upon request to assist B.Braun in production planning. Each purchase order shall specify the name, catalog number and quantities of each of the Products to be purchased, the Delivery Dates and shipping instructions. Orders placed for each type of Product shall be in the minimum quantity per each requested Delivery Date as provided in Appendix A of this Agreement.

2.3 B.Braun agrees to make commercially reasonable efforts to manufacture the Products ordered by Company in accordance with Section 2.2 above such that the Products are ready to be shipped upon the applicable Delivery Dates.

2.4 [INTENTIONALLY LEFT BLANK]

2.5 If during any quarter, Company desires to increase its overall requirements for any Product in excess of ten percent (10%) of its total requirement for such Product during any of three immediately preceding quarters, B.Braun shall be given, if needed, three (3) months lead time for the acquisition of new or additional tooling, as the case may be, to satisfy the increased demand. B.Braun may charge Company for the cost and expenses of such new or additional tooling; provided that, prior to incurring any such cost or expense, B.Braun provides Company with an estimate of the cost of any such tooling and obtains the prior written approval of Company for the acquisition thereof. If Company fails to appr ove the acquisition of such new tooling, B.Braun may, but shall not be required to, satisfy the increased demand. Company agrees to purchase at least eighty percent (80%) of the amount of its forecasted orders for the immediately succeeding quarterly forecasted period.

3. Product Specifications; Tooling; Etc.

3.1 Company represents, warrants and agrees that the Specifications for the Products satisfy Company's requirements for its intended use of the Products. If at any time during the term of this Agreement, Company desires to modify the Specifications, Company shall have the right upon ninety (90) days prior written notice to B.Braun, to modify or change the Specifications, subject to B.Braun's approval, which approval shall not be unreasonably withheld. Within sixty (60) days of receipt by B.Braun of such notice, B.Braun shall notify Company whether or not it can manufacture the Products according to the modified Specifications, and if so, whether or not B.Braun would need (i) to adjust the price of the Product to reflect any changes in t he cost of raw materials, direct labor and overhead that will result from such modification or change, and (ii) to the extent necessary, extend the Delivery Dates for the Products. If B.Braun cannot manufacture the Products according to the modified Specifications, or if B.Braun requests a price increase in excess of 20% and the Company does not accept the adjusted Product price, or the Company does not accept the extension of the Delivery Dates, Company may terminate this Agreement. Neither party shall have any liability arising from such termination, except that Company shall purchase all Products made for Company that are in B.Braun's inventory and reimburse B.Braun for the cost of all raw materials and components specific to the Company's Products purchased on behalf of Company pursuant to an outstanding purchase order, as of the date that B.Braun received the Company's written notice to modify the Specifications.

3.2 In connection with the transactions contemplated hereunder, Company shall purchase from B.Braun certain tooling and related equipment, as described on Appendix C (collectively, the "Tooling"), at B.Braun's cost for such Tooling, which Tooling is required to manufacture the Product. During the term of this Agreement and any extension thereof, the Tooling shall remain in the possession of B.Braun and shall be used by B.Braun for the manufacturing of the Product. While the Tooling is in the possession of B.Braun, B.Braun shall property maintain and store the Tooling. Upon termination of this Agreement, B.Braun will ship the Tooling to Company F.O.B. B.Braun's plant in Allentown, Pennsylvania; provided, however, that Company has paid B.Braun in full for (a) the Tooling, (b) all Products manufactured by B.Braun for Company hereunder, and (c) all other amounts due and owing to B.Braun hereunder. If Company determines that B.Braun has not properly maintained and/or stored the Tooling, B.Braun shall be responsible for all reconditioning and refurbishing costs.

3.3 B.Braun has furnished certain technical and design assistance, advice and information with respect to the Products as further described on Appendix D ("Design Services"). Each party shall continue to own all patents, trademarks, copyrights, trade secrets and other intellectual property (i) it owned prior to the start of the Design Services ("Existing IP") and/or (ii) developed outside the provision of the Design Services ("Other IP"). All modifications, improvements or inventions directly related to the Product which are conceive d, reduced to practice, or developed jointly by the parties in the course of the performance of the Design Services shall be owned by Company, except to the extent such modifications, improvements or inventions constitute B.Braun Proprietary Information. "B.Braun Proprietary Information" means B.Braun's Existing IP, Other IP and all methods, processes, procedures, knowhow, trade secrets and intellectual property related to the manufacture of the Products.

3.4 Company acknowledges that B.Braun will be utilizing certain critical suppliers of raw materials and components. In the event that any supply agreement with a critical supplier is terminated for any reason outside of B.Braun's control, or if such critical supplier is unable for any reason outside of B.Braun's control to supply B.Braun with the raw materials or components in the quantities it requires to manufacture the Products for Company, B.Braun shall provide Company with written notice thereof, and B.Braun shall utilize reasonable commercial efforts to obtain an alternative supplier with similar pricing and delivery capabilities from its list of approved vendors. If B.Braun is unable to obtain an alternative supplier with similar pricing, it shall provide Company written notice thereof, including the new prices for the Products; provided that if such increase in Product prices is greater than 10% during any Contract Year, Company may terminate this Agreement without liability to either party.

4. Price and Payment.

4.1 The price of the Products shall be as set forth in Appendix A hereto. The price for Products shall remain firm for the first two (2) Contract Years of this Agreement, and thereafter B.Braun shall have the right to increase prices for the Products on each Contract Year anniversary date in an amount no greater than the percentage change in the Consumer Price Index for Medical Care Commodities during the previous Contract Year. Notwithstanding the foregoing, it may be necessary to increase prices, from time to time, in the event of any unusual increase in the cost of transportation, energy, raw materials or production costs. B.Braun will give Company at least thirty (30) days 217; written notice prior to the effective date of any such price increases; provided that if such increase in Product prices is greater than 10% during any Contract Year, Company may terminate this Agreement without liability to either party.

4.2 B.Braun shall bear all federal, state and local taxes based upon or measured by its net income. Any other tax, however denominated and howsoever measured, imposed upon the Products or upon its storage, inventory, sale, transportation, delivery, use or consumption shall be the responsibility of Company. Company shall provide B.Braun with all appropriate tax exemption certificates acceptable to the taxing authorities imposing such taxes, if Company desires not to make such payments.

4.3 B.Braun shall invoice Company concurrently with any shipment of Products and Company shall make full payment to B.Braun, at the address specified on the invoice, no later than thirty (30) days from the date of receipt of the invoice. Any amounts not paid within such thirty (30) day period shall accrue interest at the rate of one and one-half percent (1.5%) per month. Any disputed amounts should be reported immediately and remitted with the undisputed amount by the payment due date. If B.Braun in good faith agrees with the billing dispute, B.Braun will credit Company the amount of the agreed-upon billing dispute. The Company and B.Braun shall negotiate any disputes in good faith. If it becomes reasonably necessary for B.Braun to employ any agents or attorneys to collect any amounts rightly due to it under this Agreement, the reasonable fees and costs of collection will be added to any amounts owed by Company hereunder.

5. Delivery. All shipments of Products shall be made F.O.B. B.Braun's manufacturing facility. B.Braun shall make commercially reasonable efforts to meet the Delivery Dates requested by Company in accordance with B.Braun's order lead times. Risk of loss shall pass to Company upon delivery of the Products to the carrier at B.Braun's manufacturing facility. Company shall be responsible for the cost of all reasonable third-party freight, shipping and handling, and insurance in connection with all deliveries. Should B.Braun fail to meet the Delivery Dates requested by Company in accordance with B.Braun's order lead times three (3) times within an y consecutive twelve (12) month period, the Company's obligation to purchase from B.Braun eighty percent (80%) of its requirements of the Products pursuant to this Agreement shall be automatically terminated.

6. Acceptance and Warranties.

6.1 Company shall have thirty (30) days from the Receipt Date to inspect the Product. If Company determines during its inspection of the Product that the Product does not meet the requirements of the applicable Specifications, Company shall notify B.Braun of such nonconforming Product and provide B.Braun with samples thereof within such thirty (30) day period. B.Braun shall inspect such nonconforming Product within thirty (30) days following receipt of such notice and samples, and within such period provide Company with the results of its inspection. If B.Braun determines that the Product is deficient, B.Braun shall, at its expense at its option, either cure such rejection or replace the rejected Product with Product that meets the Specifications. Any Product that is not inspected or rejected by Company within the thirty (30) day period shall be deemed to have been accepted by Company. The Company and B.Braun shall negotiate any disputes in good faith.

6.2 B.Braun represents and warrants to Company that, at the time of delivery, the Product delivered by B.Braun to Company under this Agreement is free from defects in material and workmanship, in accordance with the applicable Specifications for such Product, as attached hereto as Appendix B. All warranties for Product shall continue for a period of six (6) months from the Receipt Date of such Product to Company. Company's sole remedy in the event of a breach by B.Braun of any of the warranties contained herein shall be at B.Braun's option, either the repair or replacement by B.Braun of the defective Product or the reimbursement to Company of the purchase pri ce Company paid for such defective Product plus any applicable shipping costs. B.Braun's warranty, as provided herein shall be void if any repairs, alterations or other work has been performed on such Product, or if the alleged defect is a result of abuse, misuse, improper maintenance, accident or the actions or inactions of any party other than B.Braun which was not acting under B.Braun's control. The warranty set forth herein is conditioned upon the proper storage, installation, use and maintenance of the Product. The warranty furnished hereunder does not extend to damages to, or resulting in whole or in part from the use of, components, accessories, parts or supplies that were not manufactured by B.Braun. In the event no breach of warranty is discovered by B.Braun upon receipt of any returned item, the Company and B.Braun shall negotiate the dispute in good faith.

6.3 THE LIMITED WARRANTY SET FORTH IN SECTION 6 HEREOF IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. B.BRAUN HEREBY DISCLAIMS LIABILITY FOR INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS. PARTS AND COMPONENTS DISTRIBUTED, BUT NOT MANUFACTURED, BY B.BRAUN ARE NOT WARRANTED BY B.BRAUN AND COMPANY MUST INSTEAD RELY ON THE REPRESENTATIONS AND WARRANTIES, IF ANY, PROVIDED DIRECTLY TO COMPANY OR TO B.BRAUN BY THE MANUFACTURER OF SUCH PARTS AND COMPONENTS. THE SOLE AND EXCLUSIVE R EMEDIES FOR BREACH OF ANY WARRANTY IS LIMITED TO THE REMEDIES PROVIDED IN THIS SECTION 6.

7. Quality Agreement. The parties shall make commercially reasonable efforts to enter into a quality agreement prior to the Commercial Start Date.

8. Compliance with Laws. B.Braun represents, warrants and covenant to Company that it shall, at all times, comply with all applicable laws, rules and regulations and standards applicable to manufacturing of the Products, and Company represents, warrants and covenant to B.Braun that it shall, at all times, comply with all applicable laws, rules and regulations and standards applicable to the marketing, distribution and sale of the Products, including, without limitation the Food, Drug and Cosmetic Act, as amended, and the rules and regulations promulgated thereunder.

9. Insurance. Each party represents and warrants to the other that it is currently insured and covenant that at all times after the Commercial Start Date it will maintain a comprehensive general liability insurance policy, including without limitation, product liability insurance, which (i) is sufficient to adequately protect against the risks associated with its ongoing business, including the risks which might possibly arise in connection with the transactions contemplated by this Agreement, and (ii) provides that it cannot be terminated or canceled without giving the other party thirty (30) days'prior written notice. From time to time upon the request of a party, the othe r party shall provide to such party a certificate of insurance evidencing that such insurance coverage is in full force and effect.

10. Indemnification.

10.1 B.Braun hereby indemnifies and agrees to defend and hold Company, its offices, directors, agents and employees and their successors and assigns (individually and collectively, "Company Parties") harmless from and against any and all damages, liabilities, penalties, losses or expenses including, without limitation, legal fees, arising out of or relating to any claims, actions, demands or proceedings asserted by a third party ("Claim") which results from or arises out of B.Braun's breach of any warranty, representation or agreement of B.Braun in this Agreement, including B.Braun's breach of the warranties in Section 6.

10.2 Company hereby indemnifies and agrees to defend and hold B.Braun, its officers, directors, agents and employees and their successors and assigns (individually and collectively, "B.Braun Parties") harmless from and against any and all damages, liabilities, penalties, losses or expenses including without limitation, legal fees arising out of or relating to any third party Claim resulting from or arising out of (i) any breach by Company of any warranty, representation or agreement of Company in this Agreement, (ii) the use, marketing, labeling, sale, service or distribution of any Company Product, (iii) a product recall of any Company Product by a governmental entity or agency, provided B.Braun manufactured su ch Product in accordance with the Specifications (iv) any infringement claims regarding the design, Specifications, patent, trademark, copyright or other proprietary or intellectual property rights of others caused by the manufacture, use, distribution or sale of Company Products, provided B.Braun manufactured such Product in accordance with the Specifications, and (v) the death of, or bodily injury to, any person on account of the use of any Company Products, provided B.Braun manufactured such Product in accordance with the Specifications.

10.3 Upon receiving notice of any third party Claim under this Section 10, the indemnified party shall notify the indemnifying party in writing within five (5) business days following receipt of the notice; provided, however, that the right of an indemnified party to be indemnified hereunder in respect of claims made by a third party shall not be adversely affected by a failure to give such notice, unless, and then only to the extent that an indemnified party is materially prejudiced thereby.

10.4 The indemnifying party shall undertake and control the defense thereof by reputable counsel chosen by it, subject to the approval of the indemnified party, which consent shall not be unreasonably withheld. The indemnified party shall be entitled to join any defense of a claim at its sole cost and expense. If any claim is asserted and the indemnifying party fails to contest and defend such claim within a reasonable period of time after the indemnified party's notice is given, then the indemnified party may take such reasonable action in connection therewith as the indemnified party deems necessary or desirable, including controlling the defense of such claim, subject to the provisions of subsection 10.5 below, and retaining counsel of its own choosin g with the reasonable costs and expenses of such defense being borne by the indemnifying party. The reimbursement for all reasonable costs and expenses incurred by an indemnified party pursuant to this subsection 10.4 shall be paid as and when incurred within thirty (30) days after receipt of an invoice therefor.

10.5 If requested by the indemnifying party, the indemnified party agrees to cooperate with the indemnifying party and its counsel. The indemnified party shall not settle or compromise such claim without the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld. At the request of the indemnifying party, the indemnified party shall settle a claim; *provided, however*, that (i) such settlement involves only the payment of monetary damages and no injunctive relief binding on the indemnified party, and such monetary damages are paid by the indemnifying party, (ii) the indemnified party does not admit any liability, and (iii) the indemnified party is released from all further liabil ity with respect to such claim.

10.6 The obligations of this Section 10 shall survive any termination or expiration of this Agreement after the expiration of all applicable statutes of limitation that could apply to any actions, claims, proceedings or demands that could be asserted by a third party.

11. Term; Termination; Default & Remedies.

11.1 This Agreement shall commence on the date set forth above and shall continue until the fifth (5^{th}) anniversary of the Commercial Start Date, unless sooner terminated in accordance with the provisions hereof. Thereafter, this Agreement may be extended an additional three years if mutually agreed in writing by the parties.

11.2 Either party may terminate this Agreement, effective upon delivery of a termination notice, if the other party (i) files in any court pursuant to any statute of the United States or of any individual state, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or at the appointment of a receiver or trustee of the party of its assets, (ii) is served with an involuntary petition against it, filed in any insolvency proceeding, and such petition shall not be dismissed within sixty (60) days after filing thereof, (iii) is a party to any dissolution or liquidation, (iv) makes an assignment for the benefit of creditors, or (v) discontinues its operations for any reason whatsoever.

11.3 In addition to all other rights granted to the parties hereunder, either party may terminate this Agreement effective thirty (30) days after giving notice of intent to terminate, if the other party fails or neglects to perform any material covenant or provision of this Agreement, and such default is not materially cured within thirty (30) days after receiving written notice with respect to such default. In addition to, and notwithstanding the foregoing, if Company fails to make any payment when due as provided in this Agreement and fails to make said payment within thirty (30) days after receiving written notice from B. Braun that said payment was not paid when due, or if Company becomes insolvent or bankrupt, B.Braun, at its option and withou t prejudice to its other rights and remedies herein or at law or equity, may withhold further shipment of Product until all overdue balances are made current, and may require payment for future orders prior to delivery thereof; provided, however, if Company fails to pay an amount that Company disputes, B.Braun shall evaluate such dispute in accordance with B.Braun policy prior to making a decision to withhold shipment or require payment for future orders as a result of Company's failure to pay the disputed amount.

11.4 If the Commercial Start Date has not occurred by September 1, 2011, either party may terminate this Agreement upon written notice to the other party.

11.5 If Company has a change of Control after the third (3rd) anniversary of the Commercial Start Date, either party may thereafter terminate this Agreement on 180 days prior written notice to the other party.

11.6 Termination of this Agreement shall not relieve either party from its duty to discharge all obligations accruing prior to such termination, including parties' obligations pursuant to any purchase order outstanding on the date of such termination and for payment for any safety stock, raw materials or components specific to the Company's Products purchased pursuant to an outstanding purchase order or work-in-process commenced at the request of Company pursuant to an outstanding purchase order. Notwithstanding Sections 11.2 and 11.3 hereof, upon any breach, default or failure to perform by one party hereunder, the other party may continue to operate under this Agreement while pursuing any remedy it may have at law or equity, so long as such non-breaching pa rty continues to meet all of its obligations under this Agreement, but only to the extent that the breach, default or failure to perform does not adversely and materially affect any such obligation of the non-breaching party.

11.7 Upon termination of this Agreement for any reason whatsoever, (i) Company shall return to B.Braun all confidential information and documents relating to or containing confidential information, together with all copies made thereof and extracts made therefrom, and (ii) B.Braun shall return to Company all confidential information and documents relating to or containing confidential information, together with all copies made thereof and extracts made therefrom; provided that the parties shall be entitled to retain one copy of the Confidential Information in their legal department files for the purpose of insuring compliance with their obligations under Sections 7 and 8 and complying with any applicable governmental rules and regulations.

12. Limitation of Liability. The total liability of B.Braun arising from the warranty provided to the Company in Section 6 of this Agreement is limited to the price paid for the Products out of which such claim arose. In no event, regardless of any claim or action, whether brought in contract, tort (including without limitation, negligence), warranty or otherwise, shall B.Braun be liable for any indirect, special, punitive, incidental or consequential damages from any cause whatsoever, regardless if any remedy herein fails, including, without limitation, damages for loss of profits or opportunity and cost of substitute products or services.

13. Force Majeure.

13.1 If B.Braun becomes unable to perform any of its obligations hereunder, in whole or in part, by reason of an event of Force Majeure (as defined below), such failure of performance shall be excused during the continuance of and to the extent of such Force Majeure event; provided that if as a consequence of any such Force Majeure the total demands for the Products cannot be supplied by B.Braun, B.Braun will allocate its available supply to its customers on such basis as B.Braun may deem fair and practicable, without liability for any failure to perform this Agreement. B.Braun will promptly notify Company of any occurrence of an event of Force Majeure and of the termination thereof. Upon notice of an event of Force Majeure, Company may at its sole discretion, elect to obtain the Product from another source for such period of time as the delay continues, provided that the delay did not result from the failure of Company to perform in accordance with the terms of this Agreement. Company shall terminate the alternative source within thirty (30) days following written notice from B.Braun that the event causing such delay no longer exists and B.Braun can resume supplying the Product.

13.2 Force Majeure shall mean any cause beyond B.Braun's or its applicable supplier's or subcontractor's reasonable control, such as acts of God, acts of government, regulatory agencies or judicial bodies, acts of Company, civil or military authorities or other third parties, fires, strikes, floods, wars, riots and other causes of a similar nature.

14. Miscellaneous Terms and Conditions.

14.1 Confidentiality. Each party agrees to hold in confidence and refrain from using, distributing, disseminating or disclosing to others any information of the other party that is designated by the discloser as "confidential" or from making or causing to be made, or selling or distributing, any product embodying confidential information, other than pursuant to this Agreement. The restrictions set forth in the preceding sentence shall not apply to information that a receiving party proves: (a) was, at the time of disclosure hereunder, in the public domain through no fault of the recipient; (b) was in the possession of recipient prior to disclosure hereunder, as evidenced by recipient's written or tangible evidence; (c) was disclosed to recipient by a third party that has an independent right to disclose the information; (d) was independently developed by recipient as evidenced by competent proof; or (e) was required to be disclosed by judicial order, statute or governmental regulation, provided that the disclosing party is given reasonable prior written notice of any such required disclosure and only to the extent required by such judicial order, statute or governmental regulation. This Section shall survive termination of this Agreement and any extension thereof, for a period of three (3) years.

14.2 Independent Contractors. The parties hereto shall be deemed to have the status of independent contractors, and shall have the relationship of buyer and seller. Nothing in this Agreement shall be deemed to place the parties in the relationship of partners, licensor-licensee, principal-agent or joint venturers. Neither party shall be deemed to be an agent or representative of the other party, and neither party shall have any right or authority to create or assume any obligation or to bind the other party in any manner whatsoever.

14.3 Assignment. Neither party shall assign this Agreement or their rights hereunder without the prior written consent of the other party; provided that this Section shall not apply to an assignment by either party to an affiliated company. This Agreement shall inure to the benefit of, and be binding upon, the permitted assigns of the parties hereto, and their respective successors, including any purchaser of their respective businesses through merger, sale of stock, assets, business line, or otherwise.

14.4 Notices. Any notice or request required or permitted to be given under or in connection with this Agreement shall be in writing and shall be deemed given only if delivered personally, sent by fax, by registered or certified mail, return receipt requested, or by overnight delivery service to the applicable address set forth above or such other address as a party may have specified in a notice duly given to the other party as provided herein.

14.5 Entire Agreement; Amendment; Waiver; Etc. This Agreement, including the Appendixes attached hereto (and any future addenda referencing this Agreement) contains the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior proposals and agreements between the parties, whether oral or written, and there are no other promises or representations relating to the subject matter hereof that is not incorporated herein except that the parties specifically acknowledge that, simultaneously with the execution of this Agreement, they are also entering into an Agreement of Pricing and Specifications. No addition to, amendment of or waiver or modification of any provision of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each party. Without limiting the generality of the foregoing, no modification or amendment shall be effected by or result from the receipt, acceptance, signing or acknowledgment of any party's purchase orders, order acknowledgments, invoices, shipping documents or other business forms containing terms or conditions in addition to or different from the terms and conditions set forth in this Agreement. Such documentation is permitted only as a convenience to the parties, and all such purchase orders and other documentation shall be governed and superceded by the terms and conditions of this Agreement. Any failure by either party to enforce any of their respective rights herein shall not be deemed a waiver of such rights, and it may, from time to time, and at its option, enforce any of its rights hereunder, notwithstand ing any course of dealing or performance. Notwithstanding the termination of this Agreement, the provisions of Sections 2.3, 3.1, 3.2, 3.3, 6, 9, 10, 11.5, 11.6, 12, and 14 of this Agreement shall survive the termination of this Agreement in accordance with their terms.

14.6 Binding Obligation. Each party represents and warrants that (i) it has the right to enter into this Agreement and to perform all of its obligations hereunder, and (ii) this Agreement, when executed and delivered, will be a legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

14.7 Severability. The provisions of this Agreement shall be severable from each other and from the rest of this Agreement, and in the event that any portion of this Agreement shall be held invalid, void, unenforceable, or ineffective by a court of competent jurisdiction, the remaining portions thereof shall remain in full force and effect. If any of the terms or provisions of this Agreement are in conflict with any applicable statute or rule of law, then such terms or provisions shall be deemed inoperative to the extent that they may conflict therewith, and shall be deemed to be modified to conform with such statute or rule of law.

14.8 Governing Law and Dispute Resolution. This Agreement shall be governed and interpreted in accordance with the laws, but not the laws of conflict of laws, of the Commonwealth of Pennsylvania. Any dispute, controversy or claim ("Claim") arising from or related to this Agreement, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The place of arbitration shall be Philadelphia, Pennsylvania.

14.9 Heading. The Headings in this Agreement are included for ease of reference only and shall have no legal effect.

14.10 Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date set forth above.

DELCATH SYSTEMS, INC.

By: /s/ David A. McDonald
Name: David A. McDonald
Title: Chief Finanical Officer

B. BRAUN MEDICAL INC.

By: /s/ Richard L. DeWalt
Name: Richard L. DeWalt
Title: Senior Inventory Manager

B. BRAUN MEDICAL INC.
By: /s/ William MacKnight
Name: William MacKnight
Title: Assistant Secretary

APPENDIX A

PRODUCT LIST AND PRICES

Delcath P/N	B.Braun P/N	Description	Minimum Order per delivery date	Initial Price Estimate**
		Double balloon catheter	**250**	**To be set forth in a separate Agreement of Pricing and Specifications**
		Double balloon catheter accessory pack	**250**	**To be set forth in a separate Agreement of Pricing and Specifications**

APPENDIX B

PRODUCT SPECIFICATIONS

To be set forth in a separate Agreement of Pricing and Specifications.

APPENDIX C

TOOLING

The parties are currently developing tooling specifications, which shall be attached upon completion.

APPENDIX D

DESIGN SERVICES

The parties are currently developing design services specifications, which shall be attached upon completion.

EXHIBIT 31.1

CERTIFICATION

OF PRINCIPAL EXECUTIVE OFFICER

PURSUANT TO RULE 13a-14(a) and 15d-14(a) OF THE EXCHANGE ACT

I, Eamonn P. Hobbs, certify that:

1) I have reviewed this Quarterly Report on Form 10-Q of Delcath Systems, Inc;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4) The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) 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 officers 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.

May 5, 2010

/s/Eamonn P. Hobbs
Eamonn P. Hobbs
President and Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION

OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO RULE 13a-14(a) and 15d-14(a) OF THE EXCHANGE ACT

I, David A. McDonald, certify that:

1) I have reviewed this Quarterly Report on Form 10-Q of Delcath Systems, Inc;

2) Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3) Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4) The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) 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 officers 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.

May 5, 2010

/s/David A. McDonald
David A. McDonald
Chief Financial Officer
(Principal Financial Officer)

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES –OXLEY ACT OF 2002

In connection with the Quarterly Report of DELCATH SYSTEMS, INC. (the "Company") on Form 10-Q for the fiscal quarter ended March 31, 2010, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Eamonn P. Hobbs, the President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

May 5, 2010

/s/Eamonn P. Hobbs
Eamonn P. Hobbs
President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES –OXLEY ACT OF 2002

In connection with the Quarterly Report of DELCATH SYSTEMS, INC. (the "Company") on Form 10-Q for the fiscal quarter ended March 31, 2010, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David A. McDonald, the Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) The report fully complies with the requirements of section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the report fairly presents, in all material respects, the financial condition and results of operations of the Company.

May 5, 2010

/s/David A. McDonald
David A. McDonald
Chief Financial Officer
(Principal Financial Officer)