
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 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 September 30, 2006

Or

Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the Transition Period From _____ to _____

Commission file number 0-33169



CROSS COUNTRY HEALTHCARE, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
Incorporation or organization)

13-4066229
(I.R.S. Employer
Identification Number)

6551 Park of Commerce Blvd, N.W.
Boca Raton, Florida 33487
(Address of principal executive offices)(Zip Code)

(561) 998-2232
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Sections 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act:

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by checkmark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The registrant had outstanding 32,001,502 shares of Common Stock, par value \$0.0001 per share, as of October 31, 2006.

CROSS COUNTRY HEALTHCARE, INC.

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FORM 10-Q

September 30, 2006

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PART I. – FINANCIAL INFORMATION

ITEM 1. CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

**Cross Country Healthcare, Inc.
Condensed Consolidated Balance Sheets
(Unaudited, amounts in thousands)**

	<u>September 30, 2006</u>	<u>December 31, 2005</u>
Current assets:		
Cash and cash equivalents	\$ —	\$ —
Accounts receivable, net	107,343	107,787
Deferred tax assets	7,444	7,642
Income taxes receivable	5,030	2,752
Other current assets	<u>17,310</u>	<u>22,571</u>
Total current assets	137,127	140,752
Property and equipment, net	19,108	16,477
Trademarks, net	17,199	15,499
Goodwill, net	307,749	302,854
Other identifiable intangible assets, net	10,450	5,390
Debt issuance costs, net	<u>600</u>	<u>689</u>
Total assets	<u>\$ 492,233</u>	<u>\$ 481,661</u>
Current liabilities:		
Accounts payable and accrued expenses	\$ 12,998	\$ 12,082
Accrued employee compensation and benefits	40,259	47,940
Current portion of long-term debt	2,619	5,483
Other current liabilities	<u>13,816</u>	<u>4,378</u>
Total current liabilities	69,692	69,883
Non-current deferred tax liabilities	38,331	32,546
Long-term debt	<u>18,062</u>	<u>19,946</u>
Total liabilities	126,085	122,375
Commitments and contingencies		
Stockholders' equity:		
Common stock	3	3
Additional paid-in capital	253,503	255,340
Other stockholders' equity	<u>112,642</u>	<u>103,943</u>
Total stockholders' equity	<u>366,148</u>	<u>359,286</u>
Total liabilities and stockholders' equity	<u>\$ 492,233</u>	<u>\$ 481,661</u>

See accompanying notes to the condensed consolidated financial statements

Cross Country Healthcare, Inc.
Condensed Consolidated Statements of Income
(Unaudited, amounts in thousands, except per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
Revenue from services	\$ 162,876	\$ 163,144	\$ 479,407	\$ 481,673
Operating expenses:				
Direct operating expenses	125,083	125,234	367,983	377,898
Selling, general and administrative expenses	26,790	26,686	81,779	78,772
Bad debt expense	—	145	22	583
Depreciation	1,315	1,206	4,020	3,551
Amortization	418	356	1,130	1,068
Legal settlement charge	8,827	—	8,827	—
Total operating expenses	162,433	153,627	463,761	461,872
Income from operations	443	9,517	15,646	19,801
Other expenses:				
Interest expense, net	273	953	979	2,822
Income from continuing operations before income taxes	170	8,564	14,667	16,979
Income tax expense	50	3,314	5,660	6,571
Income from continuing operations	120	5,250	9,007	10,408
Discontinued operations, net of income taxes	2	(268)	118	(541)
Net income	\$ 122	\$ 4,982	\$ 9,125	\$ 9,867
Net income/(loss) per common share - basic:				
Income from continuing operations	\$ 0.00	\$ 0.16	\$ 0.28	\$ 0.32
Discontinued operations, net of income taxes	0.00	(0.01)	0.00	(0.01)
Net income	\$ 0.00	\$ 0.15	\$ 0.28	\$ 0.31
Net income/(loss) per common share - diluted:				
Income from continuing operations	\$ 0.00	\$ 0.16	\$ 0.28	\$ 0.32
Discontinued operations, net of income taxes	0.00	(0.01)	0.00	(0.02)
Net income	\$ 0.00	\$ 0.15	\$ 0.28	\$ 0.30
Weighted average common shares outstanding-basic	32,067	32,290	32,095	32,250
Weighted average common shares outstanding-diluted	32,618	32,943	32,721	32,800

See accompanying notes to the condensed consolidated financial statements

Cross Country Healthcare, Inc.
Condensed Consolidated Statements of Cash Flows
(Unaudited, amounts in thousands)

	Nine Months Ended September 30,	
	2006	2005
Operating activities		
Net income	\$ 9,125	\$ 9,867
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	4,020	3,551
Amortization	1,130	1,068
Bad debt expense	22	583
Legal settlement charge	8,827	—
Deferred income tax expense	8,234	3,866
Other noncash charges	356	922
(Income) loss from discontinued operations	(118)	541
Changes in operating assets and liabilities:		
Accounts receivable	4,118	(9,674)
Income tax receivable and other current assets	828	(10,987)
Accounts payable and accrued expenses	(7,700)	20,937
Other current liabilities	714	740
Net cash provided by continuing operations	29,556	21,414
Income (loss) from discontinued operations, net	118	(541)
Other noncash items	(196)	(31)
Change in net assets from discontinued operations	233	24
Net cash provided by (used in) discontinued operations	155	(548)
Net cash provided by operating activities	29,711	20,866
Investing activities		
Acquisitions	(16,132)	—
Additions of property and equipment	(6,424)	(5,956)
Other investing activities	—	18
Investing activities of discontinued operations:		
Other investing activities of discontinued operations	—	(816)
Net cash used in investing activities	(22,556)	(6,754)
Financing activities		
Repayment of debt	(26,586)	(93,129)
Proceeds from issuance of debt	21,750	79,820
Exercise of stock options	337	1,537
Stock repurchase and retirement	(2,680)	(2,340)
Other financing activities	24	—
Net cash used in financing activities	(7,155)	(14,112)
Change in cash and cash equivalents	—	—
Cash and cash equivalents at beginning of period	—	—
Cash and cash equivalents at end of period	\$ —	\$ —
Supplemental disclosures of noncash financing activities:		
Equipment purchased through financing agreements	\$ 113	\$ 2,204

See accompanying notes to the condensed consolidated financial statements

CROSS COUNTRY HEALTHCARE, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS (Unaudited)

1. ORGANIZATION AND BASIS OF PRESENTATION

The condensed consolidated financial statements include the accounts of Cross Country Healthcare, Inc. and its wholly-owned direct and indirect subsidiaries (collectively, the Company). All material intercompany transactions and balances have been eliminated in consolidation. The accompanying condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all of the information and notes required by U. S. generally accepted accounting principles for complete financial statements. In the opinion of management, all adjustments (consisting of normal recurring accruals) considered necessary for a fair presentation have been included. These operating results are not necessarily indicative of the results that may be expected for the year ending December 31, 2006. These unaudited interim condensed consolidated financial statements should be read in conjunction with the audited consolidated financial statements and notes thereto for the year ended December 31, 2005, included in the Company's Form 10-K as filed with the Securities and Exchange Commission. The December 31, 2005, unaudited condensed consolidated balance sheet included herein was derived from the December 31, 2005, audited consolidated balance sheet included in the Company's Form 10-K.

There were no other components of other comprehensive income other than the Company's consolidated net income during the three and nine month periods ended September 30, 2006 and 2005.

2. RECLASSIFICATIONS

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

3. EARNINGS PER SHARE

In accordance with the requirements of Financial Accounting Standards Board (FASB) Statement No. 128, *Earnings Per Share*, basic earnings per share is computed by dividing net income by the weighted average number of shares outstanding including the vested portion of restricted shares. The denominator used to calculate diluted earnings per share reflects the dilutive effects of stock options and nonvested restricted stock (as calculated utilizing the treasury stock method). Certain shares of common stock that are issuable upon the exercise of options have been excluded from per share calculations because their effect would have been anti-dilutive.

4. STOCK-BASED COMPENSATION

The Company's Amended and Restated 1999 Stock Option and Equity Participation Plans (collectively, the Plans), provide for the issuance of incentive stock options (ISOs) and non-qualified stock options to eligible employees and non-employee directors for the purchase of up to 4,398,001 shares of common stock. As of September 30, 2006, 679,643 options were available for future issuance. Non-qualified stock options may also be issued to consultants. Under the Plans, the exercise price of options granted is determined by the Compensation Committee of the Company's Board of Directors. In the case of 10% or more stockholders, the exercise price of the ISOs granted may not be less than 110% of the fair market value of the Company's common stock on the date of grant. Options granted under the Amended and Restated 1999 Stock Option Plan generally vest ratably over 4 years and options granted under the Amended and Restated 1999 Equity Participation Plan vest 25% on the first anniversary of the date of grant and then vest 12.5% every 6 months thereafter. All options expire on the tenth (or, in the case of a 10% shareholder, the fifth) anniversary of the date of grant. Upon exercise, the Company's policy is to issue new shares from its authorized but unissued balance of common stock outstanding.

Prior to January 1, 2006, the Company followed Accounting Principles Board (APB) Opinion, No. 25, *Accounting for Stock Issued to Employees*, and related interpretations in accounting for its employee stock options. Under APB Opinion No. 25, when the exercise price of the Company's employee stock options equaled or exceeded the market price of the underlying stock on the date of grant, no compensation expense was recognized. Effective January 1, 2006, the Company adopted FASB Statement No. 123 (Revised 2004), *Share-Based Payment*, (FASB 123(R)) using

the modified prospective approach. FASB 123(R) requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their fair values. Under the modified prospective approach, the recognition provisions of FASB 123(R) are applied prospectively. Companies are required to disclose the pro forma impact of adopting the standard for prior periods.

On December 30, 2005, the members of the Committee established under the Amended and Restated 1999 Stock Option Plan (Option Plan) approved the acceleration of the vesting of all unvested options to purchase the Company's common stock held by employees, officers and directors of the Company issued under the Option Plan prior to December 31, 2005. All other terms and conditions applicable to the outstanding stock options remained in effect. A total of 436,368 options, with a weighed average exercise price of \$15.25 per share, were accelerated. Of these options, 90% had exercise prices below market value (in-the-money options) as of December 28, 2005. The Committee members approved such acceleration of all unvested stock options pursuant to their authority under the Option Plan, effective December 31, 2005.

The Compensation Committee's decision to accelerate the vesting of the affected options was based primarily upon the issuance of FASB 123(R). The acceleration of the vesting of these options enabled the Company to avoid recognizing the associated stock-based compensation expense in future periods' consolidated statements of income. The Company estimates the pre-tax charge avoided in future periods by the acceleration of these options to be approximately \$2.9 million (excluding the impact of forfeitures). In conjunction with the acceleration, the Company recorded a pre-tax charge of \$0.1 million in the fourth quarter of 2005 related to the acceleration of in-the-money options the Company estimated would not have otherwise vested. This charge was included in selling, general, and administrative expenses on the consolidated statements of income. The Company expects there to be no further impact, from the share-based payments that were outstanding as of December 31, 2005, on its consolidated statements of income. However, stock-based compensation expense could become material to the Company depending on the number of options that are granted in the future.

In adopting FASB 123(R), companies must choose from alternative valuation models. The Company used the Black-Scholes method for disclosures prior to adoption. After reviewing alternative valuation methods, the Company has selected to continue using the Black-Scholes method based on its prior experience with it, and its wide use by other issuers comparable to the Company. The Company will consider the use of another model if additional information becomes available in the future that indicates another model would be more appropriate for the Company, or, if grants issued in future periods have characteristics that cannot be reasonably estimated using Black-Scholes.

The Company has elected to recognize compensation expense on a straight-line basis over the service period of the entire award. In prior periods, the Company did not estimate forfeitures when recognizing compensation expense of share-based payments (as permitted under FASB Statement No. 123, *Accounting for Stock-Based Compensation*) but has revised its accounting policy to estimate forfeitures in accordance with the provisions of FASB Statement No. 123(R). The Company uses historical data of options with similar characteristics to estimate forfeitures for new grants as it believes that historical behavior patterns are the best indicators of future behavior patterns.

The number of options granted in the three and nine month periods ended September 30, 2006 was immaterial. Accordingly, the impact of the adoption of FASB 123(R), on the condensed consolidated statements of income is immaterial. FASB 123(R) also requires the tax benefits resulting from tax deductions in excess of the compensation cost recognized for options (excess tax benefits) to be classified as cash flows from financing activities. Prior to the adoption of FASB 123(R), these excess tax benefits were reported as an offset in cash flow from operating activities. The impact of this change on the condensed consolidated statement of cash flows was not material for the nine month period ended September 30, 2006.

Prior period pro forma disclosures have been recalculated to reflect a change in the estimated tax benefit from stock-based compensation. The Company's consolidated net income would have changed to the following pro forma amounts set forth below had the fair-value-based method been applied to all awards in the three and nine month periods ended September 30, 2005.

	Three months ended September 30, 2005	Nine months ended September 30, 2005
(Unaudited, amounts in thousands, except per share data)		
Net income as reported	\$ 4,982	\$ 9,867
Share-based employee compensation, net of related tax effects, included in the determination of net income, as reported	10	29
Share-based employee compensation expense, net of tax, that would have been included in net income if the fair-value-based method had been applied to all awards	<u>(272)</u>	<u>(953)</u>
Pro forma net income as if the fair-value based method had been applied to all awards	<u>\$ 4,720</u>	<u>\$ 8,943</u>
Basic and diluted earnings per share, as reported:		
Net income per common share - basic	<u>\$ 0.15</u>	<u>\$ 0.31</u>
Net income per common share - diluted	<u>\$ 0.15</u>	<u>\$ 0.30</u>
Pro forma basic and diluted earnings per share, as if the fair-value-based method had been applied to all awards:		
Pro forma net income per common share - basic	<u>\$ 0.15</u>	<u>\$ 0.28</u>
Pro forma net income per common share - diluted	<u>\$ 0.14</u>	<u>\$ 0.27</u>

Option activity under the Plans during the nine month period ended September 30, 2006 is as follows:

	Nine months ended September 30, 2006	
	Shares	Weighted Average Exercise Price
Options outstanding at beginning of the year	2,512,266	\$14.01
Granted	27,650	\$17.80
Canceled	(14,856)	\$16.97
Exercised	<u>(32,443)</u>	<u>\$10.38</u>
Options outstanding at September 30, 2006	<u>2,492,617</u>	<u>\$14.08</u>
Options exercisable at September 30, 2006	<u>2,468,167</u>	<u>\$14.04</u>

As of September 30, 2006, the Company had outstanding 2,487,488 options that were fully vested or expected to vest at a weighted average exercise price of \$14.07, aggregate intrinsic value of \$8.9 million, and weighted average contractual life of 4.4 years. As of September 30, 2006, 99.0% of options outstanding, or 2,468,167 options were fully exercisable at a weighted average exercise price of \$14.04, an aggregate intrinsic value of \$8.9 million, and a remaining contractual life of 4.3 years.

The following table describes information about share-based payments granted, exercised and vested during the nine months ended September 30, 2006 and 2005.

	Nine months ended September 30,	
	2006	2005
Weighted average grant date fair value of options granted during the period	\$ 9.26	\$ 9.06
Total intrinsic value of options exercised (in \$000s)	\$ 261	\$ 989

The Company revised its methodology of estimating the expected life in conjunction with the adoption of the new standard in the first quarter of 2006. The Company has been able to refine its estimate of expected life due to a greater amount of Company historical data being available. In prior periods, the Company had estimated expected life based only on the vesting and expiration dates of the options. Effective January 1, 2006, the expected life of the options is based on historical exercise behavior. The Company continues to compute expected volatility using the historical volatility of the market price of the Company's common stock.

The weighted average of significant valuation assumptions used to value options granted in the nine months ended September 30, 2006 were: expected term – 5 years, expected volatility – 52%, expected dividend rate – 0%, and risk-free rate – 4.8%. The weighted average assumptions used to value options granted in the nine month period ended September 30, 2005 were: expected term – 6 years, expected volatility – 58%, expected dividend – 0%, and risk-free rate – 3.9%.

5. ACQUISITIONS

On August 31, 2006, the Company acquired substantially all of the assets of privately-held Metropolitan Research Associates, LLC and Metropolitan Research Staffing Associates, LLC (collectively "Metropolitan Research") for a purchase price of \$18.6 million. The consideration for this acquisition was \$16.1 million in cash paid at closing, of which \$1.0 million is being held in escrow to cover any post-closing liabilities. The remaining \$2.5 million of the purchase price was held back for potential milestone payments, as defined by the asset purchase agreement, which will be paid if certain milestones are obtained. If milestone payments are made, they will be allocated to goodwill as additional purchase price. The Company financed this transaction using its revolving credit facility.

In addition, the asset purchase agreement provides for potential earnout payments up to a maximum of \$6.4 million based on 2006 and 2007 performance, as defined by the asset purchase agreement. This contingent consideration is not related to the sellers' employment. If an earnout payment is made, it will be allocated to goodwill as additional purchase price.

Metropolitan Research is headquartered in New York City, New York and provides clinical trials staffing, drug safety monitoring and contract research services to the pharmaceutical, biotech and medical device industries while providing its healthcare professional candidates with temporary or permanent clinical staffing career opportunities. The Company believes that the addition of Metropolitan Research will enhance the breadth of the service offerings in its ClinForce clinical trials staffing business.

The acquisition has been allocated to the healthcare staffing segment and the results of Metropolitan Research's operations have been included in the condensed consolidated statements of income since the date of acquisition, in accordance with FASB Statement No. 141, *Business Combinations*.

The purchase price has been allocated to assets acquired and liabilities assumed based on estimates of fair value at the date of acquisition. The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of acquisition.

	<u>August 31,</u> <u>2006</u>
(Unaudited, amounts in thousands)	
Current assets:	
Accounts receivable, net	\$ 3,696
Other current assets	<u>242</u>
Total current assets	3,938
Property and equipment, net	349
Trademarks, net	1,700
Goodwill, net	4,871
Other identifiable intangible assets, net	<u>6,190</u>
Total assets acquired	17,048
Current liabilities:	
Accounts payable and accrued expenses	187
Accrued employee compensation and benefits	748
Other current liabilities	<u>7</u>
Total liabilities assumed	<u>942</u>
Net assets acquired	<u>\$ 16,106</u>

Based on a third-party appraisal, total other identifiable intangible assets were approximately \$6.2 million. Of the total, \$4.8 million was assigned to customer relations with a weighted-average useful life of 23 years, \$1.0 million to database with a useful life of 15 years and \$0.4 million was assigned to non-compete agreements with a useful life of 5 years. The excess of purchase price over the fair value of net tangible and intangible assets acquired has been recorded as goodwill, which is expected to be deductible for tax purposes. The initial purchase price allocation is based on preliminary information that could change based on the ultimate resolution of initial assessments and the completion of a third-party audit of the beginning balances. The independent audit of the beginning balances is expected to be finalized in the fourth quarter. Additional direct acquisition costs of approximately \$25,000 were incurred in the three month period ended September 30, 2006 and is included as goodwill in the condensed consolidated balance sheets.

6. DISCONTINUED OPERATIONS

The following details revenue and income (loss) from discontinued operations for the three and nine months ended September 30, 2006 and 2005:

	<u>Three Months Ended</u> <u>September 30,</u>		<u>Nine Months Ended</u> <u>September 30,</u>	
	<u>2006</u>	<u>2005</u>	<u>2006</u>	<u>2005</u>
(Unaudited, amounts in thousands)				
Revenue	<u>\$ —</u>	<u>\$ 323</u>	<u>\$ —</u>	<u>\$ 1,517</u>
Income (loss) from discontinued operations before income taxes	\$ 3	\$ (436)	\$ 192	\$ (882)
Income taxes on discontinued operations	<u>(1)</u>	<u>168</u>	<u>(74)</u>	<u>341</u>
Income (loss) from discontinued operations	<u>\$ 2</u>	<u>\$ (268)</u>	<u>\$ 118</u>	<u>\$ (541)</u>

Discontinued operations for the three and nine month periods ended September 30, 2006 and 2005 include the results of operations of the Company's healthcare consulting business that was previously classified in its other human capital management service business segment. On October 4, 2004, the Company sold assets of its Gill/Balsano Consulting, LLC and Jennings Ryan & Kolb consulting practices to Mitretek Systems, Inc. The remaining consulting practice was held for sale until the third quarter of 2005, at which time the Company

abandoned its efforts to sell the remaining consulting practice and shut down the remaining operations. The Company has continued to account for final adjustments related to the shutdown as discontinued operations within the condensed consolidated statements of income and cash flows and notes to the condensed consolidated financial statements included in this Form 10-Q.

7. DEBT

The Company entered into a new senior secured revolving credit facility on November 10, 2005 (the 2005 Credit Agreement), consisting of a 5-year, \$75.0 million revolving credit facility, with a \$10.0 million sublimit for the issuance of Swingline Loans (as defined by the 2005 Credit Agreement) and a \$35.0 million sublimit for the issuance of standby letters of credit. Swingline Loans and letters of credit issued under this facility reduce the revolving credit facility on a dollar for dollar basis. The Company may, at its option, request an increase to the amount of principal borrowings of up to \$50.0 million via an incremental increase in the revolving credit facility and/or through one or more term loan facilities. The new credit facility was used to refinance the Company's existing senior secured debt and will be used for general corporate purposes including working capital, capital expenditures and permitted acquisitions and investments, as well as to pay fees and expenses related to the credit facility. During the nine month period ended September 30, 2006, the Company purchased the assets of Metropolitan Research using \$16.0 million of proceeds under the revolving commitment. See Note 5 - Acquisitions for further discussion. Excluding this incremental borrowing, during the nine months ended September 30, 2006, the Company repaid a net of \$20.3 million of borrowings under this facility. As of September 30, 2006, the Company had \$19.3 million of borrowings and \$7.6 million of standby letters of credit outstanding under this facility, leaving \$48.1 million available for borrowings under the current facility.

The provisions of the revolving credit agreement generally allow the Company to borrow, repay and re-borrow debt for an uninterrupted period until the maturity date of the credit facility which, as of September 30, 2006, extends beyond one year from the balance sheet date. Borrowings under the facility are generally not callable unless an event of default exists, and there are no subjective acceleration clauses. Accordingly, as per the provisions of FASB Statement No. 6, *Classification of Short-term Obligations Expected to Be Refinanced*, \$17.0 million of borrowings under this facility is classified as long-term as of September 30, 2006. Short-term borrowings under this facility consist of borrowings that the Company intends to or has repaid as of the date of the issuance of these condensed consolidated financial statements.

The prior amended senior secured credit facility consisted of a \$125.0 million term loan and a \$75.0 million revolving credit facility. During the nine month period ended September 30, 2005, the Company repaid \$12.8 million on the term loan portion of its credit facility, of which \$11.4 million were optional prepayments. The Company terminated its commitments under this credit agreement on November 10, 2005, the date of issuance of the 2005 Credit Agreement described above.

Long-term debt includes capital lease obligations that are subordinate to the Company's senior secured facility. At September 30, 2006 and December 31, 2005, the Company had \$1.4 million and \$1.8 million, respectively, in capital lease obligations recorded as debt on the condensed consolidated balance sheets.

8. STOCKHOLDERS' EQUITY

On May 10, 2006, the Company's Board of Directors authorized a new stock repurchase program whereby the Company may purchase up to an additional 1.5 million of its common shares, subject to the constraints of the Company's current credit agreement. The shares may be repurchased from time-to-time in the open market and may be discontinued at any time at the discretion of the Company. This new stock repurchase authorization will commence upon the completion of the previously authorized 1.5 million share stock repurchase program discussed below.

On November 4, 2002, the Company's Board of Directors authorized a stock repurchase program whereby the Company may purchase up to 1.5 million of its common shares at an aggregate price not to exceed \$25.0 million. During the nine month period ended September 30, 2006, the Company purchased 158,900 shares of common stock at an average cost of \$16.87 per share pursuant to this program. The cost of such purchases was approximately \$2.7 million. As of the date of this filing all of these shares were retired. During the nine month period ended September 30, 2005, the Company purchased 125,728 shares of common stock at an average cost of \$18.61 per share pursuant to this program.

The Company can purchase up to an additional 74,872 shares at an aggregate price not to exceed approximately \$3.9 million under the stock repurchase program authorized on November 4, 2002. This repurchase program is within the limits of the Company's current senior secured credit facility covenants. Under this program, the shares may be purchased from time-to-time in the open market. The repurchase program may be discontinued at any time at the discretion of the Company. At September 30, 2006, the Company had approximately 32.0 million shares outstanding.

On November 3, 2004, the Company filed a registration statement on Form S-3 with the Securities and Exchange Commission for the registration of approximately 11.4 million shares of common stock owned by its private equity sponsor stockholders. No members of management registered shares pursuant to this registration statement. On April 14, 2005, the Company announced a public offering of approximately 4.2 million shares of common stock pursuant to this Form S-3 shelf registration statement. All net proceeds from the sale went to the selling stockholders. However, the Company incurred all fees and expenses relating to the registration statement.

9. SEGMENT DATA

Healthcare staffing revenue includes travel and per diem nurse staffing, travel allied health as well as clinical research staffing. Other human capital management services include the combined results of the Company's education and training and retained search businesses. Information on operating segments and a reconciliation to income from continuing operations before income taxes for the periods indicated are as follows:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
(Unaudited, amounts in thousands)				
Revenue from unaffiliated customers:				
Healthcare staffing	\$ 151,401	\$ 151,414	\$ 443,928	\$ 446,866
Other human capital management services	11,475	11,730	35,479	34,807
	<u>\$ 162,876</u>	<u>\$ 163,144</u>	<u>\$ 479,407</u>	<u>\$ 481,673</u>
Contribution income (a):				
Healthcare staffing	\$ 15,213	\$ 15,310	\$ 42,522	\$ 36,694
Other human capital management services	2,181	2,197	7,097	6,358
	<u>17,394</u>	<u>17,507</u>	<u>49,619</u>	<u>43,052</u>
Unallocated corporate overhead	6,391	6,428	19,996	18,632
Depreciation	1,315	1,206	4,020	3,551
Amortization	418	356	1,130	1,068
Legal settlement charge	8,827	—	8,827	—
Interest expense, net	273	953	979	2,822
Income from continuing operations before income taxes	<u>\$ 170</u>	<u>\$ 8,564</u>	<u>\$ 14,667</u>	<u>\$ 16,979</u>

- (a) The Company defines contribution income as income from continuing operations before interest, income taxes, depreciation, amortization, legal settlement charge and corporate expenses not specifically identified to a reporting segment. Contribution income is a financial measure used by management when assessing segment performance and is provided in accordance with FASB No. 131, *Disclosure About Segments of an Enterprise and Related Information*. In 2006, the Company refined its methodology for identifying corporate overhead expenses to its segments to more accurately reflect the profitability of each segment. Prior year segment data has been reclassified to conform to the current presentation.

10. CONTINGENCIES.

Cossack, et. al. v. Cross Country TravCorps and Cross Country Nurses, Inc

On August 26, 2003, a purported class action lawsuit (*Theodora Cossack, et. al. v. Cross Country TravCorps and Cross Country Nurses, Inc.*) was filed in the Superior Court of the State of California, for the County of Orange, naming Cross Country TravCorps, Inc. and Cross Country Nurses, Inc. as Defendants. Plaintiffs plead causes of action for (1) Violation of California Business and Professions Code §§ 17200, et. seq; (2) Violations of California Labor Code §§ 200, et. seq; (3) Recovery of Unpaid Wages and Penalties; (4) Conversion; (5) Breach of Contract; (6) Common Counts – Work, Labor, Services Provided; and (7) Common Counts – Money Had and Received.

Plaintiffs, who purport to sue on behalf of themselves and all others similarly situated, allege that Defendants failed to pay Plaintiffs, and the class they purport to represent, properly under California law. Plaintiffs claim that Defendants failed to pay nurses hourly overtime as required by California law; failed to calculate correctly their employees' regular rate of pay used to calculate the rate at which overtime hours are to be compensated; failed to calculate correctly and pay a double time premium for all hours worked in excess of 12 in a workday; scheduled some of its employees on an alternative workweek schedule, but failed to pay them additional compensation when those employees did not work such alternative workweek, as scheduled; and failed to pay employees for the minimum hours Defendants had promised them.

On February 10, 2006, the Superior Court of the State of California granted Plaintiffs leave to amend the complaint to add causes of actions alleging Defendant's failure to pay for missed meal periods and rest breaks. Although Cross Country Nurses, Inc. was previously dismissed from the action upon Defendants' motion for summary judgment, Plaintiffs erroneously included Cross Country Nurses, Inc. in the caption and allegations of the amended complaint they filed.

On March 10, 2006, Defendants removed this putative class action lawsuit to the United States District Court for the Central District of California in Orange County. Plaintiffs filed a motion requesting that the case be remanded to state court, which was granted on April 28, 2006. Defendants filed an appeal to the United States Court of Appeal for the Ninth Circuit, appealing the decision to remand, however, the appeal was denied.

Plaintiffs seek (among other things) an order enjoining Defendants from engaging in the practices challenged in the complaint; for an order for full restitution of all monies Defendants allegedly failed to pay Plaintiffs (and their purported class); for pre-judgment interest; for certain penalties provided for by the California Labor Code; and for attorneys' fees and costs. On July 28, 2006, Plaintiff filed a Motion for Class Certification.

On September 5, 2006, Plaintiff filed the Third Amended Complaint alleging a Fourth Cause of Action for violation of the Fair Labor Standards Act and failure to pay the amount of premium pay required under the FLSA when putative class members worked more than 40 hours in a week. On September 7, 2006, Defendants filed to remove the lawsuit from the Superior Court of the State of California for the County of Orange to the United States District Court Central District of California.

The case was tentatively settled in August for \$10.0 million and on August 23, 2006, Plaintiff filed a Motion for Preliminary Approval of a settlement pursuant to which Defendants would pay up to \$10.0 million, including payments to eligible nurses, the named plaintiff, plaintiff's attorney fees and administrative costs. Payments to eligible nurses would be on a "claims made" basis, which means that the Company's total liability could be reduced to the extent that nurses who are eligible to participate in the settlement do not submit claims through the settlement administration process. On October 30, 2006, the Court issued an order granting the Motion for Preliminary Approval of the settlement and ordering, among other things, that the class be preliminarily certified under Federal Rule of Civil Procedure 23(b)(3) for settlement purposes. The Company anticipates a final approval on or about February 26, 2007.

Based on the Company's best estimate of participation in the settlement, the Company accrued a pre-tax charge of approximately \$8.8 million in the third quarter of 2006 which is included in other current liabilities on the condensed consolidated balance sheet. After taxes, the charge equates to approximately \$5.4 million.

Maureen Petray and Carina Higareda v. MedStaff, Inc.

On February 18, 2005, the Company's MedStaff subsidiary became the subject of a purported class action lawsuit (*Maureen Petray and Carina Higareda v. MedStaff, Inc.*) filed in the Superior Court of California in Riverside County. The lawsuit only relates to MedStaff corporate employees. It alleges, among other things, violations of certain sections of the California Labor Code, the California Business and Professions Code, and recovery of unpaid wages and penalties. MedStaff currently has less than 50 corporate employees in California. The Plaintiffs, Maureen Petray and Carina Higareda purport to sue on behalf of themselves and all others similarly situated, allege that MedStaff failed, under California law, to provide meal periods and rest breaks and pay for those missed meal periods and rest breaks; failed to compensate the employees for all hours worked; failed to compensate the employees for working overtime; and failed to keep appropriate records to keep track of time worked. Plaintiffs seek, among other things, an order enjoining MedStaff from engaging in the practices challenged in the complaint; for full restitution of all monies MedStaff allegedly failed to pay Plaintiffs and their purported class; for interest; for certain penalties provided for by the California Labor Code; and for attorneys' fees and costs.

The Superior Court of the State of California ordered Plaintiffs to file a motion for class certification by September 5, 2006. On July 21, 2006, the Company filed a motion seeking a stay of all proceedings until the conditionally certified collective action in the *Henry v. MedStaff, Inc. et al.* matter has been either decertified or granted final certification. On August 25, 2006, the court granted in part the Company's motion and prohibited Plaintiffs from filing a motion for class certification prior to October 16, 2006. A joint stipulation was subsequently filed prohibiting Plaintiffs' from moving for class certification prior to October 25, 2006 in order to allow for the completion of pre-certification discovery and to allow for the completion of the opt-in period in the *Henry v. MedStaff, Inc. et al.* matter. On October 27, 2006, Plaintiffs filed a Motion for Class Certification.

The lawsuit has not yet been certified by the court as a class action. As a result, the Company is unable to determine its potential exposure, if any, and intends to vigorously defend this matter.

Darrellyn Renee Henry vs. MedStaff, Inc., Cross Country Healthcare, Inc., Victor Kalafa, Tim Rodden, Talia Pico and Melissa Hetrick

On June 21, 2005, the Company, its MedStaff subsidiary, and a number of its individual officers and managers became the subject of a purported class action lawsuit (*Darrellyn Renee Henry vs. MedStaff, Inc., Cross Country Healthcare, Inc., Victor Kalafa, Tim Rodden, Talia Pico and Melissa Hetrick*) in the United States District Court for the Central District of California in Orange County. The lawsuit relates only to corporate employees employed by the Company and/or MedStaff, but based on its allegations appears to be limited to MedStaff corporate employees. It alleges, among other things, violations of certain sections of the federal Fair Labor Standards Act, the California Labor Code, the California Business and Professions Code, as well as claims for unjust enrichment and the recovery of unpaid wages and penalties. Plaintiff, Darrellyn Renee Henry, who purports to sue on behalf of herself and all other similarly situated employees, makes allegations similar to those made by Plaintiffs Maureen Petray and Carina Higareda in their action in the California Superior Court, but Henry's claims purport to encompass a nationwide (rather than California only) putative class of employees. Henry alleges that the Company and/or MedStaff failed, under both federal and California law, to timely and properly compensate employees for all hours worked (including overtime) and to provide at least the minimum amount of compensation required for those hours. Henry also alleges that the Company and/or MedStaff failed, under California law only, to provide meal periods and to pay for those missed meal periods and suffered employees to work in excess of 16 hours per day. Plaintiffs seek, among other things, an order enjoining the Company and MedStaff from engaging in the practices challenged in the complaint, an order for full restitution of all monies the Company and/or MedStaff allegedly failed to pay Plaintiffs and their purported class, interest, liquidated damages as provided for by the Fair Labor Standards Act, penalties as provided for by the California Labor Code, an equitable accounting and attorneys' fees and costs.

On February 27, 2006, the United States District Court for the Central District of California filed an order denying plaintiff's certification of a collective action pursuant to 29 U.S.C. Section 216(b) (Fair Labor Standards Act claims) without prejudice and holding on submission plaintiff's Rule 23 motion for certification of a class action solely with respect to California employees based on California law.

On April 24, 2006, the United States District Court of California filed an order to preliminarily certify a collective action based on the Fair Labor Standards Acts claims, subject to Defendants ability to move for decertification at a

later stage in the proceedings. The Court, however, limited the scope of the preliminarily certified collective action to encompass claims occurring within a 2-year statute of limitations and limited to 90 days the period of time within which putative members of the preliminarily certified collective action group may opt-into the action. The Court denied certification of a class action pursuant to Fed. R. Civ. P. 23 for claims made under California state law, but indicated that it will exercise supplemental jurisdiction as to the California law claims of those individuals who opt into the Fair Labor Standards Act claims.

On June 9, 2006, stipulated notices and consent to join forms were sent by a mutually agreed upon third party administrator to the putative members of the collective action group, thus triggering the start of the 90 day opt-in period. Additional notices were sent out to certain putative members of the collective action group on August 31, 2006, which provided a potential extension of the opt-in period.

The opt-in period has ended for all putative members of the collective action group. A total of only fifteen (15) individuals (including Plaintiff) have opted-into the conditionally certified collective action and have timely filed consent to join forms. The Company is unable to determine its potential exposure, if any, and intends to vigorously defend this matter.

Nika Yarandi, by her parents, Fereidoon Yarandi & Victoria Yarandi, and Fereidoon Yarandi & Victoria Vahdani, individually vs. Cross Country TravCorps, Inc., et al.; and Chris Myers and Michelle Myers both individually and as Father and Mother of Liam Evan Myers, a Minor vs. Cross Country Healthcare, Inc., et al.

The Company and its subsidiary, Cross Country TravCorps, Inc., became the subject of two medical malpractice lawsuits filed in December 2002 and March 2003 (*Nika Yarandi, by her parents, Fereidoon Yarandi & Victoria Yarandi, and Fereidoon Yarandi & Victoria Vahdani, individually vs. Cross Country TravCorps, Inc., et al.*; and *Chris Myers and Michelle Myers both individually and as Father and Mother of Liam Evan Myers, a Minor vs. Cross Country Healthcare, Inc., et al.*), respectively, in the Circuit Court of Cook County, Illinois. Both lawsuits relate to nursing services provided by nurses supplied by Cross Country TravCorps to a hospital located in Chicago, Illinois. The lawsuits allege that the nurses supplied by Cross Country TravCorps were negligent in their care and treatment of Plaintiffs who were maternity patients at the facility in Chicago. The nurses' alleged negligent failure to appropriately monitor each Plaintiff in their labor and delivery allegedly caused the minor Plaintiffs to suffer severe, permanent and disabling brain injuries. In addition to the hospital facility and physicians, the Company, Cross Country TravCorps and the individual nurses have been named as direct Defendants in the lawsuits. During the second quarter of 2005, the Company increased its reserve for professional liability insurance by \$5.3 million, pretax, based on an independent actuarial calculation which reflected unfavorable developments relating to these cases. During the first quarter of 2006, the Company settled both matters consistent with the previously established accrual range.

The Company is also subject to other legal proceedings and claims that arise in the ordinary course of its business. In the opinion of management, the outcome of these other matters will not have a significant effect on the Company's consolidated financial position or results of operations.

11. NON-CANCELABLE OPERATING LEASE AGREEMENTS

The Company executed a lease in February 2006 for approximately 32,000 square feet of office space to replace some of the current space leased by its MedStaff subsidiary. The new lease term is 7 years and 5 months (with an option to renew for 5 years). Total future minimum rental payments are approximately \$5.6 million. The commencement date of the lease was August 2006. The Company also assumed leases for three offices in conjunction with its acquisition of Metropolitan Research.

Including these leases, remaining total future minimum lease payments associated with the Company's non-cancelable operating lease agreements for the rental of office space and equipment as of September 30, 2006, in thousands, are as follows: 2006 - \$1,218; 2007 - \$5,467; 2008 - \$4,763 ; 2009 - \$3,714; 2010 - \$2,806; and thereafter - \$6,806.

12. RECENTLY ISSUED ACCOUNTING STANDARDS

In July 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109* (FIN 48). FIN 48 creates a single model to address uncertainty in tax positions. FIN 48 clarifies accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. FIN 48 also prescribes guidance on derecognition, measurement, classification, interest and penalties, accounting in interim periods, disclosure and transition. FIN 48 is effective for fiscal years beginning after December 15, 2006. The Company is currently in the process of determining the impact, if any, that the adoption of FIN 48 will have on its consolidated financial position and results of operations.

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

The Company's condensed consolidated financial statements present a consolidation of all its operations. Certain prior period information has been reclassified to conform to the current period presentation. This discussion supplements the detailed information presented in the condensed consolidated financial statements and notes thereto which should be read in conjunction with the consolidated financial statements and related notes contained in the Company's Form 10-K, filed for the year ended December 31, 2005, and is intended to assist the reader in understanding the financial results and condition of the Company.

OVERVIEW

During the nine months ended September 30, 2006, our healthcare staffing business segment represented approximately 93% of our revenue and was comprised of travel and per diem nurse staffing, travel allied health staffing as well as clinical research staffing. Travel nurse staffing represented approximately 76% of this business segment's revenue and approximately 71% of the Company's total revenue. Our other human capital management services business segment represented approximately 7% of the remaining total Company revenue and consisted of education and training, and retained search businesses.

On August 31, 2006, we acquired substantially all of the assets of privately-held Metropolitan Research Associates, LLC and Metropolitan Research Staffing Associates, LLC (collectively "Metropolitan Research") for a purchase price of \$18.6 million. Based in New York City, Metropolitan Research provides clinical trials staffing, drug safety monitoring and contract research services to the pharmaceutical, biotech and medical device industries while providing its healthcare professional candidates with temporary or permanent clinical staffing career opportunities. The acquisition has been allocated to the healthcare staffing segment and the results of Metropolitan Research's operations have been included in our condensed consolidated statements of income since the date of acquisition, in accordance with FASB Statement No. 141, *Business Combinations*. Goodwill of \$4.9 million, trademarks of \$1.7 million and other identifiable intangible assets of \$6.2 million were recorded at the time of the acquisition based on a third party appraisal.

We financed the Metropolitan Research transaction by drawing on our revolving credit facility for the upfront cash payment of \$16.1 million paid at closing. The remaining \$2.5 million of the purchase price was held back for potential milestone payments, as defined by the asset purchase agreement, which will be paid if certain milestones are obtained. In addition, the asset purchase agreement provides for potential earnout payments up to a maximum of \$6.4 million based on 2006 and 2007 performance, as defined by the asset purchase agreement. This contingent consideration is not related to the sellers' employment. If milestone and/or earnout payments are made, they will be allocated to goodwill as additional purchase price.

Revenue in the three months ended September 30, 2006, compared to the three months ended September 30, 2005 remained relatively flat. Higher revenue from our retained search business and additional healthcare staffing revenue from the acquisition of Metropolitan Research, as well as higher bill rates in our healthcare staffing business segment were more than offset by the lower organic volume.

Net income during the third quarter of 2006 was reduced by an accrual for an estimated legal settlement of \$5.4 million after taxes. Excluding the impact of this reduction, net income increased primarily due to lower interest expense and the favorable impact of the discontinuance of our consulting businesses.

The market for our healthcare staffing services during the third quarter of 2006 reflects a somewhat higher level of demand, as measured by the average monthly number of open orders from our hospital clients, compared to a year ago. In addition, we believe acute care hospital in-patient admissions trends have improved from the comparable period declines experienced in the first half of 2006. Typically, as admissions increase relative to expectations, temporary employees are often added before full-time employees are hired. Accordingly, we expect sequential improvement in volume in our fourth quarter.

Longer term, improvement in the labor market should provide many hospital staff nurses with increased household income and greater confidence in being able to reduce the amount of regular and overtime hours they provide directly to hospital employers. We believe that the perception of increased demand will give nurses confidence to seek alternative employment opportunities which could increase staff turnover in hospitals as implied by U.S. Bureau Labor of Statistics data related to Job Openings and Labor Turnover (JOLTS). The most recent JOLTS data

reflects a slowdown in the rate of turnover, although it remains relatively high. We believe these dynamics could lead to an increase in the demand for our healthcare staffing services and encourage more nurses to actively seek travel assignments and apply with us. In general, we believe nurses are more willing to seek travel assignments during relatively high levels of demand for contract employment, and conversely, are more reluctant to seek travel assignments during and immediately following periods of weak demand for contract employment. We also believe demand for travel nurse staffing services will be favorably impacted in the long term by an aging population and an increasing shortage of nurses.

RESULTS OF OPERATIONS

The following table summarizes, for the periods indicated, selected consolidated statement of income data expressed as a percentage of revenue:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
	(Unaudited)		(Unaudited)	
Revenue from services	100.0 %	100.0 %	100.0 %	100.0 %
Direct operating expenses	76.8	76.8	76.8	78.5
Selling, general and administrative expenses	16.4	16.4	17.0	16.3
Bad debt expense	—	0.1	0.0	0.1
Depreciation and amortization	1.1	0.9	1.1	1.0
Legal settlement charge	5.4	—	1.8	—
Income from operations	0.3	5.8	3.3	4.1
Interest expense, net	0.2	0.6	0.2	0.6
Income from continuing operations before income taxes	0.1	5.2	3.1	3.5
Income tax expense	0.0	2.0	1.2	1.4
Income from continuing operations	0.1	3.2	1.9	2.1
Discontinued operations, net of income taxes	0.0	(0.1)	0.0	(0.1)
Net income	0.1 %	3.1 %	1.9 %	2.0 %

Three months ended September 30, 2006 compared to three months ended September 30, 2005

REVENUE FROM SERVICES decreased \$0.3 million, or 0.2%, to \$162.9 million for the three months ended September 30, 2006 from revenue of \$163.1 million for the three months ended September 30, 2005. This decline was due to lower revenue from both of our healthcare staffing and our other human capital management services business segments. The decrease in revenue from our healthcare staffing business segment was primarily due to lower staffing volume that was partially offset by higher bill rates and an additional \$2.0 million of revenue from the acquisition of the assets of Metropolitan Research. The decrease in other human capital management services revenue was due to a decline in revenue from our educational seminars business due to reduced seminar attendance partially offset by higher volume from our retained search business. See Segment Information for further analysis.

DIRECT OPERATING EXPENSES are comprised primarily of field employee compensation expenses, housing expenses, travel expenses and various insurance expenses associated with our field employees. Direct operating expenses totaled \$125.1 million for the three months ended September 30, 2006 as compared to \$125.2 million for the three months ended September 30, 2005. As a percentage of revenue, direct operating expenses represented 76.8% of revenue for both the three months ended September 30, 2006 and 2005. Direct expenses as a percentage of revenue in the three months ended September 30, 2006 compared to the three months ended September 30, 2005 reflect a continued widening of our bill-pay spread in our travel nurse staffing business offset primarily by higher housing and health insurance expenses in our healthcare staffing business segment.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES totaled \$26.8 million for the three months ended September 30, 2006 as compared to \$26.7 million for the three months ended September 30, 2005. As a percentage of revenue, selling, general and administrative expenses were 16.4% for both the three months ended September 30, 2006 and 2005.

BAD DEBT EXPENSE was not recorded in the three months ended September 30, 2006, reflecting improved collections, compared to \$0.1 million recorded in the three months ended September 30, 2005.

LEGAL SETTLEMENT CHARGE was \$8.8 million for the three months ended September 30, 2006. In the third quarter of 2006, we reached an agreement in principle to settle the California wage and hour class action lawsuit filed against certain of the Company's subsidiaries in Superior Court in Orange County, California, in August of 2003. See Legal Proceedings for more information. The \$8.8 million represents our best estimate of costs to settle this lawsuit. On October 30, 2006, the Court issued an order granting plaintiff's Motion for Preliminary Approval of the lawsuit. We anticipate final approval by the Court on or about February 26, 2007.

INTEREST EXPENSE, NET totaled \$0.3 million for the three months ended September 30, 2006 as compared to \$1.0 million for the three months ended September 30, 2005. This decrease was primarily due to lower average borrowings outstanding, partially offset by a higher effective borrowing cost in the three months ended September 30, 2006, compared to the three months ended September 30, 2005. Average borrowings outstanding were lower during the three months ended September 30, 2006, despite the additional borrowings to fund the acquisition of Metropolitan Research, due to repayments of debt. The effective borrowing cost, excluding the amortization of debt issuance costs, for the three months ended September 30, 2006 was 9.4% compared to a rate of 8.8% for the three months ended September 30, 2005.

INCOME TAXES were less than \$0.1 million for the three months ended September 30, 2006 as compared to a \$3.3 million expense for the three months ended September 30, 2005. In the three months ended September 30, 2006, we accrued a benefit of approximately \$3.4 million relating to the legal settlement charge. In addition, we benefited from reconciliation adjustments to actual expense. Excluding these reconciliation adjustments, the estimated effective tax rate was 38.7% for both the three months ended September 30, 2006 and 2005.

DISCONTINUED OPERATIONS, NET OF INCOME TAXES was negligible in the three months ended September 30, 2006 and a loss of \$0.3 million in the three months ended September 30, 2005. We have accounted for our healthcare consulting practices as discontinued operations since the fourth quarter of 2004. On October 4, 2004, we sold the assets of two of the three consulting practices to a third party. During the three months ended September 30, 2005, the operations of the remaining consulting practice were shut down and ceased as of September 30, 2005.

Nine months ended September 30, 2006 compared to nine months ended September 30, 2005

REVENUE FROM SERVICES decreased \$2.3 million, or 0.5%, to \$479.4 million for the nine months ended September 30, 2006 as compared to \$481.7 million for the nine months ended September 30, 2005. This decrease was primarily due to a decline in revenue from our healthcare staffing segment, partially offset by an increase in revenue from our other human capital management services business segment. The decrease in revenue from our healthcare staffing segment was primarily due to lower staffing volume that was partially offset by improved pricing and an additional \$2.0 million of revenue from the acquisition of the assets of Metropolitan Research. The increase in other human capital management services revenue was due to an increase in our retained search business, partially offset by a decrease in revenue from our educational seminars business. See Segment Information for further analysis.

DIRECT OPERATING EXPENSES are comprised primarily of field employee compensation expenses, housing expenses, travel expenses and various insurance expenses associated with our field employees. Direct operating expenses totaled \$368.0 million for the nine months ended September 30, 2006 as compared to \$377.9 million for the nine months ended September 30, 2005. As a percentage of revenue, direct operating expenses represented 76.8% of revenue for the nine months ended September 30, 2006 and 78.5% for the nine months ended September 30, 2005, a 170 basis point decrease. In the nine month period ended September 30, 2005, we increased our professional liability insurance reserves in the nurse staffing business by \$5.3 million, pretax, based on unfavorable developments in two specific cases, as described in the legal proceedings section herein. The 170 basis point decrease in direct operating expenses as a percentage of revenue is primarily due to the significantly lower professional liability insurance expense in our healthcare staffing businesses, representing approximately 110 basis points. The remaining decrease is primarily attributable to a widening of our bill-pay spread in our travel nurse staffing operations, and a higher relative mix of business from our other human capital management services business segment partially offset by higher housing expenses. Our other human capital management services businesses operate with relatively lower direct costs than our healthcare staffing business segment.

SELLING, GENERAL AND ADMINISTRATIVE EXPENSES totaled \$81.8 million for the nine months ended September 30, 2006 as compared to \$78.8 million for the nine months ended September 30, 2005. As a percentage of revenue, selling, general and administrative expenses were 17.0% and 16.3% for the nine months ended September 30, 2006 and 2005, respectively, reflecting a combination of higher compensation expenses, higher legal expenses, and a higher relative mix of business from our other human capital management services business segment. Our other human capital management services businesses operate with higher selling, general and administrative costs than our healthcare staffing business segment.

BAD DEBT EXPENSE was less than \$0.1 million for the nine months ended September 30, 2006 compared to \$0.6 million for the nine months ended September 30, 2005 reflecting improved collections.

LEGAL SETTLEMENT CHARGE was \$8.8 million for the nine months ended September 30, 2006. In the third quarter of 2006, we reached an agreement in principle to settle the California wage and hour class action lawsuit filed against certain of the Company's subsidiaries in Superior Court in Orange County, California, in August of 2003. See Legal Proceedings for more information. The \$8.8 million represents our best estimate of costs to settle this lawsuit. On October 30, 2006, the Court issued an order granting plaintiff's Motion for Preliminary Approval of the lawsuit. We anticipate final approval by the Court on or about February 26, 2007.

INTEREST EXPENSE, NET totaled \$1.0 million for the nine months ended September 30, 2006 as compared to \$2.8 million for the nine months ended September 30, 2005. This decrease was primarily due to lower average borrowings outstanding, partially offset by a slightly higher effective borrowing cost in the nine months ended September 30, 2006, compared to the nine months ended September 30, 2005. Average borrowings outstanding were lower during the nine months ended September 30, 2006, despite the additional borrowings to fund the acquisition of Metropolitan Research, due to repayments of debt. The effective borrowing cost, excluding the amortization of debt issuance costs, for the nine months ended September 30, 2006, was 8.2% compared to a rate of 8.1% for the nine months ended September 30, 2005.

INCOME TAX EXPENSE totaled \$5.7 million for the nine months ended September 30, 2006 as compared to \$6.6 million for the nine months ended September 30, 2005. In the nine months ended September 30, 2006, we accrued a benefit of approximately \$3.4 million relating to the legal settlement charge. In addition, we benefited from reconciliation adjustments to actual expense. Excluding these reconciliation adjustments, the estimated effective tax rate was 38.7% for both the nine months ended September 30, 2006 and 2005.

DISCONTINUED OPERATIONS, NET OF INCOME TAXES was \$0.1 million in the nine months ended September 30, 2006 reflecting better than expected collections on accounts receivable related to our discontinued operations, compared to a loss of \$0.5 million in the nine months ended September 30, 2005. We have accounted for our healthcare consulting practices as discontinued operations since the fourth quarter of 2004. On October 4, 2004, we sold the assets of two of the three consulting practices to a third party. During the nine months ended September 30, 2005, the operations of the remaining consulting practice were shut down and ceased as of September 30, 2005.

SEGMENT INFORMATION

The following table presents, for the periods indicated, selected statements of income data by segment in accordance with Financial Accounting Standards Board (FASB) Statement No. 131, *Disclosures about Segments of an Enterprise and Related Information*:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2006	2005	2006	2005
(Unaudited, amounts in thousands)				
Revenue from unaffiliated customers:				
Healthcare staffing	\$ 151,401	\$ 151,414	\$ 443,928	\$ 446,866
Other human capital management services	11,475	11,730	35,479	34,807
	<u>\$ 162,876</u>	<u>\$ 163,144</u>	<u>\$ 479,407</u>	<u>\$ 481,673</u>
Contribution income (a):				
Healthcare staffing	\$ 15,213	\$ 15,310	\$ 42,522	\$ 36,694
Other human capital management services	2,181	2,197	7,097	6,358
	<u>17,394</u>	<u>17,507</u>	<u>49,619</u>	<u>43,052</u>
Unallocated corporate overhead	6,391	6,428	19,996	18,632
Depreciation	1,315	1,206	4,020	3,551
Amortization	418	356	1,130	1,068
Legal settlement charge	8,827	—	8,827	—
Interest expense, net	273	953	979	2,822
Income from continuing operations before income taxes	<u>\$ 170</u>	<u>\$ 8,564</u>	<u>\$ 14,667</u>	<u>\$ 16,979</u>

- (a) We define contribution income as income from continuing operations before interest, income taxes, depreciation, amortization, legal settlement charge and corporate expenses not specifically identified to a reporting segment. Contribution income is a financial measure used by management when assessing segment performance and is provided in accordance with FASB No. 131. In 2006, we refined our methodology for identifying corporate overhead expenses to our segments to more accurately reflect the profitability of each segment. Prior year segment data has been reclassified to conform to the current presentation.

Three months ended September 30, 2006 compared to three months ended September 30, 2005

HEALTHCARE STAFFING

Healthcare staffing revenue includes travel and per diem nurse staffing, travel allied health staffing, as well as clinical research staffing. Revenue from our healthcare staffing business segment was \$151.4 million for both the three months ended September 30, 2006 and 2005. Excluding the revenue from the acquisition of Metropolitan Research, revenue decreased \$2.0 million or 1.3% in the three months ended September 30, 2006 compared to the three months ended September 30, 2005. This decline in revenue was primarily due to a decrease in the average number of full time equivalents (FTEs), representing \$9.7 million of the decrease that was partially offset by a favorable change in price and mix. A decline in revenue from our per diem nurse and clinical research staffing operations was partially offset by revenue growth in our travel staffing operations due to improved pricing.

FTEs on contract, excluding Metropolitan Research, decreased 5.0% from the prior year. A decline in volume from our nurse staffing and clinical research staffing operations was partially offset by an increase in volume from allied health staffing.

Revenue per FTE, excluding Metropolitan Research, was up 3.9% in the three months ended September 30, 2006 compared to the three months ended September 30, 2005. Average bill rates in our core travel nurse staffing business were up approximately 5% in the three months ended September 30, 2006, compared to the three month period ended September 30, 2005. Mobile contracts, where the nurse is on the hospital payroll, accounted for less

than 1% of volume in our healthcare staffing business segment in three months ended September 30, 2006 compared to approximately 1% in the three months ended September 30, 2005.

For the three months ended September 30, 2006, nurse staffing operations generated 83.9% of healthcare staffing revenue and 16.1% was generated by all other operations. For the three month period ended September 30, 2005, 85.0% of healthcare staffing revenue was generated from nurse staffing operations and 15.0% was generated by all other operations.

Contribution income from our healthcare staffing segment decreased 0.6% or \$0.1 million, to \$15.2 million in the three month period ended September 30, 2006 compared to \$15.3 million in the three month period ended September 30, 2005. As a percentage of healthcare staffing revenue, contribution income was 10.0% for the three months ended September 30, 2006 compared to 10.1% for the three months ended September 30, 2005. This slight decline primarily reflects higher housing and health insurance expenses partially offset by lower professional liability expense and a continued widening of our bill-pay spread in our travel nurse staffing business.

OTHER HUMAN CAPITAL MANAGEMENT SERVICES

Revenue from other human capital management services in the three months ended September 30, 2006 decreased \$0.2 million, or 2.2%, to \$11.5 million from \$11.7 million in the three month periods ended September 30, 2005. Higher revenue from our physician and executive retained search business was offset by lower revenue from our educational seminars business due to lower seminar attendance.

Contribution income from our other human capital management services segment was relatively flat at \$2.2 million for both the three month periods ended September 30, 2006 and 2005. Contribution income as a percentage of other human capital management services revenue for the three months ended September 30, 2006 increased to 19.0% from 18.7% in the prior year period.

UNALLOCATED CORPORATE OVERHEAD

Unallocated corporate overhead was \$6.4 million in the three month periods ended September 30, 2006 and 2005. As a percentage of consolidated revenue, unallocated corporate overhead was 3.9% during both the three months ended September 30, 2006 and 2005.

Nine months ended September 30, 2006 compared to nine months ended September 30, 2005

HEALTHCARE STAFFING

Revenue from our healthcare staffing business segment for the nine months ended September 30, 2006 decreased 0.7% to \$443.9 million, from \$446.9 million in the nine months ended September 30, 2005. Excluding the revenue from the acquisition of Metropolitan Research, revenue decreased \$4.9 million or 1.1% in the nine months ended September 30, 2006 compared to the nine months ended September 30, 2005. This decrease was due primarily to a decrease in the average number of FTEs, representing \$25.6 million of the decrease, partially offset by a favorable change in price and mix.

The average number of FTEs on contract, excluding Metropolitan Research FTEs, decreased 4.7% from the prior year.

Revenue per FTE, excluding Metropolitan Research, was up 3.8% in the nine months ended September 30, 2006 compared to the nine months ended September 30, 2005. Average bill rates in our core travel nurse staffing business were up approximately 5% in the nine months ended September 30, 2006, compared to the nine month period ended September 30, 2005. Mobile contracts, where the nurse is on the hospital payroll, accounted for less than 1% of volume in our healthcare staffing business segment in the nine months ended September 30, 2006 compared to approximately 1% in the nine months ended September 30, 2005.

For the nine months ended September 30, 2006, nurse staffing operations generated 84.6% of healthcare staffing revenue and 15.4% was generated by all other operations. For the nine month period ended September 30, 2005, 84.2% of healthcare staffing revenue was generated from nurse staffing operations and 15.8% was generated by all other operations.

Contribution income from our healthcare staffing segment increased 15.9% or \$5.8 million, to \$42.5 million in the nine month period ended September 30, 2006 compared to \$36.7 million in the nine month period ended September 30, 2005. As a percentage of healthcare staffing revenue, contribution income was 9.6% for the nine months ended September 30, 2006 compared to 8.2% for the nine months ended September 30, 2005. This increase is primarily due to the significantly lower professional liability insurance expense previously discussed, representing 119 basis points, and a continued widening in the bill-pay spread that was partially offset by higher housing and field health insurance costs.

OTHER HUMAN CAPITAL MANAGEMENT SERVICES

Revenue from other human capital management services increased \$0.7 million, or 1.9%, to \$35.5 million in the nine month period ended September 30, 2006 from \$34.8 million in the nine month period ended September 30, 2005. Higher revenue from our retained search business was partially offset by lower revenue from our educational and training business due to lower seminar attendance.

Contribution income from our other human capital management services segment increased \$0.7 million, or 11.6%, to \$7.1 million in the nine month period ended September 30, 2006 compared to \$6.4 million in the nine month period ended September 30, 2005. This increase was due an increase in revenue and operating margin in our retained search business, as well as lower expenses in the education and training business. Contribution income as a percentage of other human capital management services revenue for the nine months ended September 30, 2006 increased to 20.0% from 18.3% in the prior year period. Both the retained search and education and training businesses registered improved operating margins compared to the prior year period.

UNALLOCATED CORPORATE OVERHEAD

Unallocated corporate overhead was \$20.0 million in the nine months ended September 30, 2006, compared to \$18.6 million in the nine months ended September 30, 2005. This increase was primarily due to higher legal fees. As a percentage of consolidated revenue, unallocated corporate overhead was 4.2% during the nine months ended September 30, 2006 compared to 3.9% during the nine months ended September 30, 2005.

LIQUIDITY AND CAPITAL RESOURCES

As of September 30, 2006 and December 31, 2005, we had a current ratio (the amount of current assets divided by current liabilities) of 2.0 to 1.0. Working capital decreased by approximately \$3.5 million to \$67.4 million as of September 30, 2006, compared to \$70.9 million as of December 31, 2005. This decrease in working capital was primarily due to an increase in other current liabilities relating to the estimated legal settlement described above and timing of payroll. The increase in other current liabilities was partially offset by the reduction of other current assets due to the settlement, by our insurance company, of the professional liability claim as described in Legal Proceedings below. During the nine months ended September 30, 2006, net cash provided by operating activities was used to repay debt, purchase property and equipment, and repurchase shares of our common stock.

Net cash provided by operating activities for the nine months ended September 30, 2006, was \$29.7 million compared to \$20.9 million for the nine months ended September 30, 2005. This increase is primarily due to a net decrease in working capital (excluding the Metropolitan Research acquisition) and positive net cash flow from discontinued operations in the nine month period ended September 30, 2006, as compared to a net outflow from discontinued operations in the nine months ended September 30, 2005. Accounts receivable decreased in the nine month period ended September 30, 2006 compared to an increase in the nine month period ended September 30, 2005. Days' sales outstanding (DSO), excluding the impact of the Metropolitan Research acquisition, decreased 2 days to 59 days for the three month period ended September 30, 2006 from 61 days for the three month period ended December 31, 2005, reflecting improved collections. This compares to an increase of 4 days in the prior year's comparable period.

Investing activities used \$22.6 million of cash in the nine months ended September 30, 2006, compared to \$6.8 million during the nine months ended September 30, 2005. Higher investing activities in the nine months ended September 30, 2006 were attributable to the acquisition of Metropolitan Research and higher capital expenditures. Investing activities in the nine months ended September 30, 2005 were primarily attributable to capital expenditures and the completion of contractually obligated net working capital payments made by us pertaining to the 2004 sale of two of our consulting practices included in discontinued operations.

Net cash used in financing activities in the nine months ended September 30, 2006 was \$7.2 million compared to \$14.1 million in the nine months ended September 30, 2005. During the nine month period ended September 30, 2006, we purchased the assets of Metropolitan Research using \$16.0 of proceeds under the revolving commitment. Excluding these proceeds, during the nine months ended September 30, 2006, we repaid \$20.8 million on our total debt as compared to a net repayment of \$13.3 million in the nine months ended September 30, 2005. Other financing activities included the proceeds from the exercise of stock options and stock repurchases and retirements.

Our operating cash flows constitute our primary source of liquidity and historically have been sufficient to fund our working capital, capital expenditures, and internal business expansion and debt service. We believe that our capital resources are sufficient to meet our working capital needs for the next twelve months. We expect to meet our future needs for working capital, capital expenditures, internal business expansion, debt service and any additional stock repurchases from a combination of operating cash flows and funds available under our current credit facility. We also continue to evaluate acquisition opportunities that may require additional funding.

STOCKHOLDERS' EQUITY

On May 10, 2006, our Board of Directors authorized a new stock repurchase program whereby we may purchase up to an additional 1.5 million of our common shares, subject to the constraints of our current credit agreement. The shares may be repurchased from time-to-time in the open market and may be discontinued at any time at our discretion. This new stock repurchase authorization will commence upon the completion, of the previously authorized 1.5 million share stock repurchase program discussed below.

In November 2002, our Board of Directors authorized a stock repurchase program whereby we may purchase up to 1.5 million of our common shares at an aggregate price not to exceed \$25.0 million. We repurchased 158,900 shares at an average price of \$16.87 during the nine month period ended September 30, 2006. As of the date of this filing all shares were retired. During the nine month period ended September 30, 2005, we repurchased 125,728 shares of common stock at an average cost of \$18.61 per share pursuant to this program.

As of September 30, 2006, under the remainder of the current authorization, we can purchase up to an additional 74,872 shares at an aggregate price not to exceed approximately \$3.9 million under the previously authorized stock repurchase program. This repurchase program is within the limits of our current senior secured credit facility covenants. Under this program, the shares may be purchased from time-to-time in the open market. The repurchase program may be discontinued at any time at our discretion. As of September 30, 2006, we had 32.0 million shares of our common stock outstanding.

In November 2004, we filed a registration statement on Form S-3 with the Securities and Exchange Commission for the registration of approximately 11.4 million shares of common stock owned by our private equity sponsor stockholders. No members of management registered shares pursuant to this registration statement. In April 2005, we announced a public offering of approximately 4.2 million shares of common stock by certain of our private equity stockholders pursuant to this Form S-3 shelf registration statement. All net proceeds from the sale went to the selling stockholders. However, we incurred all fees and expenses relating to the registration statement.

ADOPTION OF FASB STATEMENT NO. 123 (REVISED 2004)

On January 1, 2006, we adopted FASB Statement No. 123(Revised 2004), *Share-Based Payment*, (FASB 123(R)) using the modified prospective method. FASB 123(R) requires all share-based payments to employees, including grants of employee stock options, to be recognized in the income statement based on their fair values. Under the modified prospective approach, the recognition provisions of FASB 123(R) are applied prospectively. For prior periods, companies are required to disclose the pro forma impact of adopting the standard for prior periods. All of our options outstanding as of December 31, 2005 were fully vested as a result of the decision to accelerate the vesting of any unvested options as of December 31, 2005. A total of 436,368 options, with a weighed average exercise price of \$15.25 per share, were accelerated. Of these options, 90% had exercise prices below market value (in-the-money options) as of December 28, 2005. The reason for the acceleration was to avoid recognizing associated stock-based compensation for these options in future periods' consolidated statements of income. We estimate the pre-tax charge avoided in future periods by the acceleration of these options to be approximately \$2.9 million (excluding the impact of forfeitures). In conjunction with the acceleration, we recorded a pre-tax charge of \$0.1 million in the fourth quarter of 2005 related to the acceleration of in-the-money options we estimated would not have otherwise vested. This charge was included in selling, general, and administrative expenses on the

consolidated statements of income. The Company expects there to be no further impact, from the share-based payments that were outstanding as of December 31, 2005, on its consolidated statements of income. However, stock-based compensation expense could become material to the Company depending on the number of options that are granted in the future.

We used the Black-Scholes method for disclosures prior to adoption. After reviewing alternative valuation methods, we selected to continue using the Black-Scholes method based on our prior experience with it, and its wide use by other issuers comparable to the Company. We will consider the use of another model if additional information becomes available in the future that indicates another model would be more appropriate for the Company, or, if grants issued in future periods have characteristics that cannot be reasonably estimated using Black-Scholes.

There is no material impact on the condensed consolidated financial statements resulting from the adoption of FASB 123(R) for the three and nine month periods ended September 30, 2006.

COMMITMENTS AND OFF-BALANCE SHEET ARRANGEMENTS

We do not have any off-balance sheet arrangements.

We executed a lease in February 2006 for approximately 32,000 square feet of office space to replace some of the current space leased by our MedStaff subsidiary. The new lease term is 7 years and 5 months (with an option to renew for 5 years). Total future minimum rental payments are approximately \$5.6 million. The commencement date of the lease was August 2006. We also assumed leases for three offices in conjunction with our acquisition of Metropolitan Research.

Including these leases, remaining total future minimum lease payments associated with the Company's non-cancelable operating lease agreements for the rental of office space and equipment as of September 30, 2006, in thousands, are as follows: 2006 - \$1,218; 2007 - \$5,467; 2008 - \$4,763; 2009 - \$3,714; 2010 - \$2,806; and thereafter - \$6,806.

CRITICAL ACCOUNTING PRINCIPLES AND ESTIMATES

Our critical accounting policies remain consistent with those reported in our Annual Report on Form 10-K. However, we have updated the specific details within the critical accounting policy relating to legal matters as stated below.

We are subject to various claims and legal actions in the ordinary course of our business. Some of these matters include professional liability and employee-related matters. Our hospital and healthcare facility clients may also become subject to claims, governmental inquiries and investigations and legal actions to which we may become a party relating to services provided by our professionals. From time to time, and depending upon the particular facts and circumstances, we may be subject to indemnification obligations under our contracts with our hospital and healthcare facility clients relating to these matters. Material pending legal proceedings brought against the Company, other than ordinary routine litigation incidental to the business are described in Legal Proceedings.

- *Cossack, et al. v. Cross Country TravCorps and Cross Country Nurses, Inc.* was tentatively settled in August for \$10 million and on August 23, 2006, Plaintiff filed a Motion for Preliminary Approval of a settlement pursuant to which Defendants would pay up to \$10 million, including payments to eligible nurses, the named plaintiff, plaintiff's attorney fees and administrative costs. Payments to eligible nurses would be on a "claims made" basis, which means that the Company's total liability could be reduced to the extent that nurses who are eligible to participate in the settlement do not submit claims through the settlement administration process. On October 30, 2006, the Court issued an order granting the Motion for Preliminary Approval of the settlement and ordering, among other things, that the class be preliminarily certified under Federal Rule of Civil Procedure 23 (b)(3) for settlement purposes. We anticipate a final approval on or about February 26, 2007. Based on our best estimate of participation in the settlement, we accrued a pre-tax charge of approximately \$8.8 million in the third quarter of 2006 which is included in other current liabilities on our condensed consolidated balance sheet. After taxes, the charge equates to approximately \$5.4 million.

- *Maureen Petray and Carina Higareda v. MedStaff, Inc.* has not been certified by a court as a class action. See Legal Proceedings for further discussion. On October 27, 2006, Plaintiffs filed a Motion for Class Certification. We are unable to determine our potential exposure regarding this lawsuit at this time.

On April 24, 2006, the United States District Court of California filed an order to preliminarily certify a collective action based on the Fair Labor Standards Acts claims in *Darrellyn Renee Henry vs. MedStaff, Inc., Cross Country Healthcare, Inc., Victor Kalafa, Tim Rodden, Talia Pico and Melissa Hetrick*, subject to the Company's ability to move for decertification at a later stage in the proceedings. The Court, however, limited the scope of the preliminarily certified collective action to encompass claims occurring within a 2-year statute of limitations and limited to 90 days the period of time within which putative members of the preliminarily certified collective action group may opt-into the action. The Court denied certification of a class action pursuant to Fed. R. Civ. P. 23 for claims made under California state law, but indicated that it will exercise supplemental jurisdiction as to the California law claims of those individuals who opt into the Fair Labor Standards Act claims.

The opt-in period has ended for all putative members of the collective action group. A total of only fifteen (15) individuals (including Plaintiff) have opted-into the conditionally certified collective action and have timely filed consent to join forms. We are unable to determine our potential exposure regarding this lawsuit at this time.

- During the second quarter of 2005, the Company increased its reserve for professional liability insurance by \$5.3 million, pretax, based on an independent actuarial calculation which reflected unfavorable developments relating to two lawsuits in the Circuit Court of Cook County, Illinois. The Company has settled both matters during the first quarter of 2006, consistent with the previously established accrual range.

RECENTLY ISSUED ACCOUNTING STANDARD

In July 2006, the FASB issued FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes – an interpretation of FASB Statement No. 109* (FIN 48). FIN 48 creates a single model to address uncertainty in tax positions. FIN 48 clarifies accounting for income taxes by prescribing the minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. FIN 48 also prescribes guidance on derecognition, measurement, classification, interest and penalties, accounting in interim periods, disclosure and transition. FIN 48 is effective for fiscal years beginning after December 15, 2006. We are currently in the process of determining the impact, if any, that the adoption of FIN 48 will have on our consolidated financial position and results of operations.

INFORMATION RELATING TO FORWARD-LOOKING STATEMENTS

This Form 10-Q includes forward-looking statements. Statements that are predictive in nature, that depend upon or refer to future events or conditions or that include words such as "expects", "anticipates", "intends", "plans", "believes", "estimates", "suggests", and similar expressions are forward-looking statements. These statements involve known and unknown risks, uncertainties and other factors that may cause our actual results and performance to be materially different from any future results or performance expressed or implied by these forward-looking statements. These factors include the following: our ability to attract and retain qualified nurses and other healthcare personnel, costs and availability of short-term leases for our travel nurses, demand for the healthcare services we provide, both nationally and in the regions in which we operate, the functioning of our information systems, the effect of existing or future government regulation and federal and state legislative and enforcement initiatives on our business, the outcome of any litigation, our clients' ability to pay us for our services, our ability to successfully implement our acquisition and development strategies, the effect of liabilities and other claims asserted against us, the effect of competition in the markets we serve, and other factors set forth in Item 1.A. "Risk Factors" in the Company's Annual Report on Form 10-K for the year ended December 31, 2005, as filed on March 9, 2006.

Although we believe that these statements are based upon reasonable assumptions, we cannot guarantee future results. Given these uncertainties, the forward-looking statements discussed in this Form 10-Q might not occur. The Company does not have a policy of updating or revising forward-looking statements, and thus it should not be assumed that our silence over time means that actual events are occurring as expressed or implied in such forward-looking statements.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

There have been no material changes in the reported market risks since the filing of the Company's Annual Report on Form 10-K for the year ended December 31, 2005.

ITEM 4. CONTROLS AND PROCEDURES

The Company carried out an evaluation, under the supervision and with the participation of the Company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of the Company's "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")), as of the end of the period covered by this report. Based upon the evaluation, the Company's Chief Executive Officer and Chief Financial Officer concluded that the Company's disclosure controls and procedures are effective. Disclosure controls and procedures are designed to ensure that information required to be disclosed in Company reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms. The disclosure controls and procedures are designed to ensure that information required to be disclosed by us in reports required under the Exchange Act of 1934, as amended, is accumulated and communicated to our management, including the Chief Executive Officer and Chief Financial Officer, in order to allow timely decisions regarding any required disclosure.

The evaluation has not identified any changes in the Company's internal controls over financial reporting or in other factors that occurred during the last fiscal quarter that have materially affected or that are reasonably likely to materially affect the Company's internal control over financial reporting.

PART II. – OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

Cossack, et. al. v. Cross Country TravCorps and Cross Country Nurses, Inc.

On August 26, 2003, a purported class action lawsuit (*Theodora Cossack, et. al. v. Cross Country TravCorps and Cross Country Nurses, Inc.*) was filed in the Superior Court of the State of California, for the County of Orange, naming Cross Country TravCorps, Inc. and Cross Country Nurses, Inc. as Defendants. Plaintiffs plead causes of action for (1) Violation of California Business and Professions Code §§ 17200, et. seq; (2) Violations of California Labor Code §§ 200, et. seq; (3) Recovery of Unpaid Wages and Penalties; (4) Conversion; (5) Breach of Contract; (6) Common Counts – Work, Labor, Services Provided; and (7) Common Counts – Money Had and Received.

Plaintiffs, who purport to sue on behalf of themselves and all others similarly situated, allege that Defendants failed to pay Plaintiffs, and the class they purport to represent, properly under California law. Plaintiffs claim that Defendants failed to pay nurses hourly overtime as required by California law; failed to calculate correctly their employees' regular rate of pay used to calculate the rate at which overtime hours are to be compensated; failed to calculate correctly and pay a double time premium for all hours worked in excess of 12 in a workday; scheduled some of its employees on an alternative workweek schedule, but failed to pay them additional compensation when those employees did not work such alternative workweek, as scheduled; and failed to pay employees for the minimum hours Defendants had promised them.

On February 10, 2006, the Superior Court of the State of California granted Plaintiffs leave to amend the complaint to add causes of actions alleging Defendant's failure to pay for missed meal periods and rest breaks. Although Cross Country Nurses, Inc. was previously dismissed from the action upon Defendants' motion for summary judgment, Plaintiffs erroneously included Cross Country Nurses, Inc. in the caption and allegations of the amended complaint they filed.

On March 10, 2006, Defendants removed this putative class action lawsuit to the United States District Court for the Central District of California in Orange County. Plaintiffs filed a motion requesting that the case be remanded to state court, which was granted on April 28, 2006. Defendants filed an appeal to the United States Court of Appeal for the Ninth Circuit, appealing the decision to remand, however, the appeal was denied.

Plaintiffs seek (among other things) an order enjoining Defendants from engaging in the practices challenged in the complaint; for an order for full restitution of all monies Defendants allegedly failed to pay Plaintiffs (and their purported class); for pre-judgment interest; for certain penalties provided for by the California Labor Code; and for attorneys' fees and costs. On July 28, 2006, Plaintiff filed a Motion for Class Certification.

On September 5, 2006, Plaintiff filed the Third Amended Complaint alleging a Fourth Cause of Action for violation of the Fair Labor Standards Act and failure to pay the amount of premium pay required under the FLSA when putative class members worked more than 40 hours in a week. On September 7, 2006, Defendants filed to remove the lawsuit from the Superior Court of the State of California for the County of Orange to the United States District Court Central District of California.

The case was tentatively settled in August for \$10.0 million and on August 23, 2006, Plaintiff filed a Motion for Preliminary Approval of a settlement pursuant to which Defendants would pay up to \$10.0 million, including payments to eligible nurses, the named plaintiff, plaintiff's attorney fees and administrative costs. Payments to eligible nurses would be on a "claims made" basis, which means that the Company's total liability could be reduced to the extent that nurses who are eligible to participate in the settlement do not submit claims through the settlement administration process. On October 30, 2006, the Court issued an order granting the Motion for Preliminary Approval of the settlement and ordering, among other things, that the class be preliminarily certified under Federal Rule of Civil Procedure 23(b)(3) for settlement purposes. The Company anticipates a final approval on or about February 26, 2007.

Based on the Company's best estimate of participation in the settlement, the Company accrued a pre-tax charge of approximately \$8.8 million in the third quarter of 2006 which is included in other current liabilities on the condensed consolidated balance sheet. After taxes, the charge equates to approximately \$5.4 million.

Maureen Petray and Carina Higereda v. MedStaff, Inc.

On February 18, 2005, the Company's MedStaff subsidiary became the subject of a purported class action lawsuit (*Maureen Petray and Carina Higereda v. MedStaff, Inc.*) filed in the Superior Court of California in Riverside County. The lawsuit only relates to MedStaff corporate employees. It alleges, among other things, violations of certain sections of the California Labor Code, the California Business and Professions Code, and recovery of unpaid wages and penalties. MedStaff currently has less than 50 corporate employees in California. The Plaintiffs, Maureen Petray and Carina Higereda purport to sue on behalf of themselves and all others similarly situated, allege that MedStaff failed, under California law, to provide meal periods and rest breaks and pay for those missed meal periods and rest breaks; failed to compensate the employees for all hours worked; failed to compensate the employees for working overtime; and failed to keep appropriate records to keep track of time worked. Plaintiffs seek, among other things, an order enjoining MedStaff from engaging in the practices challenged in the complaint; for full restitution of all monies MedStaff allegedly failed to pay Plaintiffs and their purported class; for interest; for certain penalties provided for by the California Labor Code; and for attorneys' fees and costs.

The Superior Court of the State of California ordered Plaintiffs to file a motion for class certification by September 5, 2006. On July 21, 2006, the Company filed a motion seeking a stay of all proceedings until the conditionally certified collective action in the *Henry v. MedStaff, Inc. et al.* matter has been either decertified or granted final certification. On August 25, 2006, the court granted in part the Company's motion and prohibited Plaintiffs from filing a motion for class certification prior to October 16, 2006. A joint stipulation was subsequently filed prohibiting Plaintiffs' from moving for class certification prior to October 25, 2006 in order to allow for the completion of pre-certification discovery and to allow for the completion of the opt-in period in the *Henry v. MedStaff, Inc. et al.* matter. Plaintiffs On October 27, 2006, Plaintiffs filed a Motion for Class Certification.

The lawsuit has not yet been certified by the court as a class action. As a result, the Company is unable to determine its potential exposure, if any, and intends to vigorously defend this matter.

Darrellyn Renee Henry vs. MedStaff, Inc., Cross Country Healthcare, Inc., Victor Kalafa, Tim Rodden, Talia Pico and Melissa Hetrick

On June 21, 2005, the Company, its MedStaff subsidiary, and a number of its individual officers and managers became the subject of a purported class action lawsuit (*Darrellyn Renee Henry vs. MedStaff, Inc., Cross Country Healthcare, Inc., Victor Kalafa, Tim Rodden, Talia Pico and Melissa Hetrick*) in the United States District Court for the Central District of California in Orange County. The lawsuit relates only to corporate employees employed by the Company and/or MedStaff, but based on its allegations appears to be limited to MedStaff corporate employees. It alleges, among other things, violations of certain sections of the federal Fair Labor Standards Act, the California Labor Code, the California Business and Professions Code, as well as claims for unjust enrichment and the recovery of unpaid wages and penalties. Plaintiff, Darrellyn Renee Henry, who purports to sue on behalf of herself and all other similarly situated employees, makes allegations similar to those made by Plaintiffs Maureen Petray and Carina Higereda in their action in the California Superior Court, but Henry's claims purport to encompass a nationwide (rather than California only) putative class of employees. Henry alleges that the Company and/or MedStaff failed, under both federal and California law, to timely and properly compensate employees for all hours worked (including overtime) and to provide at least the minimum amount of compensation required for those hours. Henry also alleges that the Company and/or MedStaff failed, under California law only, to provide meal periods and to pay for those missed meal periods and suffered employees to work in excess of 16 hours per day. Plaintiffs seek, among other things, an order enjoining the Company and MedStaff from engaging in the practices challenged in the complaint, an order for full restitution of all monies the Company and/or MedStaff allegedly failed to pay Plaintiffs and their purported class, interest, liquidated damages as provided for by the Fair Labor Standards Act, penalties as provided for by the California Labor Code, an equitable accounting and attorneys' fees and costs.

On February 27, 2006, the United States District Court for the Central District of California filed an order denying plaintiff's certification of a collective action pursuant to 29 U.S.C. Section 216(b) (Fair Labor Standards Act claims) without prejudice and holding on submission plaintiff's Rule 23 motion for certification of a class action solely with respect to California employees based on California law.

On April 24, 2006, the United States District Court of California filed an order to preliminarily certify a collective action based on the Fair Labor Standards Acts claims, subject to Defendants ability to move for decertification at a

later stage in the proceedings. The Court, however, limited the scope of the preliminarily certified collective action to encompass claims occurring within a 2-year statute of limitations and limited to 90 days the period of time within which putative members of the preliminarily certified collective action group may opt-into the action. The Court denied certification of a class action pursuant to Fed. R. Civ. P. 23 for claims made under California state law, but indicated that it will exercise supplemental jurisdiction as to the California law claims of those individuals who opt into the Fair Labor Standards Act claims.

On June 9, 2006, stipulated notices and consent to join forms were sent by a mutually agreed upon third party administrator to the putative members of the collective action group, thus triggering the start of the 90 day opt-in period. Additional notices were sent out to certain putative members of the collective action group on August 31, 2006, which provided a potential extension of the opt-in period.

The opt-in period has ended for all putative members of the collective action group. A total of only fifteen (15) individuals (including Plaintiff) have opted-into the conditionally certified collective action and have timely filed consent to join forms. The Company is unable to determine its potential exposure, if any, and intends to vigorously defend this matter.

Nika Yarandi, by her parents, Fereidoon Yarandi & Victoria Yarandi, and Fereidoon Yarandi & Victoria Vahdani, individually vs. Cross Country TravCorps, Inc., et al.; and Chris Myers and Michelle Myers both individually and as Father and Mother of Liam Evan Myers, a Minor vs. Cross Country Healthcare, Inc., et al.

The Company and its subsidiary, Cross Country TravCorps, Inc., became the subject of two medical malpractice lawsuits filed in December 2002 and March 2003 (*Nika Yarandi, by her parents, Fereidoon Yarandi & Victoria Yarandi, and Fereidoon Yarandi & Victoria Vahdani, individually vs. Cross Country TravCorps, Inc., et al.*; and *Chris Myers and Michelle Myers both individually and as Father and Mother of Liam Evan Myers, a Minor vs. Cross Country Healthcare, Inc., et al.*), respectively, in the Circuit Court of Cook County, Illinois. Both lawsuits relate to nursing services provided by nurses supplied by Cross Country TravCorps to a hospital located in Chicago, Illinois. The lawsuits allege that the nurses supplied by Cross Country TravCorps were negligent in their care and treatment of Plaintiffs who were maternity patients at the facility in Chicago. The nurses' alleged negligent failure to appropriately monitor each Plaintiff in their labor and delivery allegedly caused the minor Plaintiffs to suffer severe, permanent and disabling brain injuries. In addition to the hospital facility and physicians, the Company, Cross Country TravCorps and the individual nurses have been named as direct Defendants in the lawsuits. During the second quarter of 2005, the Company increased its reserve for professional liability insurance by \$5.3 million, pretax, based on an independent actuarial calculation which reflected unfavorable developments relating to these cases. During the first quarter of 2006, the Company settled both matters consistent with the previously established accrual range.

ITEM 1A. RISK FACTORS

There are no material changes to our Risk Factors as previously disclosed in our Form 10-K for the year ended December 31, 2005.

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

(c) On May 10, 2006, our Board of Directors authorized a new stock repurchase program whereby we may purchase up to an additional 1.5 million of our common shares, subject to the constraints of our current credit agreement. The shares may be repurchased from time-to-time in the open market and may be discontinued at any time at our discretion. This new stock repurchase authorization will commence upon the completion of the previously authorized 1.5 million share stock repurchase program discussed below.

On November 4, 2002, we announced that our Board of Directors authorized a stock repurchase program, whereby we may purchase up to 1.5 million of our common shares at an aggregate price not to exceed \$25.0 million. The Board of Directors did not specify an expiration date. During the three month period ended September 30, 2006, we purchased 74,400 shares of common stock at an average cost of \$16.35 per share pursuant to its current authorization. A summary of the repurchase activity for the period covered by this report follows:

<u>Period</u>	<u>(a) Total Number of Shares Purchased</u>	<u>(b) Average Price Paid per Share</u>	<u>(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</u>	<u>(d) Maximum of Shares that May Yet Be Purchased Under the Plans or Programs</u>
July 1- July 31, 2006	—	—	—	1,649,272
August 1 – August 31, 2006	20,000	\$15.73	20,000	1,629,272
September 1 – September 30, 2006	<u>54,400</u>	<u>16.57</u>	<u>54,400</u>	<u>1,574,872</u>
Total July 1 – September 30, 2006	<u>74,400</u>	<u>\$16.35</u>	<u>74,400</u>	<u>1,574,872</u>

ITEM 6. EXHIBITS

See Exhibit Index immediately following signature page.

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 hereunto duly authorized.

CROSS COUNTRY HEALTHCARE, INC.

Date: November 7, 2006

By: /s/ EMIL HENSEL
Emil Hensel
Chief Financial Officer and Director
(Principal Financial Officer)

Date: November 7, 2006

By: /s/ DANIEL J. LEWIS
Daniel J. Lewis
Chief Accounting Officer
(Principal Accounting Officer)

EXHIBIT INDEX

<u>No.</u>	<u>Description</u>
2.1*	Asset Purchase Agreement, dated July 13, 2006, by and among ARM Acquisition, Inc. and ARMS Acquisition, Inc., and Metropolitan Research Associates, LLC, and Metropolitan Research Staffing Associates, LLC, and The Members of Metropolitan Research Associates, LLC and Metropolitan Research Staffing Associates, LLC
10.1	Lease between Metropolitan Research Staffing Associates, LLC and Highwoods Realty Limited Partnership, dated December 2, 2005
10.2	Sublease between Metropolitan Research Associates, LLC and Oppenheimer Wolff & Donnelley LLP, dated June 5, 2003
10.3	Sublease between ARM Acquisition, Inc. and Port City Press, Inc., dated August 31, 2006
31.1	Certification Pursuant to pursuant to Rule 13a-14(a) and Rule 15d-14 (a) by Joseph A. Boshart, President and Chief Executive Officer
31.2	Certification Pursuant to pursuant to Rule 13a-14(a) and Rule 15d-14 (a) by Emil Hensel, Chief Financial Officer
32.1	Certification Pursuant to 18 U.S.C. Section 1350 by Joseph A. Boshart, Chief Executive Officer
32.2	Certification Pursuant to 18 U.S.C. Section 1350 by Emil Hensel, Chief Financial Officer

* Previously filed as an exhibit of the Company's Form 8-K dated July 18, 2006, and incorporated by reference herein.

HIGHWOODS REALTY LIMITED PARTNERSHIP
OFFICE LEASE

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-

State of North Carolina:
County of Wake:

OFFICE LEASE

THIS LEASE ("Lease"), made this 2nd day of December, 2005, by and between **HIGHWOODS REALTY LIMITED PARTNERSHIP**, a North Carolina limited partnership, ("Landlord") and **METROPOLITAN RESEARCH STAFFING ASSOCIATES, LLC**, a New York limited liability company, ("Tenant"), provides as follows:

1. **BASIC DEFINITIONS AND PROVISIONS.** The following basic definitions and provisions apply to this Lease:

- a. Premises. Rentable Square Feet: 2,003
Usable Square Feet: 1,788
Core Area Factor (R/U ratio): 1.12

Suite: 100
Building: Six Forks II
Street Address: 4700 Homewood Court
City/County: Raleigh/Wake
State/Zip Code: North Carolina/27609
- b. Term. Number of Months: Twenty-Four
Commencement Date: June 1, 2006
Expiration Date: May 31, 2008
- c. Permitted Use. general office in conjunction with Tenant's clinical trial consulting and staffing firm
- d. Occupancy Limitation. No more than four persons per one thousand (1,000) rentable square feet.
- e. Base Rent. The minimum base rent for the Term is \$65,057.52, payable in monthly installments on the 1st day of each month in accordance with the following Base Rent Schedule:

MONTHS	MONTHLY RENT	CUMULATIVE RENT
01-12	\$2,670.67	\$32,048.04
13-24	\$2,750.79	\$33,009.48
BASE RENT:		\$65,057.52

- f. Rent Payment Address. HIGHWOODS REALTY LIMITED PARTNERSHIP
P.O. Box 409412 Atlanta, Georgia 30384
Tax 10 #: 56-1869557
 - g. Security Deposit. \$2,670.67
 - h. Business Hours. 8:00 A.M. to 6:00 P.M. Monday through Friday
(excluding National and State Holidays).
 - i. Electrical Service. Electrical circuits for convenience outlets serving the Premises as exist as of the Commencement Date.
 - j. After Hours HVAC Rate. \$35.00 per hour, per zone, with a minimum of two (2) hours per occurrence.
 - k. Parking. Unreserved; not to exceed four spaces per 1000 rentable square feet.
-

I. Notice Addresses.

LANDLORD: HIGHWOODS REALTY LIMITED PARTNERSHIP
c/o Highwoods Properties, Inc.
3100 Smoketree Court, Suite 600
Raleigh, North Carolina 27604
Attn: Manager, Lease Administration
Facsimile#: 919/876-2448

TENANT: METROPOLITAN RESEARCH STAFFING ASSOCIATES
4700 Homewood Court,
Suite 100
Raleigh, North Carolina 27609
Attn: Stephanie Britt
Facsimile#: 919/828-8810

m. Broker. Carolantic Realty

2. **LEASED PREMISES.**

a. *Premises.* Landlord leases to Tenant and Tenant leases from Landlord the Premises identified in Section 1a and as more particularly shown on Exhibit A, attached hereto.

b. *Rentable Square Foot Determination.* The parties acknowledge that all square foot measurements are approximate and agree that the square footage figures in Section 1a shall be conclusive for all purposes with respect to this Lease.

c. *Common Areas.* Tenant shall have non-exclusive access to the common areas of the Building. The common areas generally include space that is not included in portions of the building set aside for leasing to tenants or reserved for Landlord's exclusive use, including entrances, hallways, lobbies, elevators, restrooms, walkways and plazas ("Common Areas"). Landlord has the exclusive right to (i) designate the Common Areas, (ii) change the designation of any Common Area and otherwise modify the Common Areas, and (iii) permit special use of the Common Areas, including temporary exclusive use for special occasions. Tenant shall not interfere with the rights of others to use the Common Areas. All use of the Common Areas shall be subject to any rules and regulations promulgated by Landlord.

3. **TERM**

a. *Commencement and Expiration Dates.* The Lease Term commences on the Commencement Date and expires on the Expiration Date, as set forth in Section 1b.

b. *Adjustments to Commencement Date.* The Commencement Date shall be adjusted as follows:

i. If Tenant requests possession of the Premises prior to the Commencement Date, and Landlord consents, the Commencement Date shall be the date of possession. All rent and other obligations under this Lease shall begin on the date of possession, but the Expiration Date shall remain the same.

ii. If Landlord, for any reason, cannot deliver possession of the Premises to Tenant on the Commencement Date, then the Commencement Date, Expiration Date, and all other dates that may be affected by their change, shall be revised to conform to the date of Landlord's delivery of possession of the Premises to Tenant. Any such delay shall not relieve Tenant of its obligations under this Lease, and neither Landlord nor Landlord's agents shall be liable to Tenant for any loss or damage resulting from the delay in delivery of possession.

c. *Termination by Tenant for Failure to Deliver Possession.* In the event Landlord is unable to deliver possession of the Premises within sixty (60) days after the original Commencement Date set forth in the first sentence of this Section 3 (excluding any delays resulting from force majeure or caused by Tenant - "Excused

Delays"), then Tenant may terminate this Lease by giving notice to Landlord within seventy (70) days of the original Commencement Date (excluding Excused Delays). Tenant may not terminate the Lease, however, if it has taken possession of any part of the Premises.

d. *Delivery of Possession.* Lease Addendum Number One, "delivery of possession" of the Premises shall mean the earlier of: (i) the date Landlord has the Premises ready for occupancy by Tenant, or (ii) the date Landlord could have had the Premises ready had there been no Delays attributable to Tenant.

e. *Adjustment of Expiration Date.* If the Expiration Date does not occur on the last day of a calendar month, then Landlord, at its option, may extend the Term by the number of days necessary to cause the Expiration Date to occur on the last day of the last calendar month of the Term. Tenant shall pay Base Rent and Additional Rent for such additional days at the same rate payable for the portion of the last calendar month immediately preceding such extension.

f. *Right to Occupy.* Tenant shall not occupy the Premises until Tenant has complied with all of the following requirements to the extent applicable under the terms of this Lease: (i) delivery of all certificates of insurance, (ii) payment of Security Deposit, (iii) execution and delivery of any required Guaranty of Lease, and (iv) if Tenant is an entity, receipt of a good standing certificate from the State where it was organized and a certificate of authority to do business in the State in which the Premises are located (if different). Tenant's failure to comply with these (or any other conditions precedent to occupancy under the terms of this Lease) shall not delay the Commencement Date.

g. *Commencement Agreement.* The Commencement Date, Term, and Expiration Date may be set forth in a Commencement Agreement similar to **Exhibit C**, attached hereto, to be prepared by Landlord and executed by the parties.

4. USE.

a. *Permitted Use.* The Premises may be used only for general office purposes in connection with Tenant's Permitted Use as defined in Section 1c and in accordance with the Occupancy Limitation as set forth in Section 1d.

b. *Prohibited Uses.* Tenant shall not use the Premises:

- i. In violation of any restrictive covenants which apply to the Premises;
- ii. In any manner that constitutes a nuisance or trespass;
- iii. In any manner which increases any insurance premiums, or makes such insurance unavailable to Landlord on the Building; provided that, in the event of an increase in Landlord's insurance premiums which results from Tenant's use of the Premises, Landlord may elect to permit the use and charge Tenant for the increase in premiums, and Tenant's failure to pay Landlord, on demand, the amount of such increase shall be an event of default;
- iv. In any manner that creates unusual demands for electricity, heating or air conditioning; or
- v. For any purpose except the Permitted Use, unless consented to by Landlord in writing.

c. *Prohibited Equipment in Premises.* Tenant shall not install any equipment in the Premises that places unusual demands on the electrical, heating or air conditioning systems ("High Demand Equipment") without Landlord's prior written consent. No such consent will be given if Landlord determines, in its opinion, that such equipment may not be safely used in the Premises or that electrical service is not adequate to support the equipment. Landlord's consent may be conditioned, without limitation, upon separate metering of the High Demand Equipment and Tenant's payment of all engineering, equipment, installation, maintenance, removal and restoration costs and utility charges associated with the High Demand Equipment and the separate meter. If High Demand Equipment used in the Premises by Tenant affect the temperature otherwise maintained by the heating and air conditioning system, Landlord shall have the right to install supplemental air conditioning units in the Premises with the cost of engineering, installation, operation and maintenance of the units to be paid by Tenant. All costs and expenses

relating to High Demand Equipment and Landlord's administrative costs (such as reading meters and calculating invoices) shall be Additional Rent, payable by Tenant upon demand. If Tenant installs a supplemental HVAC unit in its Premises, the supplemental HVAC unit will be considered High Demand Equipment, be separately metered with metered charges being paid by Tenant, and both the meter and unit shall be maintained by Tenant.

5. RENT.

a. *Payment Obligation* Tenant shall pay Base Rent and Additional Rent (collectively, "Rent") on or before the first day of each calendar month during the Term, as follows:

i. Rent payments shall be sent to the Rent Payment Address set forth in Section 1f.

ii. Rent shall be paid without previous demand or notice and without set off or deduction. Tenant's obligation to pay Rent under this Lease is completely separate and independent from any of Landlord's obligations under this Lease.

iii. If the Term commences on a day other than the first day of a calendar month, then Rent for such month shall be (i) prorated for the period between the Commencement Date and the last day of the month in which the Commencement Date falls, and (ii) due and payable on the Commencement Date.

iv. If Rent is not received within five (5) days after the due date, Landlord shall be entitled to an overdue payment charge in the amount of five percent (5%) of the Rent due. In addition, if Rent is not received within fifteen (15) days after the due date, Landlord shall be entitled to an overdue payment charge in the amount of fifteen percent (15%) of the Rent due.

v. If Landlord presents Tenant's check to any bank and Tenant has insufficient funds to pay for such check, then Landlord shall be entitled to the maximum lawful bad check fee or five percent (5%) of the amount of such check, whichever amount is less.

b. *Base Rent.* Tenant shall pay Base Rent as set forth in Section 1e.

c. *Additional Rent.* In addition to Base Rent, Tenant shall pay as rent all sums and charges due and payable by Tenant under this Lease ("Additional Rent"), including, but not limited to, the following:

i. Tenant's Proportionate Share of the increase in Landlord's Operating Expenses as set forth in Lease Addendum Number One;

ii. Any sales or use tax imposed on rents collected by Landlord or any tax on rents in lieu of ad valorem taxes on the Building, even though laws imposing such taxes attempt to require Landlord to pay the same; and

iii. Any construction supervision fees in connection with the construction of Tenant Improvements or alterations to the Premises.

6. SECURITY DEPOSIT.

a. *Amount of Deposit.* Tenant shall deposit with Landlord a Security Deposit in the amount set forth in Section 1g, which sum Landlord shall retain as security for the performance by Tenant of each of its obligations hereunder. The Security Deposit shall not bear interest.

b. *Application of Deposit.* If Tenant at any time fails to perform any of its obligations under this Lease, including its Rent or other payment obligations, its restoration obligations, or its insurance and indemnity obligations, then Landlord may, at its option, apply the Security Deposit (or any portion) to cure Tenant's default or to pay for damages caused by Tenant's default. If the Lease has been terminated, then Landlord may apply the Security Deposit (or any portion) against the damages incurred as a consequence of Tenant's breach. The application of the Security Deposit shall not limit Landlord's remedies for default under the terms of this Lease. If Landlord

depletes the Security Deposit, in whole or in part, prior to the Expiration Date or any termination of this Lease, then Tenant shall restore immediately the amount so used by Landlord.

c. *Refund of Deposit.* Unless Landlord uses the Security Deposit to cure a default of Tenant, to pay damages for Tenant's breach of the Lease, or to restore the Premises to the condition to which Tenant is required to leave the Premises upon the expiration or any termination of the Lease, then Landlord shall, within thirty (30) days after the Expiration Date or any termination of this Lease or as soon thereafter as is reasonably possible, refund to Tenant any funds remaining in the Security Deposit. Tenant may not credit the Security Deposit against any month's Rent.

7. SERVICES BY LANDLORD.

a. *Base Services.* Landlord shall cause to be furnished to the Building, or as applicable, the Premises, in common with other tenants the following services:

i. Water (if available from city mains) for drinking, lavatory and toilet purposes.

ii. Electricity (if available from the utility supplier) for the building standard fluorescent lighting and for the operation of general office machines, such as electric typewriters, desk top computers, dictating machines and calculators, and general service non-production type office copy machines; provided that Landlord shall have no obligation to provide more than the amount of power for convenience outlets and the number of electrical circuits as set forth in Section 1i.

iii. Operatorless elevator service.

iv. Building standard fluorescent lighting composed of 2' x 4' fixtures; Tenant shall service, replace and maintain at its own expense any incandescent fixtures, table lamps, or lighting other than the building standard fluorescent light, and any dimmers or lighting controls other than controls for the building standard fluorescent lighting. Heating and air conditioning for the reasonably comfortable use and occupancy of the Premises during Business Hours as set forth in Section 1h; provided that, heating and cooling conforming to any governmental regulation prescribing limitations thereon shall be deemed to comply with this service.

vi. After Business Hours, weekend and holiday heating and air conditioning at the After Hours HVAC rate set forth in Section 1j, with such charges subject to commercially reasonable annual increases as determined by Landlord.

vii. Janitorial services five (5) days a week (excluding National and State holidays) after Business Hours.

viii. A reasonable pro-rata share of the unreserved parking spaces of the Building, not to exceed the Parking specified in Section 1k, for use by Tenant's employees and visitors in common with the other tenants and their employees and visitors.

b. *Landlord's Maintenance.* Landlord shall make all repairs and replacements to the Building (including Building fixtures and equipment), Common Areas and Building Standard Improvements in the Premises, except for repairs and replacements that Tenant must make under Section 8. Landlord's maintenance shall include the roof, foundation, exterior walls, interior structural walls, all structural components, and all Building systems, such as mechanical, electrical, HVAC, and plumbing. Repairs or replacements shall be made within a reasonable time (depending on the Landlord having actual knowledge of the need for a repair or replacement).

c. *No Abatement.* There shall be no abatement or reduction of Rent by reason of any of the foregoing services not being continuously provided to Tenant. Landlord shall have the right to shut down the Building systems (including electricity and HVAC systems) for required maintenance and safety inspections, and in cases of emergency.

d. *Tenant's Obligation to Report Defects.* Tenant shall report to Landlord immediately any defective condition in or about the Premises known to Tenant and if such defect is not so reported and such failure to promptly report results in other damage, Tenant shall be liable for same.

e. *Limitation on Landlord's Liability.* Landlord shall not be liable to Tenant for any damage caused to Tenant and its property due to the Building or any part or appurtenance thereof being improperly constructed or being or becoming out of repair, or arising from the leaking of gas, water, sewer or steam pipes, or from problems with electrical service.

8. TENANT'S ACCEPTANCE AND MAINTENANCE OF PREMISES

a. *Acceptance of Premises.* Tenant's occupancy of the Premises is Tenant's representation to Landlord that (i) Tenant has examined and inspected the Premises, (ii) finds the Premises to be as represented by Landlord and satisfactory for Tenant's intended use, and (iii) constitutes Tenant's acceptance of the Premises "as is". Landlord makes no representation or warranty as to the condition of the Premises.

b. *Move-In Obligations.* Tenant shall schedule its move-in with the Landlord's Property Manager. Unless otherwise approved by Landlord's Property Manager, move-in shall not take place during Business Hours. During Tenant's move-in, a representative of Tenant must be on-site with Tenant's moving company to insure proper treatment of the Building and the Premises. Elevators, entrances, hallways and other Common Areas must remain in use for the general public during business hours. Any specialized use of elevators or other Common Areas must be coordinated with Landlord's Property Manager. Tenant must properly dispose of all packing material and refuse in accordance with the Rules and Regulations. Any damage or destruction to the Building or the Premises due to moving will be the sole responsibility of Tenant.

c. *Tenant's Maintenance.* Tenant shall: (i) keep the Premises and fixtures in good order; (ii) make repairs and replacements to the Premises or Building needed because of Tenant's misuse or negligence; (iii) repair and replace Non-Standard Improvements, including any special equipment or decorative treatments, installed by or at Tenant's request that serve the Premises (unless the Lease is ended because of casualty loss or condemnation); and (iv) not commit waste. Tenant shall also be solely responsible for maintaining the following items, if installed in the Premises: (i) ice machines; (ii) sump pumps; (iii) refrigerators; (iv) dishwashers; (v) garbage disposals; (vi) coffee machines and microwaves; (v) sinks and faucets; (vi) water filter and purification systems; (vii) all kitchen drain lines; (viii) executive restrooms; (ix) Simplex (or key pad) locks; (x) security access systems or alarm systems; (xi) Tenant specific hot water heaters; and (xii) showers and spas. Tenant shall maintain these items in good working order.

d. *Alterations to Premises.* Tenant shall make no structural or interior alterations to the Premises. If Tenant requests such alterations, then Tenant shall provide Landlord's Property Manager with a complete set of construction drawings. If Landlord consents to the alterations, then the Property Manager shall determine the actual cost of the work to be done (to include a construction supervision fee to be paid to Landlord in the amount of 10% of the cost of the construction). Tenant may then either agree to pay Landlord to have the work done or withdraw its request for alterations. All such alterations are subject to the prior written approval of Landlord.

e. *Restoration of Premises.* At the expiration or earlier termination of this Lease, Tenant shall (i) deliver each and every part of the Premises in good repair and condition, ordinary wear and tear and damage by insured casualty excepted, and (ii) restore the Premises at Tenant's sole expense to the same condition as existed at the Commencement Date, ordinary wear and tear and damage by insured casualty excepted. If Tenant has required or installed Non-Standard Improvements, such improvements shall be removed as part of Tenant's restoration obligation. Landlord, however, may elect to require Tenant to leave any Non-Standard Improvements in the Premises unless at the time of such Non-Standard Improvements were installed, Landlord agreed in writing that Tenant could remove such improvements. Tenant shall repair any damage caused by the removal of any Non-Standard Improvements. "Non-Standard Improvements" means such items as (i) High Demand Equipment and separate meters, (ii) all wiring and cabling from the point of origin to the termination point, (iii) raised floors for computer or communications systems, (iv) telephone equipment, security systems, and UPS systems, (iv) equipment racks, (v) alterations installed by or at the request of Tenant after the Commencement Date, and (vi) any other improvements that are not part of the Building Standard Improvements.

f. *Landlord's Performance of Tenant's Obligations.* If Tenant does not perform its maintenance or restoration obligations in a timely manner, commencing the same within five (5) days after receipt of notice from Landlord specifying the work needed, and thereafter diligently and continuously pursuing the work until completion, then Landlord shall have the right, but not the obligation, to perform such work. Any amounts expended by Landlord on such maintenance or restoration shall be Additional Rent to be paid by Tenant to Landlord within thirty (30) days after demand.

g. *Construction Liens.* Tenant shall have no power to do any act or make any contract that may create or be the foundation of any lien, mortgage or other encumbrance upon the reversionary or other estate of Landlord, or any interest of Landlord in the Premises. NO CONSTRUCTION LIENS OR OTHER LIENS FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED TO THE PREMISES SHALL ATTACH TO OR AFFECT THE INTEREST OF LANDLORD IN AND TO THE PREMISES OR THE BUILDING. Tenant shall keep the Premises and the Building free from any liens arising out of any work performed, materials furnished, or obligations incurred by or on behalf of Tenant. Should any lien or claim of lien be filed against the Premises or the Building by reason of any act or omission of Tenant or any of Tenant's agents, employees, contractors or representatives, then Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within ten (10) days after the filing thereof. Should Tenant fail to discharge the lien within ten (10) days, then Landlord may discharge the lien. The amount paid by Landlord to discharge the lien (whether directly or by bond), plus all administrative and legal costs incurred by Landlord, shall be Additional Rent payable on demand. The remedies provided herein shall be in addition to all other remedies available to Landlord under this Lease or otherwise.

h. *Communications Compliance.* Tenant acknowledges and agrees that any and all telephone and telecommunication services desired by Tenant shall be ordered and utilized at the sole expense of Tenant. Unless Landlord requests otherwise or consents in writing, all of Tenant's telecommunications equipment shall be located and remain solely in the Premises. Landlord shall not have any responsibility for the maintenance of Tenant's telecommunications equipment, including wiring; nor for any wiring or other infrastructure to which Tenant's telecommunications equipment may be connected. Tenant agrees that, to the extent any telecommunications service is interrupted, curtailed or discontinued, Landlord shall have no obligation or liability with respect thereto. Landlord shall have the right, upon reasonable prior oral or written notice to Tenant, to interrupt or turn off telecommunications facilities in the event of emergency or as necessary in connection with repairs to the Building or installation of telecommunications equipment for other tenants of the Building. In the event that Tenant wishes at any time to utilize the services of a telephone or telecommunications provider whose equipment is not then servicing the Building, the provider shall not be permitted to install its lines or other equipment within the Building without first securing the prior written approval of Landlord. Landlord's approval may be conditioned in such a manner to as to protect Landlord's financial interests, the interest of the Building, and the other tenants therein. The refusal of Landlord to grant its approval to any prospective telecommunications provider shall not be deemed a default or breach by Landlord of its obligation under this Lease. The provision of this paragraph may be enforced solely by Tenant and Landlord, are not for the benefit of any other party, and specifically but without limitation, no telephone or telecommunications provider shall be deemed a third party beneficiary of this Lease. Tenant shall not utilize any wireless communications equipment (other than usual and customary cellular telephones), including antennae and satellite receiver dishes, within the Premises or the Building, without Landlord's prior written consent. Landlord's consent may be conditioned in such a manner so as to protect Landlord's financial interests, the interests of the Building, and the other tenants therein. At Landlord's option, Tenant may be required to remove any and all telecommunications equipment (including wireless equipment) installed in the Premises or elsewhere in or on the Building by or on behalf of Tenant, including wiring, or other facilities for telecommunications transmittal prior to the expiration or termination of the Lease and at Tenant's sole cost.

9. PROPERTY OF TENANT.

a. *Property Taxes.* Tenant shall pay when due all taxes levied or assessed upon Tenant's equipment, fixtures, furniture, leasehold improvements and personal property located in the Premises.

b . *Removal.* Provided Tenant is not in default, Tenant may remove all fixtures and equipment which it has placed in the Premises; provided, however, Tenant must repair all damages caused by such removal. If Tenant does not remove its property from the Premises upon the expiration or earlier termination (for whatever cause) of this Lease, such property shall be deemed abandoned by Tenant, and Landlord may dispose of the same in whatever manner Landlord may elect without any liability to Tenant.

10. **SIGNS.** Tenant may not erect, install or display any sign or advertising material upon the exterior of the Building or Premises (including any exterior doors, walls or windows) without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion. Door and directory signage shall be provided and installed by the Landlord in accordance with building standards at Landlord's expense.

11. **ACCESS TO PREMISES.**

a . *Tenant's Access.* Tenant, its agents, employees, invitees, and guests, shall have access to the Premises and reasonable ingress and egress to common and public areas of the Building twenty-four hours a day, seven days a week; provided, however, Landlord by reasonable regulation may control such access for the comfort, convenience, safety and protection of all tenants in the Building, or as needed for making repairs and alterations. Tenant shall be responsible for providing access to the Premises to its agents, employees, invitees and guests after business hours and on weekends and holidays, but in no event shall Tenant's use of and access to the Premises during non-business hours compromise the security of the Building.

b. *Landlord's Access.* Landlord shall have the right, at all reasonable times and upon reasonable oral notice, either itself or through its authorized agents, to enter the Premises (i) to make repairs, alterations or changes as Landlord deems necessary, (ii) to inspect the Premises, mechanical systems and electrical devices, and (iii) to show the Premises to prospective mortgagees and purchasers. Within one hundred eighty (180) days prior to the Expiration Date, Landlord shall have the right, either itself or through its authorized agents, to enter the Premises at all reasonable times to show prospective tenants.

c. *Emergency Access.* Landlord shall have the right to enter the Premises at any time without notice in the event of an emergency.

12. **TENANT'S COMPLIANCE.**

a. *Laws.* Tenant shall comply with all applicable laws, ordinances and regulations affecting the Premises, whether now existing or hereafter enacted.

b. *Rules and Regulations.* Tenant shall comply with the Rules and Regulations attached as Exhibit B. The Rules and Regulations may be modified from time to time by Landlord, effective as of the date delivered to Tenant or posted on the Premises, provided such rules are uniformly applicable to all tenants in the Building. Any conflict between this Lease and the Rules and Regulations shall be governed by the terms of this Lease.

13. **ADA COMPLIANCE.**

a . *Tenant's Compliance.* Tenant, at Tenant's sole expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities now in force, which shall impose any duty upon Landlord or Tenant with respect to the use or occupation of the Premises or alteration of the Premises to accommodate persons with special needs, including using all reasonable efforts to comply with The Americans With Disabilities Act (the "ADA"). Landlord hereby represents that it has received no notice of any violation of applicable law with respect to the use or occupation of the Premises or alteration of the Premises to accommodate persons with special needs, including, without limitation, the ADA.

b. *Landlord's Compliance.* Landlord, at Landlord's sole expense, shall use all reasonable efforts to meet the requirements of the ADA as it applies to the Common Areas and restrooms of the Building; but Landlord shall have no responsibility for ADA compliance with respect to the Premises. Landlord shall not be required to make changes to the Common Areas or restrooms of the Building to comply with ADA standards adopted after construction of the Building unless specifically required to do so by law.

c . *ADA Notices.* If Tenant receives any notices alleging a violation of ADA relating to any portion of the Building or Premises (including any governmental or regulatory actions or investigations regarding non-compliance with ADA), then Tenant shall notify Landlord in writing within ten (10) days of such notice and provide Landlord with copies of any such notice.

14. INSURANCE REQUIREMENTS.

a . *Tenant's Liability Insurance.* Throughout the Term, Tenant, at its sole cost and expense, shall keep or cause to be kept for the mutual benefit of Landlord, Landlord's Property Manager, and Tenant, Commercial General Liability Insurance (1986 ISO Form or its equivalent) with a combined single limit, each Occurrence and General Aggregate-per location of at least TWO MILLION DOLLARS (\$2,000,000), which policy shall insure against liability of Tenant, arising out of and in connection with Tenant's use of the Premises, and which shall insure the indemnity provisions contained in this Lease. Not more frequently than once every three (3) years, Landlord may require the limits to be increased if in its reasonable judgment (or that of its mortgagee) the coverage is insufficient.

b . *Tenant's Property Insurance.* Tenant shall also carry the equivalent of ISO Special Form Property Insurance on Tenant's Property for full replacement value and with coinsurance waived. For purposes of this provision, "Tenant's Property" shall mean Tenant's personal property and fixtures, and any Non-Standard Improvements to the Premises. Tenant shall neither have, nor make, any claim against Landlord for any loss or damage to the Tenant's Property, regardless of the cause of the loss or damage.

c . *Certificates of Insurance.* Prior to occupying the Premises, and annually thereafter, Tenant shall deliver to Landlord certificates similar to that provided in Exhibit D attached to this Lease and incorporated here for reference or other evidence of insurance satisfactory to Landlord. All such policies shall be non-assessable and shall contain language to the extent obtainable that: (i) any loss shall be payable notwithstanding any act or negligence of Landlord or Tenant that might otherwise result in forfeiture of the insurance, (ii) that the policies are primary and non-contributing with any insurance that Landlord may carry, and (iii) that the policies cannot be canceled, non-renewed, or coverage reduced except after thirty (30) days' prior notice to Landlord. If Tenant fails to provide Landlord with such certificates or other evidence of insurance coverage, Landlord may obtain such coverage and the cost of such coverage shall be Additional Rent payable by Tenant upon demand.

d . *Insurance Policy Requirements.* Tenant's insurance policies required by this Lease shall: (i) be issued by insurance companies licensed to do business in the state in which the Premises are located with a general policyholder's ratings of at least A- and a financial rating of at least VI in the most current Best's Insurance Reports available on the Commencement Date, or if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies; (ii) name Landlord as an additional insured as its interest may appear [other landlords or tenants may be added as additional insureds in a blanket policy]; (iii) provide that the insurance not be canceled, non-renewed or coverage materially reduced unless thirty (30) days advance notice is given to Landlord; (iv) be primary policies; (v) provide that any loss shall be payable notwithstanding any gross negligence of Landlord or Tenant which might result in a forfeiture there under of such insurance or the amount of proceeds payable; (vi) have no deductible exceeding TEN THOUSAND DOLLARS (\$10,000), unless approved in writing by Landlord; and (vii) be maintained during the entire Term and any extension terms.

e . *Landlord's Property Insurance.* Landlord shall keep the Building, including the improvements (but excluding Tenant's Property), insured against damage and destruction by perils insured by the equivalent of ISO Special Form Property Insurance in the amount of the full replacement value of the Building.

f . *Mutual Waiver of Subrogation.* Anything in this Lease to the contrary notwithstanding, Landlord hereby releases and waives unto Tenant (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, and Tenant hereby releases and waives unto Landlord (including all partners, stockholders, officers, directors, employees and agents thereof), its successors and assigns, all rights to claim damages for any injury, loss, cost or damage to persons or to the Premises or any other casualty, as long as the amount of such injury, loss, cost or damage has been paid either to Landlord, Tenant, or any other person, firm or corporation, under the terms of any Property, General Liability, or other policy of insurance, to the extent such releases or waivers are permitted under applicable law. As respects all policies of insurance carried or maintained pursuant to this Lease and to the extent permitted under such policies, Tenant and Landlord each waive the insurance carriers' rights of subrogation.

15. **INDEMNITY.** Subject to the insurance requirements, releases and mutual waivers of subrogation set forth in this Lease, Tenant agrees as follows:

a. *Indemnity.* Tenant shall indemnify and hold Landlord harmless from and against any and all claims, damages, losses, liabilities, lawsuits, costs and expenses (including attorneys' fees at all tribunal levels) arising out of or related to (i) any activity, work, or other thing done, permitted or suffered by Tenant in or about the Premises or the Building, (ii) any breach or default by Tenant in the performance of any of its obligations under this Lease, or (iii) any act or neglect of Tenant, or any officer, agent, employee, contractor, servant, invitee or guest of Tenant.

b. *Defense Obligation.* If any such action is brought against Landlord, then Tenant, upon notice from Landlord, shall defend the same through counsel selected by Landlord's insurer, or other counsel acceptable to Landlord. The provisions of this Section shall survive the termination of this Lease.

16. **QUIET ENJOYMENT.** Tenant shall have quiet enjoyment and possession of the Premises provided Tenant promptly and fully complies with all of its obligations under this Lease. No action of Landlord or other tenants working in other space in the Building, or in repairing or restoring the Premises, shall be deemed a breach of this covenant, nor shall such action give to Tenant any right to modify this Lease either as to term, rent payables or other obligations to be performed. Landlord shall use commercially reasonable efforts to do work that may be interfering outside of Business Hours.

17. SUBORDINATION; ATTORNMENT; NON-DISTURBANCE; AND ESTOPPEL CERTIFICATE.

a. *Subordination and Attornment.* Tenant agrees to execute within ten (10) days after request to do so from Landlord or its mortgagee an agreement:

- i. Making this Lease superior or subordinate to the interests of the mortgagee;
- ii. Agreeing to attorn to the mortgagee;
- iii. Giving the mortgagee notice of, and a reasonable opportunity (which shall in no event be less than thirty (30) days after notice thereof is delivered to mortgagee) to cure any Landlord default and agreeing to accept such cure if effected by the mortgagee;
- iv. Permitting the mortgagee (or other purchaser at any foreclosure sale), and its successors and assigns, on acquiring Landlord's interest in the Premises and the Lease, to become substitute Landlord hereunder, with liability only for such Landlord obligations as accrue after Landlord's interest is so acquired;
- v. Agreeing to attorn to any successor Landlord; and
- vi. Containing such other agreements and covenants on Tenant's part as Landlord's mortgagee may reasonably request.

b. *Non-Disturbance.* Tenant's obligation to subordinate its interests or attorn to any mortgagee is conditioned upon the mortgagee's agreement not to disturb Tenant's possession and quiet enjoyment of the Premises under this Lease so long as Tenant is in compliance with the terms of the Lease.

c. *Estoppel Certificates.* Tenant agrees to execute within five (5) business days after request, and as often as requested, estoppel certificates confirming any factual matter requested by Landlord which is true and is within Tenant's knowledge regarding this Lease, and the Premises, including but not limited to: (i) the date of occupancy, (ii) Expiration Date, (iii) the amount of Rent due and date to which Rent is paid, (iii) whether Tenant has any defense or offsets to the enforcement of this Lease or the Rent payable, (iv) any default or breach by Landlord, and (v) whether this Lease, together with any modifications or amendments, is in full force and effect. Tenant shall attach to such estoppel certificate copies of any modifications or amendments to the Lease.

18. ASSIGNMENT - SUBLEASE.

a. *Landlord Consent.* Tenant may not assign or encumber this Lease or its interest in the Premises arising under this Lease, and may not sublet all or any part of the Premises, without first obtaining the written consent of Landlord, which consent shall not be withheld unreasonably. Landlord will not consent to an assignment or sublease that might result in a use that conflicts with the rights of any existing tenant. One consent shall not be the basis for any further consent.

b. *Definition of Assignment.* For the purpose of this Section 18, the word "assignment" shall be defined and deemed to include the following: (i) if Tenant is a partnership, the withdrawal or change, whether voluntary, involuntary or by operation of law, of partners owning thirty percent (30%) or more of the partnership, or the dissolution of the partnership; (ii) if Tenant consists of more than one person, an assignment, whether voluntary, involuntary, or by operation of law, by one person to one of the other persons that is a Tenant; (iii) if Tenant is a corporation, any dissolution or reorganization of Tenant, or the sale or other transfer of a controlling percentage (hereafter defined) of capital stock of Tenant other than to an affiliate or subsidiary or the sale of fifty-one percent (51%) in value of the assets of Tenant; (iv) if Tenant is a limited liability company, the change of members whose interest in the company is fifty percent (50%) or more. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least fifty-one percent (51%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors, or such lesser percentage as is required to provide actual control over the affairs of the corporation; except that, if the Tenant is a publicly traded company, public trades or sales of the Tenant's stock on a national stock exchange shall not be considered an assignment hereunder even if the aggregate of the trades of sales exceeds fifty percent (50%) of the capital stock of the company.

c. *Permitted Assignments/Subleases.* Notwithstanding the foregoing, Tenant may assign this Lease or sublease part or all of the Premises without Landlord's consent to: (i) any corporation, limited liability company, or partnership that controls, is controlled by, or is under common control with, Tenant at the Commencement Date; or (ii) any corporation or limited liability company resulting from the merger or consolidation with Tenant or to any entity that acquires all of Tenant's assets as a going concern of the business that is being conducted on the Premises; provided however, the assignor remains liable under the Lease and the assignee or sublessee is a bona fide entity and assumes the obligations of Tenant, is as creditworthy as the Tenant, and continues the same Permitted Use as provided under Section 4.

d. *Notice to Landlord.* Landlord must be given prior written notice of every assignment or subletting, and failure to do so shall be a default hereunder.

e. *Prohibited Assignments/Subleases.* In no event shall this Lease be assignable by operation of any law, and Tenant's rights hereunder may not become, and shall not be listed by Tenant as an asset under any bankruptcy, insolvency or reorganization proceedings. Acceptance of Rent by Landlord after any non-permitted assignment or sublease shall not constitute approval thereof by Landlord.

f. *Limitation on Rights of Assignee/Sublessee.* Any assignment or sublease for which Landlord's consent is required shall not include the right to exercise any options to renew the Lease Term, expand the Premises, or similar options, unless specifically provided for in the consent.

g. *Tenant Not Released.* No assignment or sublease shall release Tenant of any of its obligations under this Lease.

h. *Landlord's Right to Collect Sublease Rents upon Tenant Default.* If the Premises (or any portion) is sublet and Tenant defaults under its obligations to Landlord, then Landlord is authorized, at its option, to collect all sublease rents directly from the Sublessee. Tenant hereby assigns the right to collect the sublease rents to Landlord in the event of Tenant default. The collection of sublease rents by Landlord shall not relieve Tenant of its obligations under this Lease, nor shall it create a contractual relationship between Sublessee and Landlord or give Sublessee any greater estate or right to the Premises than contained in its Sublease.

i. *Excess Rents.* If Tenant assigns this Lease or subleases all or part of the Premises at a rental rate that exceeds the rentals paid to Landlord, then 50% of any such excess shall be paid over to Landlord by Tenant.

j. *Landlord's Fees.* Tenant shall pay Landlord an administration fee of \$500.00 per assignment or sublease transaction for which consent is required. If Landlord assists Tenant in finding an assignee or subtenant, Landlord shall be paid a reasonable fee for such assistance.

k. *Unauthorized Assignment or Sublease.* Any unauthorized assignment or sublease shall constitute a default under the terms of this Lease.

19. DAMAGES TO PREMISES.

a. *Landlord's Restoration Obligations.* If the Building or Premises are damaged by fire or other casualty ("Casualty"), then Landlord shall repair and restore the Premises to substantially the same condition of the Premises immediately prior to such Casualty, subject to the following terms and conditions:

- i. The casualty must be insured under Landlord's insurance policies, and Landlord's obligation is limited to the extent of the insurance proceeds received by Landlord. Landlord's duty to repair and restore the Premises shall not begin until receipt of the insurance proceeds.
- ii. Landlord's lender(s) must permit the insurance proceeds to be used for such repair and restoration.
- iii. Landlord shall have no obligation to repair and restore Tenant's trade fixtures, decorations, signs, contents, or any Non-Standard Improvements to the Premises.

b. *Termination of Lease by Landlord.* Landlord shall have the option of terminating the Lease if: (i) the Premises is rendered wholly untenantable; (ii) the Premises is damaged in whole or in part as a result of a risk which is not covered by Landlord's insurance policies; (iii) Landlord's lender does not permit a sufficient amount of the insurance proceeds to be used for restoration purposes; (iv) the Premises is damaged in whole or in part during the last two years of the Term; or (v) the Building containing the Premises is damaged (whether or not the Premises is damaged) to an extent of fifty percent (50%) or more of the fair market value thereof. If Landlord elects to terminate this Lease, then it shall give notice of the cancellation to Tenant within sixty (60) days after the date of the Casualty. Tenant shall vacate and surrender the Premises to Landlord within thirty (30) days after receipt of the notice of termination.

c. *Termination of Lease by Tenant.* Tenant shall have the option of terminating the Lease if: (i) Landlord has failed to substantially restore the damaged Building or Premises within one hundred eighty (180) days of the Casualty ("Restoration Period"); (ii) the Restoration Period has not been delayed by force majeure; and (iii) Tenant gives Landlord notice of the termination within fifteen (15) days after the end of the Restoration Period (as extended by any force majeure delays). If Landlord is delayed by force majeure, then Landlord must provide Tenant with notice of the delays within fifteen (15) days of the force majeure event stating the reason for the delays and a good faith estimate of the length of the delays.

d. *Tenant's Restoration Obligations.* Unless terminated, the Lease shall remain in full force and effect, and Tenant shall promptly repair, restore, or replace Tenant's trade fixtures, decorations, signs, contents, and any Non-Standard Improvements to the Premises. All repair, restoration or replacement shall be at least to the same condition as existed prior to the Casualty. The proceeds of all insurance carried by Tenant on its property shall be held in trust by Tenant for the purposes of such repair, restoration, or replacement.

e. *Rent Abatement.* If Premises is rendered wholly untenantable by the Casualty, then the Rent payable by Tenant shall be fully abated. If the Premises is only partially damaged, then Tenant shall continue the operation of Tenant's business in any part not damaged to the extent reasonably practicable from the standpoint of prudent business management, and Rent and other charges shall be abated proportionately to the portion of the Premises rendered untenantable. The abatement shall be from the date of the Casualty until the Premises have been substantially repaired and restored, or until Tenant's business operations are restored in the entire Premises, whichever shall first occur. However, if the Casualty is caused by the negligence or other wrongful conduct of Tenant or of Tenant's subtenants, licensees, contractors, or invitees, or their respective agents or employees, there shall be no abatement of Rent.

f. *Waiver of Claims.* The abatement of the Rent set forth above is Tenant's exclusive remedy against Landlord in the event of a Casualty.

20. EMINENT DOMAIN.

a. *Effect on Lease.* If all of the Premises are taken under the power of eminent domain (or by conveyance in lieu thereof), then this Lease shall terminate as of the date possession is taken by the contemnor, and Rent shall be adjusted between Landlord and Tenant as of such date. If only a portion of the Premises is taken and Tenant can continue use of the remainder, then this Lease will not terminate, but Rent shall abate in a just and proportionate amount to the loss of use occasioned by the taking.

b. *Right to Condemnation Award.* Landlord shall be entitled to receive and retain the entire condemnation award for the taking of the Building and Premises. Tenant shall have no right or claim against Landlord for any part of any award received by Landlord for the taking. Tenant shall have no right or claim for any alleged value of the unexpired portion of this Lease, or its leasehold estate, or for costs of removal, relocation, business interruption expense or any other damages arising out of such taking. Tenant, however, shall not be prevented from making a claim against the condemning party (but not against Landlord) for any moving expenses, loss of profits, or taking of Tenant's personal property (other than its leasehold estate) to which Tenant may be entitled; provided that any such award shall not reduce the amount of the award otherwise payable to Landlord for the taking of the Building and Premises. Tenant shall be entitled to a full refund of its deposit amount in accordance with the requirements of Section Six of this Lease.

21. ENVIRONMENTAL COMPLIANCE.

a. *Environmental Laws.* The term "Environmental Laws" shall mean all now existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits and regulations of all state, federal, local and other governmental and regulatory authorities, agencies and bodies applicable to the Premises, pertaining to environmental matters or regulating, prohibiting or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as from time to time amended.

b. *Tenant's Responsibility.* Tenant covenants and agrees that it will keep and maintain the Premises at all times in compliance with Environmental Laws. Tenant shall not (either with or without negligence) cause or permit the escape, disposal or release of any biologically active or other hazardous substances, or materials on the Property. Tenant shall not allow the storage or use of such substances or materials in any manner not sanctioned by law or in compliance with the highest standards prevailing in the industry for the storage and use of such substances or materials, nor allow to be brought onto the Property any such materials or substances except to use in the ordinary course of Tenant's business, and then only after notice is given to Landlord of the identity of such substances or materials. No such notice shall be required, however, for commercially reasonable amounts of ordinary office supplies and janitorial supplies. Tenant shall execute affidavits, representations and the like, from time to time, at Landlord's request, concerning Tenant's best knowledge and belief regarding the presence of hazardous substances or materials on the Premises.

c. *Tenant's Liability.* Tenant shall hold Landlord free, harmless, and indemnified from any penalty, fine, claim, demand, liability, cost, or charge whatsoever which Landlord shall incur, or which Landlord would otherwise incur, by reason of Tenant's failure to comply with this Section 21 including, but not limited to: (i) the cost of full remediation of any contamination to bring the Property into the same condition as prior to the Commencement Date and into full compliance with all Environmental Laws; (ii) the reasonable cost of all appropriate tests and examinations of the Premises to confirm that the Premises and any other contaminated areas have been remediated and brought into compliance with all Environmental Laws; and (iii) the reasonable fees and expenses of Landlord's attorneys, engineers, and consultants incurred by Landlord in enforcing and confirming compliance with this Section 21.

d. *Limitation on Tenant's Liability.* Tenant's obligations under this Section 21 shall not apply to any condition or matter constituting a violation of any Environmental Laws: (i) which existed prior to the commencement of Tenant's use or occupancy of the Premises; (ii) which was not caused, in whole or in part, by Tenant or Tenant's agents, employees, officers, partners, contractors or invitees; or (iii) to the extent such violation is caused by, or results from the acts or neglects of Landlord or Landlord's agents, employees, officers, partners, contractors, guests, or invitees.

e . *Inspections by Landlord.* Landlord and its engineers, technicians, and consultants (collectively the "Auditors") may, from time to time as Landlord deems appropriate, conduct periodic tests and examinations ("Audits") of the Premises to confirm and monitor Tenant's compliance with this Section 21. Such Audits shall be conducted in such a manner as to minimize the interference with Tenant's Permitted Use; however in all cases, the Audits shall be of such nature and scope as shall be reasonably required by then existing technology to confirm Tenant's compliance with this Section 21. Tenant shall fully cooperate with Landlord and its Auditors in the conduct of such Audits. The cost of such Audits shall be paid by Landlord unless an Audit shall disclose a material failure of Tenant to comply with this Section 21, in which case, the cost of such Audit, and the cost of all subsequent Audits made during the Term and within thirty (30) days thereafter (not to exceed two (2) such Audits per calendar year), shall be paid for on demand by Tenant.

f. *Landlord's Liability.* Landlord represents and warrants that, to the best of Landlord's knowledge, there are no hazardous materials on the Premises as of the Commencement. Date in violation of any Environmental Laws. Landlord shall indemnify and hold Tenant harmless from any liability resulting from Landlord's violation of this representation and warranty.

g . *Property.* For the purposes of this Section 21, the term "Property" shall include the Premises, Building, all Common Areas, the real estate upon which the Building is located; all personal property (including that owned by Tenant); and the soil, ground water, and surface water of the real estate upon which the Building is located.

h . *Tenant's Liability After Termination of Lease.* The covenants contained in this Section 21 shall survive the expiration or termination of this Lease, and shall continue for so long as Landlord and its successors and assigns may be subject to any expense, liability, charge, penalty, or obligation against which Tenant has agreed to indemnify Landlord under this Section 21.

22. **DEFAULT.**

a. Tenant's Default. Tenant shall be in default under this Lease if Tenant:

i. Fails to pay when due any Base Rent, Additional rent, or any other sum of money which Tenant is obligated to pay, as provided in this Lease; provided, however, that if Tenant fails to pay Rent when due (a "Late Payment") once during any calendar year, the Late Payment shall not be considered an event of Default if, within five (5) business days after written notice from Landlord, Tenant submits the Rent due, including any applicable late charge. Landlord shall forgive Tenant only one Late Payment per calendar year, and any additional Late Payments during that calendar year shall constitute an event of Default;

ii. Breaches any other agreement, covenant or obligation in this Lease and such breach is not remedied within fifteen (15) days after Landlord gives Tenant notice specifying the breach, or if such breach cannot, with due diligence, be cured within fifteen (15) days, Tenant does not commence curing within fifteen (15) days and with reasonable diligence completely cure the breach within a reasonable period of time after the notice;

iii. Files any petition or action for relief under any creditor's law (including bankruptcy, reorganization, or similar action), either in state or federal court, or has such a petition or action filed against it which is not stayed or vacated within sixty (60) days after filing; or

iv. Makes any transfer in fraud of creditors as defined in Section 548 of the United States Bankruptcy Code (11 U.S.C. 548, as amended or replaced), has a receiver appointed for its assets (and the appointment is not stayed or vacated within thirty (30) days), or makes an assignment for benefit of creditors.

b . *Landlord's Remedies.* In the event of a Tenant default beyond a notice and cure period, Landlord at its option may do one or more of the following:

i. Terminate this Lease and recover all damages caused by Tenant's breach, including consequential damages for lost future rent;

- ii. Repossess the Premises, with or without terminating, and relet the Premises at such amount as Landlord deems reasonable;
- iii. Declare the entire remaining Base Rent and Additional Rent immediately due and payable, such amount to be discounted to its present value at a discount to equal to the U.S. Treasury Bill or Note rate with the closest maturity to the remaining term of the Lease as selected by Landlord;
- iv. Bring action for recovery of all amounts due from Tenant;
- v. Seize and hold any personal property of Tenant located in the Premises and assert against the same a lien for monies due Landlord;
- vi. Lock the Premises and deny Tenant access thereto without obtaining any court authorization; or
- vii. Pursue any other remedy available in law or equity.

c. *Landlord's Expenses; Attorneys Fees.* All reasonable expenses of landlord in repairing, restoring, or altering the Premises for reletting as general office space, together with leasing fees and all other expenses in seeking and obtaining a new Tenant, shall be charged to and be a liability of Tenant.

d. *Remedies Cumulative.* All rights and remedies of Landlord are cumulative, and the exercise of any one shall not be an election excluding Landlord at any other time from exercise of a different or inconsistent remedy. No exercise by Landlord of any right or remedy granted herein shall constitute or effect a termination of this Lease unless Landlord shall so elect by notice delivered to Tenant. The failure of Landlord to exercise its rights in connection with this Lease or any breach or violation of any term, or any subsequent breach of the same or any other term, covenant or condition herein contained shall not be a waiver of such term, covenant or condition or any subsequent breach of the same or any other covenant or condition herein contained.

e. *No Accord and Satisfaction.* No acceptance by Landlord of a lesser sum than the Rent, Additional Rent and other sums then due shall be deemed to be other than on account of the earliest installment of such payments due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed as accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or pursue any other remedy provided in this Lease.

f. *No Reinstatement.* No payment of money by Tenant to Landlord after the expiration or termination of this Lease shall reinstate or extend the Term, or make ineffective any notice of termination given to Tenant prior to the payment of such money. After the service of notice or the commencement of a suit, or after final judgment granting Landlord possession of the Premises, Landlord may receive and collect any sums due under this Lease, and the payment thereof shall not make ineffective any notice or in any manner affect any pending suit or any judgment previously obtained.

g. *Summary Ejectment.* Tenant agrees that in addition to all other rights and remedies Landlord may obtain an order for summary ejectment from any court of competent jurisdiction without prejudice to Landlord's rights to otherwise collect rents or breach of contract damages from Tenant.

23. MULTIPLE DEFAULTS.

a. *Loss of Option Rights.* Tenant acknowledges that any rights or options of first refusal, or to extend the Term, to expand the size of the Premises, to purchase the Premises or the Building, or other similar rights or options which have been granted to Tenant under this Lease are conditioned upon the prompt and diligent performance of the terms of this Lease by Tenant. Accordingly, should Tenant default under this Lease on two (2) or more occasions during any twelve (12) month period, in addition to all other remedies available to Landlord, all such rights and options shall automatically, and without further action on the part of any party, expire and be of no further force and effect.

b. *Increased Security Deposit.* Should Tenant default in the payment of Base Rent, Additional Rent, or any other sums payable by Tenant under this Lease on two (2) or more occasions during any twelve (12) month period, regardless of whether Landlord permits such default to be cured, then, in addition to all other remedies otherwise available to Landlord, Tenant shall, within ten (10) days after demand by Landlord, post a Security Deposit in, or increase the existing Security Deposit to, a sum equal to three (3) months' installments of Base Rent. The Security Deposit shall be governed by the terms of this Lease.

c. *Effect on Notice Rights and Cure Periods.* Should Tenant default under this lease on two (2) or more occasions during any twelve (12) month period, in addition to all other remedies available to landlord, any notice requirements or cure periods otherwise set forth in this lease with respect to a default by Tenant shall not apply.

24. **BANKRUPTCY.**

a. *Trustee's Rights.* Landlord and Tenant understand that, notwithstanding contrary terms in this Lease, a trustee or debtor in possession under the United States Bankruptcy Code, as amended, (the "Code") may have certain rights to assume or assign this Lease. This Lease shall not be construed to give the trustee or debtor in possession any rights greater than the minimum rights granted under the Code.

b. *Adequate Assurance.* Landlord and Tenant acknowledge that, pursuant to the Code, Landlord is entitled to adequate assurances of future performance of the provisions of this Lease. The parties agree that the term "adequate assurance" shall include at least the following:

i. In order to assure Landlord that any proposed assignee will have the resources with which to pay all Rent payable pursuant to the provisions of this Lease, any proposed assignee must have, as demonstrated to Landlord's satisfaction, a net worth (as defined in accordance with generally accepted accounting principles consistently applied) of not less than the net worth of Tenant on the Effective Date (as hereinafter defined), increased by seven percent (7%), compounded annually, for each year from the Effective Date through the date of the proposed assignment. It is understood and agreed that the financial condition and resources of Tenant were a material inducement to Landlord in entering into this Lease.

ii. Any proposed assignee must have been engaged in the conduct of business for the five (5) years prior to any such proposed assignment, which business does not violate the Use provisions under Section 4 above, and such proposed assignee shall continue to engage in the Permitted Use under Section 4. It is understood that Landlord's asset will be substantially impaired if the trustee in bankruptcy or any assignee of this Lease makes any use of the Premises other than the Permitted Use.

c. *Assumption of Lease Obligations.* Any proposed assignee of this Lease must assume and agree to be personally bound by the provisions of this Lease.

25. **NOTICES.**

a. *Addresses.* All notices, demands and requests by Landlord or Tenant shall be sent to the Notice Addresses set forth in Section 11, or to such other address as a party may specify by duly given notice.

b. *Form; Delivery; Receipt* ALL NOTICES, DEMANDS AND REQUESTS WHICH MAY BE GIVEN OR WHICH ARE REQUIRED TO BE GIVEN BY EITHER PARTY TO THE IDTHER MUST BE IN WRITING UNLESS OTHERWISE SPECIFIED. Notices, demands or requests shall be deemed to have been properly given for all purposes if (i) delivered against a written receipt of delivery, (ii) mailed by express, registered or certified mail of the United States Postal Service, return receipt requested, postage prepaid, or (iii) delivered to a nationally recognized overnight courier service for next business day delivery to the receiving party's address as set forth above or (iv) delivered via telecopier or facsimile transmission to the facsimile number listed above, with an original counterpart of such communication sent concurrently as specified in subsection (ii) or (iii) above and with written confirmation of receipt of transmission provided. Each such notice, demand or request shall be deemed to have been received upon the earlier of the actual receipt or refusal by the addressee or three (3) business days after deposit thereof at any main or branch United States post office if sent in accordance with subsection (ii) above, and the next business day after deposit thereof with the courier if sent pursuant to subsection (iii) above.

c. *Address Changes.* The parties shall notify the other of any change in address, which notification must be at least fifteen (15) days in advance of it being effective.

d. *Notice by Legal Counsel.* Notices may be given on behalf of any party by such party's legal counsel.

26. **HOLDING OVER.** If Tenant holds over after the Expiration Date or other termination of this Lease, such holding over shall not be a renewal of this Lease but shall create a tenancy-at-sufferance. Tenant shall continue to be bound by all of the terms and conditions of this Lease, except that during such tenancy-at-sufferance Tenant shall pay to Landlord (i) Base Rent at the rate equal to one hundred fifty percent (150%) of that provided for as of the expiration or termination date, and (ii) any and all Operating Expenses and other forms of Additional Rent payable under this Lease. The increased Rent during such holding over is intended to compensate Landlord partially for losses, damages and expenses, including frustrating and delaying Landlord's ability to secure a replacement tenant. If Landlord loses a prospective tenant because Tenant fails to vacate the Premises on the Expiration Date or any termination of the Lease after notice to do so, then Tenant will be liable for such damages as Landlord can prove because of Tenant's wrongful failure to vacate.

27. **RIGHT TO RELOCATE.**

a. *Substitute Premises.* Landlord, at its option, may substitute for the Premises other space (hereafter called "Substitute Premises") owned by Landlord within the same building or one of equal or greater quality in the North Raleigh, North Carolina area (for example, Highwoods Office Center, North Park, Six Forks III) before the Commencement Date or at any time during the Term or any extension of this Lease. The Substitute Premises shall be of equal or greater quality and shall have a comparable square foot area and a configuration substantially similar to the Premises.

b. *Notice.* Landlord shall give Tenant at least ninety (90) days notice of its intention to relocate Tenant to the Substitute Premises. This notice will be accompanied by a floor plan of the Substitute Premises. After such notice, Tenant shall have fifteen (15) days within which to agree with Landlord on the proposed Substitute Premises and unless such agreement is reached within such period of time, Landlord may terminate this Lease at the end of the ninety (90) day period of time following the notice.

c. *Upfit of Substitute Premises.* Landlord agrees to construct or alter, at its own expense, the Substitute Premises as expeditiously as possible so that they are in substantially the same condition that the Premises were in immediately prior to the relocation. Landlord shall have the right to reuse the fixtures, improvements and alterations used in the Premises. Tenant agrees to occupy the Substitute Premises as soon as Landlord's work is substantially completed.

d. *Relocation Costs.* If relocation occurs after the Commencement Date, then Landlord shall pay Tenant's reasonable third-party costs of moving Tenant's furnishings, telephone and computer wiring, and other property to the Substitute Premises, and reasonable printing costs associated with the change of address.

e. *Lease Terms.* Except as provided herein, Tenant agrees that all of the obligations of this Lease, including the payment of Rent (to be determined at the same per rentable square foot basis and applied to the Substitute Premises), will continue despite Tenant's relocation to the Substitute Premises. Upon substantial completion of the Substitute Premises, this Lease will apply to the Substitute Premises as if the Substitute Premises had been the space originally described in this Lease.

f. *Limitation on Landlord's Liability.* Except as provided above, Landlord shall not be liable or responsible in any way for damages or injuries suffered by Tenant pursuant to the relocation in accordance with this provision including, but not limited to, the loss of goodwill, business, productivity or profits.

28. **BROKER'S COMMISSIONS.**

a. *Broker.* Each party represents and warrants to the other that it has not dealt with any real estate broker, finder or other person with respect to this Lease in any manner, except the Broker identified in Section 1m.

b . *Landlord's Obligation.* Landlord shall pay any commissions or fees that are payable to the Broker with respect to this Lease pursuant to Landlord's separate agreement with the Broker.

c . *Indemnity.* Each party shall indemnify and hold the other party harmless from any and all damages resulting from claims that may be asserted against the other party by any other broker, finder or other person (including, without limitation, any substitute or replacement broker claiming to have been engaged by indemnifying party in the future), claiming to have dealt with the indemnifying party in connection with this Lease or any amendment or extension hereto, or which may result in Tenant leasing other or enlarged space from Landlord. The provisions of this Section shall survive the termination of this Lease.

29. MISCELLANEOUS.

a . *No Agency.* Tenant is not, may not become, and shall never represent itself to be an agent of Landlord, and Tenant acknowledges that Landlord's title to the Building is paramount, and that it can do nothing to affect or impair Landlord's title.

b . *Force Majeure.* The term "force majeure" means: fire, flood, extreme weather, labor disputes, strike, lock-out, riot, government interference (including regulation, appropriation or rationing), unusual delay in governmental permitting, unusual delay in deliveries or unavailability of materials, unavoidable casualties, Act of God, or other causes beyond the Landlord's reasonable control.

c . *Building Standard Improvements.* The term "Building Standard Improvements" shall mean the standards for normal construction of general office space within the Building as specified by Landlord, including design and construction standards, electrical load factors, materials, fixtures and finishes.

d . *Limitation on Damages.* Notwithstanding any other provisions in this Lease, landlord and Tenant shall not be liable to the other for any special, consequential, incidental or punitive damages.

e . *Satisfaction of Judgments Against Landlord.* If Landlord, or its employees, officers, directors, stockholders or partners are ordered to pay Tenant a money judgment because of Landlord's default under this Lease, said money judgment may only be enforced against and satisfied out of: (i) Landlord's interest in the Building in which the Premises are located including the rental income and proceeds from sale; and (ii) any insurance or condemnation proceeds received because of damage or condemnation to, or of, said Building that are available for use by Landlord. No other assets of Landlord or said other parties exculpated by the preceding sentence shall be liable for, or subject to, any such money judgment.

f . *Interest.* Should Tenant fail to pay any amount due to Landlord within 30 days of the date such amount is due (whether Base Rent, Additional Rent, or any other payment obligation), then the amount due shall begin accruing interest at the rate of 18% per annum, compounded monthly, or the highest permissible rate under applicable usury law, whichever is less, until paid.

g . *Legal Costs.* Should Landlord or Tenant prevail in any legal proceedings against the other for breach of any provision in this Lease, then non-prevailing party shall be liable for the costs and expenses of the prevailing party, including its reasonable attorneys' fees (at all tribunal levels).

h . *Sale of Premises or Building.* Landlord may sell the Premises or the Building without affecting the obligations of Tenant hereunder; upon the sale of the Premises or the Building, Landlord shall be relieved of all responsibility for the Premises and shall be released from any liability thereafter accruing under this Lease.

i . *Time of the Essence.* Time is of the essence in the performance of all obligations under the terms of this Lease.

j . *Transfer of Security Deposit.* If any Security Deposit or prepaid Rent has been paid by Tenant, Landlord may transfer the Security Deposit or prepaid Rent to Landlord's successor and upon such transfer, Landlord shall be released from any liability for return of the Security Deposit or prepaid Rent.

k. *Tender of Premises.* The delivery of a key or other such tender of possession of the Premises to Landlord or to an employee of Landlord shall not operate as a termination of this Lease or a surrender of the Premises unless requested in writing by Landlord.

l. *Tenant's Financial Statements.* Upon request of Landlord, Tenant agrees to furnish to Landlord copies of Tenant's most recent annual financial statements, audited if available; provided, however, that if Tenant is in default under the Lease at the time of Landlord's request, Tenant shall be required to provide copies of its most recent quarterly and monthly statements in addition to its annual statements. The financial statements shall be prepared in accordance with generally accepted accounting principles, consistently applied. The financial statements shall include a balance sheet and a statement of profit and loss, and the annual financial statement shall also include a statement of changes in financial position and appropriate explanatory notes. Landlord may deliver the financial statements to any prospective or existing mortgagee or purchaser of the Building.

m. *Recordation.* This Lease may not be recorded without Landlord's prior written consent, but Tenant and Landlord agree, upon the request of the other party, to execute a memorandum hereof for recording purposes.

n. *Partial Invalidity.* The invalidity of any portion of this Lease shall not invalidate the remaining portions of the Lease.

o. *Binding Effect.* This Lease shall be binding upon the respective parties hereto, and upon their heirs, executors, successors and assigns.

p. *Entire Agreement.* This Lease supersedes and cancels all prior negotiations between the parties, and no changes shall be effective unless in writing signed by both parties. Tenant acknowledges and agrees that it has not relied upon any statements, representations, agreements or warranties except those expressed in this Lease, and that this Lease contains the entire agreement of the parties hereto with respect to the subject matter hereof.

q. *Good Standing.* If requested by Landlord, Tenant shall furnish appropriate legal documentation evidencing the valid existence in good standing of Tenant, and the authority of any person signing this Lease to act for the Tenant. If Tenant signs as a corporation, each of the persons executing this Lease on behalf of Tenant does hereby covenant and warrant that Tenant is a duly authorized and existing corporation, that Tenant has and is qualified to do business in the State in which the Premises are located, that the corporation has a full right and authority to enter into this Lease and that each of the persons signing on behalf of the corporation is authorized to do so.

r. *Terminology.* The singular shall include the plural, and the masculine, feminine or neuter includes the other.

s. *Headings.* Headings of sections are for convenience only and shall not be considered in construing the meaning of the contents of such section.

t. *Choice of Law.* This Lease shall be interpreted and enforced in accordance with the laws of the State in which the Premises are located.

u. *Effective Date.* The submission of this Lease to Tenant for review does not constitute a reservation of or option for the Premises, and this Lease shall become effective as a contract only upon the execution and delivery by both Landlord and Tenant. The date of execution shall be entered on the top of the first page of this Lease by Landlord, and shall be the date on which the last party signed the Lease, or as otherwise may be specifically agreed by both parties. Such date, once inserted, shall be established as the final day of ratification by all parties to this Lease, and shall be the date for use throughout this Lease as the "Effective Date".

30. **SPECIAL CONDITIONS.** The following special conditions, if any, shall apply, and where in conflict with earlier provisions in this Lease shall control:

"None"

31. **ADDENDA AND EXHIBITS.** If any addenda are noted below, such addenda are incorporated herein and made a part of this Lease.

- a. **Lease Addendum Number One - Operating Expense Pass Through**
- b. **Exhibit A - Premises**
- c. **Exhibit B - Rules and Regulations**
- d. **Exhibit C - Commencement Agreement**
- e. **Exhibit D - Insurance Certificate**

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY
SIGNATURE BLOCKS ON NEXT PAGE]**

IN WITNESS WHEREOF, Landlord and Tenant have executed this lease in four originals, all as of the day and year first above written.

TENANT:

METROPOLITAN RESEARCH STAFFING ASSOCIATES, LLC

a New York limited liability company

By: /s/ Stacy M. Martin

Name: Stacy M. Martin

Title: Managing Partner

Date: 12/1/05

LANDLORD:

HIGHWOODS REALTY LIMITED PARTNERSHIP

a North Carolina limited partnership

By: Highwoods Properties, Inc., its general partner
a Maryland corporation

By: /s/ Robert G. Cutlip

Robert G. Cutlip, Senior Vice President
and Regional Manager

Date: 12/7/05

Affix Corporate Seal:

ACKNOWLEDGMENT

STATE OF New York
COUNTY OF New York

(Limited Liability Company)

The undersigned Notary Public, hereby certifies that Stacy M. Martin manager of METROPOLITAN RESEARCH STAFFING ASSOCIATES, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

WITNESS my hand and notarial seal, this 1st day of December, 2005

Notary Public: _____
Name: _____
My Commission Expires: _____

SUBLEASE

THIS SUBLEASE (this "Sublease") is entered into as of the 5th day of June 2003 by and between OPPENHEIMER WOLFF & DONNELLY LLP ("Sublandlord"), a Minnesota limited liability company, having an office at Plaza VII, Suite 3300, 45 South Seventh Street, Minneapolis, Minnesota 55402, and METROPOLITAN RESEARCH ASSOCIATES, LLC ("Subtenant"), a New York limited liability company, having an office at 305 Madison Avenue, Suite 1240, New York, NY 10165.

RECITALS:

A. 405 Lexington, L.L.C. ("Landlord"), as landlord, and Sublandlord, as tenant, entered into a certain Lease dated as of May 12, 1999 (the "Original Lease"), as amended by a letter agreement dated May 12, 1999 between Landlord and Sublandlord (the "Amendment") (as so amended, the "Lease"), affecting a portion of the 18th floor and the entire 19th floor (collectively, the "Leased Premises") in the building located at 666 Third Avenue, New York, New York (the "Building"), a true and complete copy of which Lease is annexed to this Sublease as Exhibit A; and

B. Subtenant desires to sublease the entire 19th floor of the Building from Sublandlord and Sublandlord desires to sublease such space to Subtenant, on the terms, covenants and conditions contained in this Sublease.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and promises of the parties hereinafter set forth, and for other valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Sublandlord and Subtenant agree as follows:

1. Sublease. Upon and subject to the terms, covenants and conditions hereinafter set forth, from and after the Sublease Commencement Date (as hereinafter defined), Sublandlord subleases to Subtenant the entire 19th floor of the Building more particularly shown hatched on the floor plan attached to this Sublease as Exhibit B (the "Subleased Premises"), and Subtenant hires the Subleased Premises from Sublandlord. The attached floor plan of the Subleased Premises does not constitute a representation that said floor plan is exact or correct, and Sublandlord makes no representation or warranty with respect to the accuracy of the layout or dimensions of the Subleased Premises as shown on said floor plan or otherwise. For all purposes of this Sublease, Sublandlord and Subtenant conclusively agree that the Subleased Premises consists of 16,915 rentable square feet.

2. Sublease Term. (a) The term of this Sublease (the "Sublease Term"), shall commence on the latest of the following dates (the "Sublease Commencement Date"): (i) the date on which Landlord shall have delivered its written consent to this Sublease (the "Landlord Consent"); and (ii) the date on which Sublandlord shall have delivered vacant (except for the Furniture (as hereinafter defined) to be used by Subtenant during the Sublease Term) and broom-clean possession of the Subleased Premises to Subtenant, unless Subtenant shall occupy the Subleased Premises for the normal conduct of its business prior to such delivery of the Subleased Premises in the condition set forth in this clause (ii), in which event the Sublease Commencement Date shall be deemed to be such date that Subtenant so occupies the Subleased Premises for the normal conduct of its business. The Sublease Term shall expire on May 30, 2010 (the "Sublease Expiration Date"), unless the Sublease Term shall be sooner terminated as hereafter provided or pursuant to law.

(b) Sublandlord shall not be subject to any liability for its failure to deliver the Subleased Premises to Subtenant by any particular date and the validity of this Sublease shall not be impaired thereby nor the Sublease Expiration Date extended thereby. Subject to the following provisions of this Paragraph 2(b), Subtenant expressly waives any right to rescind this Sublease under Section 223-a of the New York Real Property Law or under any present or future statute of similar import then in force and further expressly waives the right to recover any damages that may result from Sublandlord's failure to deliver possession of the Subleased Premises on any particular date. Subtenant agrees that the provisions of this Paragraph 2(b) are intended to constitute "an express provision to the contrary" within the meaning of said Section 223-a. Without limiting the foregoing, if the Landlord Consent shall have been obtained and Sublandlord shall not have delivered to Subtenant vacant (except for the Furniture to be used by Subtenant during the Sublease Term) and broom-clean possession of the Subleased Premises, in the condition required under Paragraph 3 of this Sublease, on or prior to the date (the "Outside Delivery Date") which is the later to occur of June 30, 2003 or the date which is 10 days after the Landlord Consent is

obtained, then Subtenant shall have the right to terminate this Sublease on written notice given to Sublandlord within 10 days after the Outside Delivery Date (the "Termination Date") but before Sublandlord shall have delivered such possession of the Subleased Premises to Subtenant, which notice shall be effective upon receipt by Sublandlord. In the event of such termination, this Sublease shall be deemed automatically void and of no further force or effect on the date such notice is received by Sublandlord, without any further action by Sublandlord or Subtenant, Sublandlord shall return to Subtenant the first monthly installment of Sublease Base Rent and any security deposit paid by Subtenant upon its execution and delivery of this Sublease, and Sublandlord and Subtenant shall have no further obligations or liability under this Sublease except as expressly set forth in this Sublease to survive termination hereof. To the extent that such delivery of possession shall be delayed beyond the Outside Delivery Date by reason of any act or omission of Subtenant or any event beyond Sublandlord's reasonable control, then the respective dates that shall constitute the Outside Delivery Date and the Termination Date shall be delayed by the period of time equal to the duration of all such delays.

(c) Sublandlord shall submit to Subtenant a written agreement, substantially in the form annexed hereto as Exhibit C, confirming the date fixed, in accordance with the provisions of this Sublease, as the Sublease Commencement Date and Subtenant shall execute such agreement and return it to Sublandlord within 15 days thereafter. Any failure of the parties to execute such written agreement shall not affect the validity of the Sublease Commencement Date as fixed and determined as aforesaid.

3. Condition of Subleased Premises. (a) Subtenant has inspected the Subleased Premises fully familiar with the condition thereof. Subtenant shall take possession of the Subleased Premises (together with the Furniture) in their "as is" condition and state of repair on the date of this Sublease, subject to reasonable wear and tear, and Subtenant acknowledges that, except as expressly set forth in this Sublease, Sublandlord has made no representation or warranty concerning the condition of the Subleased Premises, and Sublandlord has no obligation to perform any work, supply any materials, incur any expense or make any alterations or improvements to the Subleased Premises to prepare the Subleased Premises for Subtenant's occupancy. The taking of occupancy of the whole or any part of the Subleased Premises shall be conclusive evidence, as against Subtenant, that Subtenant accepts possession of the same and that the Subleased Premises (or that part of the Subleased Premises occupied by Subtenant, as the case may be) was in good and satisfactory condition at the time such occupancy was so taken; however, Subtenant's failure to take possession of the Subleased Premises shall not be deemed evidence that the same was not in good or satisfactory condition. Without limiting the foregoing, prior to the Sublease Commencement Date, Sublandlord shall cause the carpeting located within the Subleased Premises to be shampooed and the interior of the windows within the Subleased Premises to be cleaned. Subtenant shall be permitted to use, at no additional cost to Subtenant, during the Sublease Term solely within the Subleased Premises all of Sublandlord's telephone equipment (including, without limitation, the telephone switch) and furniture located within the Subleased Premises on the date of this Sublease (collectively, the "Furniture"), an inventory of which Furniture is annexed to this Sublease as Exhibit D. The Furniture is delivered to Subtenant "as is" and without representation or warranty by Sublandlord. Subtenant, at its sole cost, shall maintain the Furniture during the Sublease Term in good condition and repair, reasonable wear and tear excepted. Subtenant shall pay all maintenance and usage costs with respect to the Furniture, including, without limitation, all telephone bills. Subject to the last sentence of this Paragraph 3(a), on the Sublease Expiration Date, Subtenant shall become the owner of the Furniture and on or prior such date, Subtenant, at its sole cost, shall remove the Furniture from the Subleased Premises. If Subtenant shall fail to so remove the Furniture, then Sublandlord shall be entitled to remove it at Subtenant's cost, to be reimbursed to Sublandlord on demand. Notwithstanding the foregoing, (i) the right to own the Furniture granted to Subtenant in this Paragraph 3(a) shall be personal to Metropolitan Research Associates, LLC and in no event shall such right be assigned or otherwise transferred to any other person or entity prior to the Sublease Expiration Date; and (ii) if this Sublease shall terminate prior to the Sublease Expiration Date for any reason other than the termination of the Lease due to Sublandlord's default beyond all applicable notice and grace periods there under, then Subtenant shall not become the owner of the Furniture upon the termination of this Sublease, but rather the Furniture shall remain the property of Sublandlord and shall be returned to Sublandlord with the Subleased Premises on such date of termination of this Sublease in good condition and repair, reasonable wear and tear excepted.

(b) Subtenant shall not make any alterations, additions, improvements or changes (collectively, "Improvements") in or to the Subleased Premises without first obtaining the prior written consent of Sublandlord, and of Landlord if required under the Lease. To the extent that Landlord's consent shall not be required under the Lease with respect to any Decorative Alterations (as defined in Section 5.1 of the Lease) to be made by Subtenant, Sublandlord's consent shall likewise not be required with respect to such Decorative Alterations. If Landlord

consents to Subtenants' proposed improvements, then Sublandlord's consent shall not be unreasonably withheld or delayed. Subtenant, in making any such approved improvements in or to the Subleased Premises, shall comply with all applicable terms, covenants and conditions of the Lease and with all requirements of governmental bodies having jurisdiction thereof. Subtenant shall reimburse Sublandlord for Sublandlord's reasonable, actual out of pocket costs incurred by it in connection with (i) its review of any plans and specifications submitted by Subtenant, reviewed by Sublandlord, and (ii) Landlord's costs in connection with such improvements.

4. Conditions Precedent to Effectiveness of this Sublease. Promptly after execution of this Sublease by Sublandlord and Subtenant, this Sublease shall be delivered to Landlord for its consent. This Sublease shall not be effective unless and until Landlord shall have delivered to Sublandlord the Landlord Consent (in Landlord's customary standard form), it being the intention of the parties hereto that this Sublease shall be expressly conditioned upon the Landlord Consent first being delivered. Sublandlord and Subtenant shall use reasonably diligent efforts to obtain the Landlord Consent. Sublandlord shall furnish a copy of Landlord's Consent to Subtenant promptly after it is received by Sublandlord. In no event shall Sublandlord or Subtenant be required to institute any litigation, action or proceeding, or otherwise expend any sum of money, in order to obtain the Landlord Consent. If the Landlord Consent is not delivered within 60 days after the date this Sublease is executed and delivered by Sublandlord and Subtenant, then either Sublandlord or Subtenant may terminate this Sublease upon notice to the other party, provided that such notice is given prior to the delivery of the Landlord Consent, and further provided that such failure to obtain the Landlord Consent shall not have resulted from any act or omission of the party sending such notice of termination. In the event of such termination, this Sublease shall be deemed automatically void and of no further force or effect on the date such notice is given, without any further action by Sublandlord or Subtenant, Sublandlord shall return to Subtenant the first monthly installment of Sublease Base Rent and any security deposit paid by Subtenant upon its execution and delivery of this Sublease, and Sublandlord and Subtenant shall have no further obligations or liability under this Sublease except as expressly set forth in this Sublease to survive termination hereof.

5. Rent. (a) Subtenant shall pay to Sublandlord during the Sublease Term fixed rent ("Sublease Base Rent") for the Subleased Premises at the rate of \$541,280 per annum (\$45,106.67 per month) from the Sublease Commencement Date through and including the Sublease Expiration Date.

(b) The first monthly installment of Sublease Base Rent in the amount of \$45,106.67 shall be due and payable by Subtenant upon execution of this Sublease. If the Sublease Commencement Date occurs on the first day of a calendar month, then such payment shall be credited by Sublandlord to the first monthly installment of Sublease Base Rent payable under this Sublease. If the Sublease Commencement Date is not the first day of a calendar month, then on the Commencement Date, Subtenant shall pay to Sublandlord Sublease Base Rent for the period from the Sublease Commencement Date through the last day of the month in which the Sublease Commencement Date occurs, and the payment made by Subtenant upon the execution and of this Sublease shall be credited against the second monthly installment of Sublease Base Rent payable under this Sublease.

(c) With respect to the Subleased Premises, during the Sublease Term, Subtenant shall pay to Sublandlord as Sublease Additional Rent (as hereinafter defined) any items specified in the Lease to be additional rent and any other sums of money, costs, charges, adjustments, increases, rent or additional rent payable by Sublandlord to Landlord under the Lease attributable to the Subleased Premises or the use and occupancy thereof by Subtenant, provided, that, for the purposes of calculating the amount of Sublease Additional Rent payable by Subtenant to Sublandlord in respect of Taxes and Operating Expenses, (1) "Tenant's Proportionate Share" shall be deemed to be 2.37493% (subject to adjustment in the event of any reduction in the size of the Building or the Subleased Premises as a result of a casualty or condemnation); (2) "Base Tax Year" shall mean the Tax Year (as defined in Section 8.1(g) of the Lease) commencing on July 1, 2002; (3) "Base Taxes" shall mean the assessed valuation of the Real Property for the Base Tax Year multiplied by the annual real estate tax rate of the City of New York applicable to the Building for the Base Tax Year, plus all other taxes, assessments and other governmental levies, impositions or charges, which may be assessed upon all or any part of the Real Property for the Base Tax Year; (4) "Base Expense Years" shall mean only the calendar year commencing January 1, 2003, (5) "Agreed Area of Premises" shall mean 16,915 rentable square feet (without any representation by Sublandlord whatsoever); (6) "Base Operating Expenses" shall mean the aggregate Operating Expenses for the Base Operating Years; and (7) "Comparison Year" shall mean (A) with respect to Taxes, the Tax Year commencing on July 1, 2004 and each subsequent Tax Year during the Sublease Term and (B) with respect to Operating Expenses, the calendar year

commencing on January 1, 2004 and each subsequent calendar year during the Sublease Term. Except as modified by this Sublease, with respect to the Subleased Premises, the Sublease Additional Rent for Operating Expenses and Taxes shall be calculated in accordance with the terms of the Lease.

(d) Subtenant shall pay to Sublandlord the Sublease Additional Rent at the time and in the manner Sublandlord is required to pay the same to Landlord, as set forth in the Lease. Except as expressly provided herein, all other additional rent, charges, fees or other amounts payable under this Sublease or the Lease by Subtenant shall be payable within 15 days after written demand therefor.

(e) The initial demand for Sublease Additional Rent payable pursuant to this Paragraph 5 and any subsequent demand for increases in Sublease Additional Rent shall be accompanied by copies of any invoices, bills or other documentation evidencing such Sublease Additional Rent which Sublandlord shall have received in connection therewith. Notwithstanding the foregoing, any failure by Sublandlord to make a demand under the provisions of this Sublease, shall not in any way be a waiver, or cause Sublandlord to forfeit or surrender its rights to collect, any Sublease Base Rent or Sublease Additional Rent that may have become due pursuant to the terms of this Sublease.

(f) Sublandlord shall credit Subtenant its proportionate share of any refunds received by Sublandlord (together with any interest received by Sublandlord) from Landlord under the Lease on account of any overpayment of Sublease Additional Rent for which Subtenant has paid Sublandlord under this Sublease; provided, however, that Sublandlord shall be entitled to deduct from the aggregate of the amount of such refund Subtenant's proportionate share of any and all costs and expenses, including, without limitation, reasonable attorneys' fees, consultants fees and disbursements, incurred and paid by Sublandlord in connection with the obtaining of any such refunds. Subtenant shall pay to Sublandlord, as Sublease Additional Rent, within 15 days after demand, Subtenant's proportionate share of any amounts (plus interest, if any) due Landlord under the Lease on account of any underpayment of Sublease Additional Rent payable under this Sublease, including, without limitation, Sublease Additional Rent payable hereunder on account of Taxes or Operating Expenses. Subtenant shall not challenge Landlord's invoices for Taxes and Operating Expenses unless Sublandlord challenges such invoices.

(g) All amounts payable by Subtenant to Sublandlord pursuant to this Sublease, including, without limitation, Sublease Base Rent and Sublease Additional Rent, shall be deemed to be and shall constitute Rent for all purposes hereunder and, in the event of any nonpayment thereof, Sublandlord shall have all of the rights and remedies provided herein, at law or in equity for non-payment of Rent. The obligation of Subtenant to pay all amounts to Sublandlord hereunder shall survive the Sublease Expiration Date or the earlier termination of this Sublease.

(h) Sublease Base Rent and any and all additional rent payable by Subtenant to Sublandlord under this Sublease and under the Lease ("Sublease Additional Rent") shall be paid by check, drawn on a member bank of the New York Clearinghouse Association, to the order of Sublandlord, at the office of Sublandlord first set forth above or at such other address as Sublandlord may from time to time designate by written notice to Subtenant. All such payments with respect to Sublease Base Rent shall be made, in advance, on the first day of each calendar month during the Sublease Term, without prior notice or demand therefore and without any abatement, deduction or set-off for any reason whatsoever, except as may be expressly provided in this Sublease.

6. Electricity. (a) Subtenant agrees that Landlord shall redistribute or furnish electricity to or for the use of Subtenant in the Subleased Premises for the operation of Subtenant's electrical systems and equipment in the Subleased Premises, at a level sufficient to accommodate a demand load of six watts per usable square foot of office space in the Subleased Premises (exclusive of electricity required to operate the base-Building HVAC System), provided, however, that if Subtenant shall notify Landlord and Sublandlord that Subtenant requires a demand load of six watts per rentable square foot of office space (exclusive of electricity to operate the base-Building HVAC System) and Subtenant reasonably requires such load, Landlord shall deliver such load within 30 days after such notice is given. Subtenant shall pay to Sublandlord, on demand from time to time, but not more frequently than monthly, for its consumption of electricity at the Subleased Premises, as Sublease Additional Rent, for such service from and after the Commencement Date, a sum equal to 105% of the product obtained by multiplying (x) the Cost Per Kilowatt Hour, by (y) the actual number of kilowatt hours of electric current consumed by Subtenant at the Subleased Premises in such billing period. The meter(s) required to measure such consumption of electricity by Subtenant have previously been installed and shall be maintained by Landlord. Where more than one meter

measures Subtenant's consumption of electricity at the Subleased Premises, the electricity measured by each meter shall be computed separately but billed together in accordance with the provisions set forth above. Bills for such amounts shall be rendered to Subtenant by Sublandlord promptly after Sublandlord shall receive such bills from Landlord. The rate to be paid by Subtenant for submetered electricity shall include any taxes or other charges in connection therewith. If any tax is imposed upon Landlord's (or Sublandlord's) receipts from the sale or resale of electricity to Subtenant, Subtenant shall reimburse Landlord (or Sublandlord, as the case may be) for such tax, if and to the extent permitted by law. Sections 16.2, 16.3 and 16.4 of the Lease are incorporated into this Sublease by reference as set forth in Paragraph 9 of this Sublease, provided, however, that all references in such Sections 16.2, 16.3 and 16.4 to "Landlord" shall be deemed, for purposes of this Sublease to mean Landlord (rather than Sublandlord), except the first three references to "Landlord" set forth in such Section 16.3, shall, for such purposes, be deemed to mean Landlord or Sublandlord.

(b) If Landlord shall exercise its right to discontinue furnishing electric energy to the Subleased Premises as set forth in Section 16.4 of the Lease, then this Sublease shall continue in full force and effect and shall be unaffected thereby, except only that, from and after the effective date of such discontinuance, Landlord shall not be obligated to furnish electric energy to the Subleased Premises.

(c) If any charge is imposed upon Sublandlord with respect to any tax on electrical energy furnished as a service to Subtenant by any government authority, Subtenant agrees that, where permitted by law or applicable regulations, Subtenant's pro rata share of such taxes shall be reimbursed by Subtenant to Sublandlord within 15 days after demand. Upon Subtenant's request, Sublandlord shall deliver to Subtenant a copy of any tax bill received by Sublandlord from Landlord or the taxing authority relating to any such tax.

7. Use; Care of the Subleased Premises. (a) Without limiting any other provision of this Sublease or the Lease, as the case may be, Subtenant shall take good care of the Subleased Premises, suffer no Waste or injury thereto and shall comply with all laws, orders and regulations applicable to the Subleased Premises, the Building and Subtenant's use or manner of use thereof, which are imposed on Sublandlord as tenant under the Lease in connection with the Subleased Premises and/or the Building.

(b) Subtenant shall use and occupy the Subleased Premises as executive and general offices for the Permitted Uses under the Lease and for no other purpose. In no event shall Subtenant use the Subleased Premises in any manner which violates any provision of the Lease.

8. Sublease Subject and Subordinate to Lease: Covenants Respecting Lease. (a) Subtenant acknowledges that it has read the Lease and is fully familiar with the terms and conditions thereof. With respect to the Subleased Premises, this Sublease is and shall at all times during the Sublease Term remain subject and subordinate to the Lease and all of the terms and provisions of the Lease (and to all matters to which the Lease is subject and subordinate). This clause shall be self-operative and no further instrument of subordination shall be required, but Subtenant shall execute promptly any certificate confirming such subordination that Sublandlord may request. In the event of any inconsistency between this Sublease and the Lease, such inconsistency shall be resolved in favor of that obligation which is more onerous to Subtenant or that restriction which is more restrictive of Subtenant, as the case may be. If neither obligation is more onerous or restrictive, then this Sublease shall control unless the use or occupancy of the Subleased Premises by Subtenant or any action or inaction by Subtenant in accordance with said provision becomes a default under the terms of the Lease, in which event the provisions of the Lease shall control.

(b) Each of Sublandlord and Subtenant covenants that it shall conduct itself and its operations in and about the Subleased Premises so as not to cause Sublandlord to be in default under the Lease and shall not commit, permit or cause to be permitted in the Subleased Premises any act or omission which shall violate any term or condition of the Lease. Sublandlord shall not amend the Lease, without Subtenant's consent, in a manner that will disturb Subtenant's possession of the Subleased Premises, or decrease or materially adversely affect Subtenant's rights, or increase Subtenant's obligations, under this Sublease (it being agreed that any such amendment of the Lease made without Subtenant's consent shall not be binding upon Subtenant). During the Sublease Term, Sublandlord shall use reasonable efforts not to default beyond all applicable notice and grace periods in the performance and/or observance of any material covenant, agreement or condition of the Lease (including, without limitation, the payment of rent there under) on Sublandlord's part to be performed or observed. As used in the preceding sentence, "material" shall mean that Sublandlord's failure to perform or observe such covenant, agreement or condition of the Lease might reasonably result in the termination of the Lease by Landlord.

(c) Except as specifically set forth herein to the contrary, all acts to be performed by, and all of the terms, provisions, covenants, stipulations, conditions, obligations and agreements to be observed by, Sublandlord, as tenant under the Lease shall, to the extent that the same relate to the Subleased Premises, be performed and observed by Subtenant, and Subtenant's obligations in respect thereof shall run to Sublandlord or Landlord as Sublandlord may determine to be appropriate or as may be required by the respective interests of Sublandlord or Landlord. Subtenant shall indemnify Sublandlord against, and hold Sublandlord harmless from, all liabilities, losses, obligations, damages, penalties, claims, costs and expenses (including, without limitation, reasonable attorneys' fees and other costs) which are paid, suffered or incurred by Sublandlord as a result of the nonperformance or nonobservance of any such terms, provisions, covenants, stipulations, conditions, obligations or agreements by Subtenant.

(d) In the event that Subtenant shall be in default of any term, provision, covenant, stipulation, condition, obligation or agreement of, or shall fail to honor any obligation under this Sublease, Sublandlord, on giving the notice required by the Lease (as modified pursuant to Paragraph 9(g) hereof), and subject to the right, if any, of Subtenant to cure any such default within any applicable grace period provided in the Lease (as modified pursuant to Paragraph 9(g) hereof), shall have available to it all of the remedies available to Landlord under the Lease in the event of a like default or failure on the part of Sublandlord as tenant there under. Such remedies shall be in addition to all other remedies available to Landlord under the Lease in the event of a like default or failure on the part of Sublandlord as tenant there under. Such remedies shall be in addition to all other remedies available to Sublandlord at law or in equity.

(e) Subtenant agrees to indemnify Sublandlord against and hold Sublandlord harmless from, any and all liabilities, losses, obligations, damages, penalties, claims, costs and expenses (including, without limitation, reasonable attorneys' fees and other charges and reasonable attorneys' fees and other charges incurred in connection with the enforcement of this indemnity provision) which are paid, suffered or incurred by Sublandlord as a result of (i) any personal injuries or property damage occurring in, on or about the Subleased Premises during the Sublease Term, (ii) any work or thing done, or any condition created, by Subtenant in, on or about the Subleased Premises or the Building during the Sublease Term, or (iii) any act or omission of Subtenant or Subtenant's agents, contractors, servants, employees, invitees or licensees during the Sublease Term, except to the extent that any of the foregoing indemnified matters is caused by the negligence or willful misconduct of Sublandlord or its agents, contractors, servants, employees, invitees or licensees.

9. Incorporation by Reference, with Certain Exceptions, of the Lease. Except as otherwise set forth in this Sublease, the terms, covenants, provisions, rights, obligations and conditions of the Lease are hereby incorporated into this Sublease and to the extent applicable to the Subleased Premises and not inconsistent with any express provisions of this Sublease, shall be binding upon, and inure to the benefit of, both parties in this Sublease, those applying to Landlord, as landlord under the Lease, applying, in this Sublease, to Sublandlord, and those applying to Sublandlord, as tenant under the Lease, applying, in this Sublease, to Subtenant, with the following additional exceptions, modifications and supplements:

(a) In addition to the other parts, provisions and exhibits of the Lease which are specifically made inapplicable or modified pursuant to the terms of this Sublease, for purposes of this Sublease the parties hereby agree that for purposes of this Sublease (and the incorporation of the Lease herein by reference), all references contained in the Lease to the following terms shall be deemed to refer, respectively, to the following: (i) "Premises" shall be deemed to refer to the "Subleased Premises" under this Sublease; (ii) "Commencement Date" and "Rent Commencement Date" shall be deemed to refer to the "Sublease Commencement Date" under this Sublease; (iii) "Expiration Date" shall be deemed to refer to the "Sublease Expiration Date" under this Sublease; (iv) the "Term" of the Lease shall be deemed to refer to the "Sublease Term" under this Sublease; (v) "Fixed Rent" shall be deemed to refer to "Sublease Base Rent"; (vi) "Additional Rent" shall be deemed to refer to "Sublease Additional Rent"; and (vii) "Security Deposit" shall be deemed to refer to "Sublease Security Deposit" (as hereinafter defined).

(b) Wherever Sublandlord's consent shall be required pursuant to the Lease, Sublandlord's and Landlord's consent shall be required and Sublandlord shall not be deemed to have unreasonably withheld its consent if Landlord shall fail or refuse to give its consent, nor shall Sublandlord have any liability for any such failure or refusal of Landlord to give its consent for any reason whatsoever, including whether or not such consent was unreasonably withheld or delayed. Sublandlord agrees that it shall not unreasonably withhold or delay its consent

where Landlord has granted its consent. In any case where Landlord reserves a right or disclaims any liability under the Lease, said right or disclaimer shall inure to the benefit of Sublandlord as well as Landlord. If Landlord shall refuse to give its consent or approval to any request made by Subtenant, then such request shall be deemed denied, whether or not Sublandlord shall have previously granted its consent or approval.

(c) Subtenant shall conform to, and use the Subleased Premises in accordance with, all of the terms, provisions, covenants, agreements and conditions of the Lease as same apply to the Subleased Premises, and will do no act which will result in a violation of said terms, provisions, covenants, agreements or conditions. Subtenant shall perform the terms, provisions, covenants, agreement and conditions of the Lease on the part of the tenant therein to be performed with respect to the Subleased Premises (except as otherwise expressly provided in this Sublease).

(d) The benefit of all repairs, restorations, compliance with laws and other requirements, materials and services to be provided to the Subleased Premises and the Building by Landlord under the Lease shall accrue to Subtenant; but, notwithstanding anything to the contrary in this Sublease or in the Lease, Sublandlord shall under no circumstances be obligated to make any repairs or restorations, to comply with any laws or other requirements or to supply any materials or services to the Subleased Premises or the Building; and Sublandlord shall under no circumstances be liable to Subtenant for the failure of Landlord or others so to do, except if such failure is due to Sublandlord's failure to perform, in a timely manner, its obligations under this Sublease. Upon Subtenant's written request, Sublandlord shall promptly present to Landlord, in the name of Sublandlord, any demand requested by Subtenant for any such repairs, restorations, materials or services required to be furnished to the Subleased Premises by Landlord. Subtenant shall have the right to exercise, in Sublandlord's name, but at Subtenant's sole cost and expense, all of the rights available to Sublandlord to request and/or enforce performance of the obligations of Landlord, including any obligation to make any such repairs and restorations and to supply any such materials and services to the Subleased Premises and Sublandlord agrees to reasonably cooperate with Subtenant in pursuing such performance, provided that in no event shall Sublandlord be required to institute any litigation, action or proceeding against Landlord, or otherwise expend any sum of money, in order to obtain any such repair, restoration, material or service for Subtenant. No failure by Landlord to make any such repairs or restorations or to supply any such materials and services to the Subleased Premises, and no cessation, interruption or suspension of any service provided by Landlord, shall entitle Subtenant to any diminution or abatement of Sublease Base Rent or Sublease Additional Rent, nor shall this Sublease be affected by reason of any such failure, cessation, interruption or suspension, except that, to the extent Sublandlord shall be entitled to an abatement of rent under the Lease arising from such failure, interruption or suspension with respect to the Subleased Premises, Subtenant shall be entitled to a corresponding abatement of Sublease Base Rent and Sublease Additional Rent under this Sublease. If Subtenant shall commence any proceeding or take any other action to enforce the obligations of Landlord insofar as such obligations relate to the Subleased Premises, Subtenant shall indemnify and hold harmless Sublandlord and Sublandlord's principals, agents and employees for, from and against any costs, liabilities, damages and expenses (including, without limitation, attorneys' fees and disbursements) which Sublandlord or any of Sublandlord's principals, agents or employees shall incur in connection therewith or by reason thereof.

(e) Except as expressly provided in this Sublease, any covenants, representations and other undertakings of Landlord under the Lease shall not be deemed to be made by, or otherwise constitute obligations of, Sublandlord under this Sublease.

(f) The Sublease Base Rent and Sublease Additional Rent to be paid by Subtenant under this Sublease shall be governed by the terms and provisions of Paragraph 5 of this Sublease.

(g) The time limits provided in the Lease for the tenant there under to give notices, make demands, perform any act, condition or covenant, or exercise any right, remedy or option are changed for the purposes of incorporation into this Sublease by reference by shortening the same by three days in each instance if same relates to the payment, or failure to pay, any sum of money (so that in each such instance Subtenant shall have three days less time to make a payment hereunder than Sublandlord has as the tenant under the Lease), and by 10 days if same relates to any subject other than the payment of money (so that in each instance Subtenant shall have 10 days less time to perform hereunder than Sublandlord has as the tenant under the Lease), except that in any instance where Sublandlord as the tenant under the Lease, would have fewer than six days pursuant to the provisions of the Lease to take any of the actions set forth in this Paragraph 9(g), Subtenant shall have a time period of one-half of the time provided in the Lease for Sublandlord, as the tenant under the Lease, rounded up to the nearest whole number.

(h) In addition to the other parts, provisions and exhibits of the Lease which are specifically made inapplicable or modified pursuant to the terms of this Sublease, for purposes of this Sublease, the following parts, provisions and exhibits of the Lease shall be inapplicable to this Sublease and are not incorporated herein by reference: (i) The following provisions of the Original Lease: The definitions under Article 1, "Basic Lease Provisions" of: "Premises", "Commencement Date", "Rent Commencement Date", "Expiration Date", "Term", "Base Tax Year", "Base Expense Years", "Tenant's Proportionate Share", "Agreed Area of Premises", "Fixed Rent", "Additional Rent", "Security Deposit", "Broker" and "Landlord's Contribution" (and all references in the Original Lease to "Landlord's Contribution"), it being agreed that for such purposes, such terms shall instead have their respective definitions set forth in this Sublease; Section 2.3; the second sentence, clause (ii) of the fourth sentence and the fifth sentence of Section 3.2(a); Sections 3.2(b), 4.1, 4.2 and 4.3 (and all references in the Original Lease to "Landlord's Work" and "Punch List Items"); the first sentence of Section 4.4(a); the last sentence of Section 5.2; the last sentence of Section 6.1; the last sentence of Section 8.1(h); Sections 10.6, 12.3, 16.1(a); Article 31; Section 35.5; Articles 37 and 38; and Exhibits A-I, A-2, C, D and H; and (ii) the entire Amendment.

(i) For purposes of this Sublease and the incorporation herein by reference of the Lease, (a) the reference in Section 29.3 of the Original Lease to "Oppenheimer Wolff & Donnelly LLP" shall mean "Metropolitan Research Associates LLC; and (b) the reference in Section 36.9 to "Landlord" shall mean Landlord (rather than Sublandlord).

10. Additional Services Required by Subtenants. Subtenant shall attempt to make its own arrangements with Landlord for the furnishing of additional services to the Subleased Premises other than those which are required to be furnished by Landlord under the terms of the Lease and any such additional services shall be paid for by Subtenant directly to Landlord. If Landlord shall refuse to respond to any such request for additional services, Sublandlord shall, at Subtenant's sole cost and expense, request Landlord to perform such additional services at Subtenant's sole cost and expense. For purposes of this Paragraph 10, "additional services" shall include, without limitation, overtime HVAC service, overtime freight elevator service and increased capacity of electrical energy.

11. Condenser Water. Provided that Subtenant pays all of Landlord's charges with respect thereto pursuant to Section 11.7 of the Lease, Subtenant may use up to approximately 11 tons of condenser water allocated to Sublandlord by Landlord under the Lease. Subtenant shall pay for the electricity consumed in the operation of any existing supplemental HVAC units servicing the Subleased Premises and in the operation of any supplemental HVAC units installed by Subtenant in accordance with the provisions of the Lease. Subtenant shall maintain and repair all of such units during the Sublease Term at Subtenant's expense (including, without limitation, any and all charges under Sublandlord's existing maintenance contract covering such units, a copy of which contract has heretofore been delivered to Subtenant). Sublandlord makes no representation with respect to the condition of any existing supplemental HVAC units and shall have no liability to Subtenant relating to their operation.

12. Termination of Lease. (a) In the event of any termination or cancellation of the Lease with respect to the Subleased Premises prior to the Sublease Expiration Date for any reason whatsoever, this Sublease shall simultaneously terminate without, except if due to Sublandlord's failure to perform any of its obligations under this Sublease, any liability of Sublandlord to Subtenant. Sublandlord covenants that Sublandlord shall not voluntarily terminate cancel or surrender the Lease with respect to the Subleased Premises prior to the Sublease Expiration Date without Subtenant's prior written consent (except in the event of a casualty or condemnation, as permitted under the Lease).

(b) Notwithstanding anything contained in Paragraph 12(a) above, in the event of the termination or cancellation of the Lease for any reason whatsoever, or of the surrender of the Lease, whether voluntary, involuntary or by operation of law, or re-entry or dispossession by Landlord, prior to the Sublease Expiration Date, Landlord may, at its option, take over all of the right, title and interest of Sublandlord under this Sublease, and Subtenant shall, at Landlord's option, attorney to Landlord for the balance of the Sublease Term, on the then executory provisions of this Sublease, except that Landlord shall not be (i) liable for any previous act or omission of Sublandlord under this Sublease (except Landlord shall be required to cure any continuing defaults of Sublandlord hereunder), (ii) subject to any offset not expressly provided for in this Sublease, which theretofore accrued to Subtenant against Sublandlord, or (iii) bound by any previous modification of this Sublease made without Landlord's prior written consent or by any prepayment of more than one month's Sublease Base Rent or Sublease Additional Rent then due.

Such attornment shall be evidenced by an agreement in form and substance satisfactory to Landlord. Subtenant waives the provisions of any law now or hereafter in effect that may give Subtenant any right of election to terminate this Sublease or to surrender possession of the Subleased Premises in the event any proceeding is brought by Landlord under the Lease to terminate the Lease.

(c) If, during the Sublease Term, (i) Sublandlord shall default beyond all applicable notice and grace periods under the Lease in the payment of any rent due and payable under the Lease, (ii) Landlord shall thereafter accept payment directly from Subtenant of any such rent otherwise due and payable by Sublandlord as the tenant under the Lease, (iii) Landlord shall agree in writing that such payment by Subtenant shall satisfy Sublandlord's obligation under the Lease with respect to the payment of such rent, and (iv) Subtenant shall give Sublandlord at least five days' prior written notice of Subtenant's intention to make such payment directly to Landlord and Sublandlord shall not have made such payment to Landlord prior to the end of such notice period, and the amount of any such payments made by Subtenant to Landlord (upon collection by Landlord) shall be credited by Sublandlord against any sums due and payable by Subtenant to Sublandlord under this Sublease. Nothing in this Paragraph 12(c) shall (x) constitute Landlord's agreement to accept any such payment of rent directly from Subtenant, or be deemed an attornment by Subtenant to Landlord under the Sublease or an acceptance by Landlord of Subtenant as the tenant under the Lease, or require Landlord to do any of the foregoing (and Landlord's failure to agree to do any of the foregoing shall not release Subtenant from, or otherwise diminish, any of Subtenant's obligations under this Sublease or limit or impair any rights or remedies of Sublandlord under this Sublease), or (y) except as set forth in clause (iii) of this Paragraph 12(c), release Sublandlord from, or otherwise diminish, any of Sublandlord's obligations under the Lease or this Sublease, or increase, enhance, limit or impair any rights or remedies of Landlord with respect to any such default by Sublandlord under the Lease.

(d) Nothing in this Paragraph 12 shall be deemed to affect any liability that Sublandlord may have to Subtenant pursuant to this Sublease.

13. Assignment and Subletting. As set forth in Paragraph 9 of this Sublease, the provisions of Article 15 of the Lease are incorporated into this Sublease by reference (subject to, and except as otherwise set forth in, such Paragraph 9) and shall be applicable under this Sublease with respect to the subject matter thereof as set forth in such Paragraph 9, except that in each instance where Sublandlord's consent shall be required there under, Landlord's consent shall also be required. For purposes of this Sublease only, the total number of Permitted Users (under Section 15.14(iv) of the Lease) using desk space in the Subleased Premises shall not exceed seven at any one time.

14. Notices. Notices shall be sent pursuant to Article 27 of the Lease, except that notices to Subtenant sent (i) prior to the Sublease Commencement Date, shall be sent to Subtenant at Subtenant's address first above set forth, Attn: Ms. Stacy Mamakos Martin and (ii) after the Sublease Commencement Date, shall be sent to Subtenant at the Subleased Premises, Attn: Ms. Stacy Mamakos Martin, or, in each case, to such other place(s) or to the attention of such other individual(s) as a party may hereafter by written notice to the other party designate. Sublandlord shall promptly send to Subtenant a copy of each default notice, and each other notice that affects Subtenant, that Sublandlord receives from Landlord under the Lease. Subtenant shall promptly send to Sublandlord a copy of each default notice, and each other notice that affects Sublandlord, that Subtenant receives from Landlord under the Lease.

15. Broker. Each of Subtenant and Sublandlord represents to the other that it has not dealt with any broker in connection with this Sublease, other than CB Richard Ellis and TenantWise.com, Inc. (collectively, "Brokers"). Subtenant shall indemnify and hold harmless Sublandlord and Sublandlord's principals, agents and employees for, from and against all loss, cost, damage and expense (including, but not limited to, all reasonable legal fees and disbursements incurred in establishing liability and in collecting amounts payable hereunder) incurred by Sublandlord or any of Sublandlord's principals, agents or employees by reason of a breach of the foregoing representation by Subtenant. Sublandlord shall indemnify and hold harmless Subtenant and Subtenant's principals, agents and employees for, from and against all loss, cost, damage and expense (including, but not limited to, all reasonable legal fees and disbursements incurred in establishing liability and in collecting amounts payable hereunder) incurred by Subtenant or any of Subtenant's principals, agents or employees by reason of a breach of the foregoing representation by Sublandlord. Sublandlord shall pay Brokers their commission pursuant to one or more separate agreements. The provisions of this Paragraph 15 shall be effective upon the execution and delivery of this Sublease by Sublandlord and Subtenant and shall survive the expiration or earlier termination of this Sublease.

16. Costs and Expenses. Subtenant shall reimburse Sublandlord on demand for all costs and expenses (including attorneys' fees and disbursements and court costs) incurred by Sublandlord in connection with enforcing Subtenant's obligations under this Sublease after a default by Subtenant, whether incurred in connection with an action or proceeding commenced by Sublandlord, by Subtenant, by a third party or otherwise. All such amounts shall be deemed to be Sublease Additional Rent, and shall be collectible whether incurred before or after the expiration or termination of this Sublease.

17. Governing Law. This Sublease shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York, without regard to conflict of laws principles.

18. Successors and Assigns. Subject to the restrictions on assignment and subletting in this Sublease and in the Lease, this Sublease and the covenants and agreements herein contained and incorporated herein by reference shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

19. Captions. The captions contained in this Sublease are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Sublease nor the intent of any provision hereof.

20. Building Directory. Subtenant shall be entitled to use, without additional cost to Subtenant 29 of the 40 listings available to Sublandlord under Section 36.14 of the Lease.

21. Security Deposit. As set forth in Paragraph 9 of this Sublease, the provisions of Article 35 of the Lease are incorporated into this Sublease by reference (subject to, and except as otherwise set forth in, such Paragraph 9) and shall be applicable under this Sublease with respect to the subject matter thereof as set forth in such Paragraph 9, except that for purposes of this Sublease, all references in such Article 35 to the amount of the security deposited shall be deemed to be "\$135,320" (the "Sublease Security Deposit").

22. Insurance. Subtenant shall obtain and maintain, at its sole cost and expense, throughout the Sublease Term, with respect to the Subleased Premises, all insurance required to be obtained and maintained by Sublandlord under Article 12 of the Lease, which insurance shall name as additional insured parties Sublandlord, Landlord and any other party required to be named under the Lease and shall otherwise comply with all requirements of the Lease required to be complied with by Sublandlord. One or more certificates evidencing such insurance coverage shall be delivered to Sublandlord upon the execution and delivery hereof by Subtenant.

23. Condemnation, Destruction, Fire and other Casualty. If the whole or any part of the Subleased Premises shall be condemned or damaged by fire or other casualty and the Lease is not terminated on account thereof pursuant to the provisions of the Lease, then this Sublease shall remain in full force and effect with respect to the portion of the Subleased Premises not so terminated, and Subtenant's obligation to pay Sublease Base Rent and Sublease Additional Rent hereunder shall abate only proportionate to the extent that the Fixed Rent and Additional Rent (as such terms are defined in the Lease) with respect to the Subleased Premises shall abate under the terms of the Lease.

24. Sublandlord's Right of Access. Sublandlord reserves for itself and its agents and employees the right to enter the Subleased Premises at all reasonable times (upon reasonable telephonic or written notice, except in the case of emergency), to inspect the Subleased Premises, to post notices of non-responsibility and to determine whether Subtenant is complying with its obligations under this Sublease. Sublandlord shall have the right to use any and all reasonable means that Sublandlord may deem necessary or proper to open doors in an emergency, in order to obtain entry to any portion of the Subleased Premises, provided that Sublandlord shall use reasonable efforts to maintain the security of the Subleased Premises and its contents.

25. Right to Cure Defaults and Damages. If Subtenant shall at any time fail to make any payment or perform any other obligation of Subtenant hereunder after any required notice and within the applicable cure period, if any, then Sublandlord shall have the right, but not the obligation, after two days' written notice to Subtenant, or without notice to Subtenant in the event of any emergency, and without waiving or releasing Subtenant from any obligations of Subtenant hereunder, to make such payment or perform such other obligation of Subtenant in such manner and to such extent as Sublandlord shall deem necessary, and in exercising any such right, to pay any reasonable costs and expenses, employ attorneys, and incur and pay reasonable attorneys' fees. Subtenant shall pay to Sublandlord, upon demand, all sums so paid by Sublandlord and all incidental costs and expenses of Sublandlord in connection therewith, together with interest thereon at the Base Rate.

26. Representation by Sublandlord. Sublandlord represents to Subtenant that: (a) a true and correct copy of the Lease is attached hereto as Exhibit A; (b) the Lease has not been further modified; (c) Sublandlord is currently the tenant under the Lease with respect to the entire Leased Premises; (d) the Lease is presently in effect; (e) Sublandlord has not received any written notice from Landlord citing any defaults by Sublandlord as tenant under the Lease which remain uncured; (f) to Sublandlord's knowledge, neither Sublandlord nor Landlord is in default beyond all applicable notice and grace periods in the performance of any material obligation under the Lease; (g) to Sublandlord's knowledge, Sublandlord has not heretofore received written notice of any violations of any Requirement (as defined in the Lease) affecting the Subleased Premises which has not been cured or corrected; and (h) Sublandlord is authorized to do business in the State of New York; and that the person executing this Sublease on behalf of Sublandlord is a member of Sublandlord, duly authorized to execute, acknowledge and deliver this Sublease on behalf of Sublandlord.

27. Authority. Subtenant hereby represents and warrants that Subtenant is authorized to do business in the State of New York; and that the person executing this Sublease on behalf of Subtenant is a member of Subtenant, duly authorized to execute, acknowledge and deliver this Sublease on behalf of Subtenant.

28. End of Term. Subtenant acknowledges that possession of the Subleased Premises (and the Furniture) must be surrendered to Sublandlord on the Sublease Expiration Date or the earlier termination of this Sublease, in the same condition required under this Sublease and the Lease. Subtenant agrees to indemnify Sublandlord against and hold Sublandlord harmless from, any and all liabilities, losses, obligations, damages, penalties, claims, costs and expenses (including, without limitation, reasonable attorneys' fees and other charges) which are paid, suffered or incurred by Sublandlord as a result of the failure of, or the delay by, Subtenant in so surrendering the Subleased Premises, including, without limitation, any claims made by Landlord or any succeeding tenant founded on such failure or delay. In addition, Subtenant shall also be required to pay to Sublandlord all amounts set forth in Section 22.2 of the Lease.

29. Entire Agreement: Amendments. This Sublease and Exhibits A through Q hereto set forth the entire agreement between the parties to this Sublease with respect to the subject matter of this Sublease, and supersede all prior agreements between the parties, whether written or oral, with respect to the subject matter of this Sublease. Any agreement hereafter made shall be ineffective to change, modify, waive or discharge any provision of this Sublease in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, waiver or discharge is sought.

30. Counterparts. This Sublease may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have duly executed this Sublease the day and year first above written

SUBLANDLORD:

OPPENHEIMER WOLFF & DONNELLY LLP

By: /s/ HOWARD S. BOOTH

Name: Howard S. Both

Title: COO

SUBTENANT:

METROPOLITAN RESEARCH ASSOCIATES, LLC

By: /s/ STACY MAMAKOS MARTIN

Name: Stacy Mamakos Martin

Title: Managing Partner

Subtenant's Employer Identification Number:

13-4122482

AGREEMENT OF SUBLEASE ("Sublease") made as of this 31st day of August 2006 by and between PORT CITY PRESS, INC., a Maryland corporation having offices at 1801 Bayberry Court, Suite 200, Richmond, VA 23226 ("Sublessor") and ARM ACQUISITION, INC., a Delaware corporation having offices at 666 Third Avenue, New York, NY 10017 ("Sublessee").

WITNESSETH

WHEREAS, Sublessor is the tenant under a certain lease dated as of July 31, 2002 (the Lease") between SLG Graybar Sublease LLC, as landlord ("Landlord"), and Sublessor, as tenant (Sublessor being sometimes referred to herein as "Tenant"), a copy of which is annexed hereto as Exhibit A and made a part hereof, covering space known as Room 865 (the "Demised Premises") in the building known as 420 Lexington Avenue, New York, New York (the "Building"); and

WHEREAS, Sublessee desires to sublet the entire Demised Premises for the balance of the term remaining on the Lease, less one day.

NOW, THEREFORE, in consideration of the covenants set forth herein, the parties covenant and agree as follows:

1. Sublease. Sublessor hereby rents and subleases to Sublessee, and Sublessee hereby hires and takes from Sublessor, the Demised Premises for a term (the "Term") to commence as of September 1, 2006 (the "Commencement Date"), and to expire at the close of business on November 29, 2009 (the "Expiration Date") unless sooner terminated pursuant to the terms hereof. Sublessee shall use and occupy the Demised Premises for executive and general offices for the conduct of Sublessee's business in accordance with the Lease, and for no other purpose.

2. Incorporation of Lease: Subordination. (a) Except as set forth to the contrary herein, all terms, covenants and conditions of the Lease are incorporated herein by reference and made a part hereof with the same effect as if set forth at length herein, as if Sublessor were substituted for the Landlord and Sublessee were substituted for the Tenant thereunder. Except as specifically defined herein, capitalized terms shall have the meanings ascribed to them in the Lease. Except as herein provided, Sublessee shall observe and perform all of the Tenant's covenants and obligations under the Lease relating to the Demised Premises. To the extent that the Lease and this Sublease are inconsistent with each other, the provisions of this Sublease shall govern as between the parties hereto. Sublessee represents and warrants that it has the full right, power and authority to execute and deliver this Sublease and to become bound by the terms and conditions hereof.

(b) This Sublease is subject and subordinate to the Lease and to all ground or underlying leases and all mortgages on the real property and Building and any other matters to which the Lease is now or may hereafter become subordinate, and Sublessor shall not be liable for any termination of the Lease or any Superior Lease or any foreclosure of a Mortgage by any party thereto or similar event. The foregoing subordination provisions are self-operative, and no further instrument of subordination shall be required. However, to confirm such subordination, Sublessee shall execute promptly any certificate that Sublessor may request.

(c) In addition to the matters set forth elsewhere in this Sublease, the following provisions of the Lease are expressly excluded from this Sublease: Sections 3.02, 22.02, Article 30 (Security Deposit), Article 39 (Brokers), Exhibits B and C.

3. (a) Sublessee shall not be required to pay fixed rent, additional rent or other charges to be paid by the Tenant under the Lease, but Sublessee shall pay such fixed rent, additional rent and other charges as set forth in this Sublease.

(b) Sublessee shall pay Sublessor fixed annual rent ("Fixed Rent") during the Term at the following rate:

<u>Period</u>	<u>Annual Rent</u>	<u>Monthly Installment</u>
Commencement-August31, 2007	\$168,387.00	\$14,032.25
September 1, 2007 - August 31, 2008	\$171,754.74	\$14,312.90
September 1, 2008 - August 31, 2009	\$175,189.83	\$14,599.15
September 1, 2009 - Expiration Date	\$178,693.31	\$14,891.14

Fixed Rent, and each installment thereof, shall be paid in advance, on the first day of each month, in lawful money of the United States, without notice or demand therefor. All such installments shall be paid by an unendorsed check drawn on a bank or trust company which is a member of the New York Clearing House Association to the order of Sublessor at its office set forth above, or to such other person or place as Sublessor shall direct. The first such payment shall be due upon the execution of this Sublease by Sublessee. If any installment of Fixed Rent or Additional Rent (as hereinafter defined) is not paid within ten (10) days after it is due, there shall be a late charge imposed in an amount equal to 5 cents for every dollar so overdue, which late charge is agreed by the parties to be a reasonable reimbursement to Sublessor for the administrative costs involved in such late payment. Fixed Rent and additional rent for any partial month or partial year shall be equitably prorated. Sublessee shall not be entitled to any period of rent abatement.

(c) In addition to the Fixed Rent provided for above, Sublessee shall also pay the Sublessor, as part of the additional rent payable hereunder ("Additional Rent"), (i) all charges for electric usage in the Demised Premises imposed by the Landlord under the Lease, pursuant to Article 40 (Electricity) of the Lease, and (ii) Tenant's proportionate share of charges for the Building HVAC System imposed under Article 34 (Air Conditioning) of the Lease, and (iii) all charges for water usage, if any, imposed under Article 28 ~) of the Lease, and (iv) Tenant's Share of increases in Real Estate Taxes imposed by Article 31 (Tax Escalations) of the Lease, except that for purposes of this Sublease the Base Tax Year for calculation of Sublessee's payments shall be the fiscal tax year July 1, 2006 through June 30, 2007, and (v) any and all other charges and items of additional rent imposed upon Tenant under the Lease for the Term of this Sublease. Each payment of Additional Rent by Sublessee shall be made together with the monthly installment of Fixed Rent with respect to which Additional Rent is payable or, if any payment of Additional Rent is required to be made in a lump sum or on any other basis than monthly, such payment shall be made not less than ten (10) business days prior to the date by which Sublessor is required to pay Landlord the Additional Rent of which Sublessee's payment to Sublessor constitutes a part, as specified in Sublessor's request or demand for such Additional Rent. Sublessee's liability for Fixed Rent and Additional Rent shall survive the Expiration Date or sooner termination of this Sublease with respect to any such rents attributable to any period during the Term.

(d) Sublessor agrees promptly to provide Sublessee with copies of any bills, notices, requests or demands for Additional Rent, or Landlord's estimates thereof, which are provided to Sublessor by the Landlord under the Lease, and with any additional or supporting documentation provided by Landlord in connection with such bills, notices, requests or demands.

4. As Is: Telephone Equipment. (a) Sublessee represents that it has thoroughly inspected the Demised Premises and agrees to take same "as is", in its present condition, and that no representations have been made by Sublessor, its agents or any other party or person with respect to the same or the condition thereof.

(b) Sublessee shall rent and use Sublessor's telephone equipment which is now in the Demised Premises at a rental rate of \$100 per month, which amount shall be deemed to be additional rent and shall be payable on the first day of each month in advance together with payments of Fixed Rent hereunder. Sublessor makes no representation or warranty with regard to such equipment, but will assign any existing manufacturer warranties to Sublessee, to the extent same are assignable.

5. Renewal. Sublessee shall have no right to extend or renew this Sublease.

6. Services. Sublessee shall be entitled to receive all the services, repairs, facilities and utilities to be supplied under the Lease by Landlord. The foregoing notwithstanding, Sublessor shall have no obligation to supply any such services, repairs, facilities and utilities and Sublessee shall not look to Sublessor to provide same. If

Landlord fails or refuses to comply with any of the provisions of the Lease insofar as they affect Sublessee's occupancy of the Demised Premises during the Term, upon the request of Sublessee Sublessor shall attempt (without thereby being required to commence any action or proceeding, expend any monies or incur any expenses) to cause Landlord to do so. However, Sublessor shall not be liable to Sublessee, and Sublessee's obligations hereunder shall not be impaired nor the performance thereof be excused, because of any failure or delay by Landlord in performing its obligations under the Lease as affecting Sublessee's occupancy of the Demised Premises during the Term.

7. Remedies Upon Default. If Sublessee defaults in the performance of any of its obligations hereunder, including but not limited to the payment of Fixed Rent and Additional Rent, Sublessor shall have such rights and remedies hereunder with respect to such default as would be available, under the Lease, to Landlord if such default were by Tenant thereunder. Such rights and remedies shall be in addition to the rights and remedies available to Sublessor at law or in equity.

8. Indemnification: Insurance. (a) Sublessee shall neither take, nor suffer or permit to be taken, any action which violates any provision of the Lease or would (with or without notice or the passage of time) cause Sublessor to be in default under the Lease. Sublessee shall indemnify and hold harmless Sublessor from and against all claims, liability, cost and expense (including, without limitation, attorneys' fees and disbursements) which Sublessor incurs by reason of Sublessee's failure to comply with the terms and conditions of this Sublease and the Lease and shall further indemnify and hold Sublessor harmless to the extent and with respect to any claims or other matters for which Sublessor is required, pursuant to the Lease, to indemnify the Landlord.

(b) Sublessee shall obtain such insurance coverages as Tenant is required to obtain under the Lease, except that any policy which, under the Lease, is required to name Landlord as an insured shall name both Landlord and Sublessor as insured parties, together with such other parties as Landlord may require.

9. Additional Services. If Sublessee procures any additional services (such as alterations, cleaning services in excess of services provided without charge under the Lease, etc.) with respect to the Demised Premises, Sublessee shall pay all charges for such services, as and when due, directly to the party rendering the services (or as otherwise directed by Landlord).

10. Brokers. Sublessee represents and warrants that it has dealt with no brokers or finders (directly or indirectly) in connection with this Sublease transaction, other than Newmark Knight Frank and CB Richard Ellis (the "Brokers"). Sublessee shall indemnify and hold harmless Sublessor from and against all liability, cost and expense (including, without limitation, reasonable attorneys' fees and disbursements) resulting from any claims by any person or entity other than the Brokers for any brokerage commission, finder's fee or similar charge relating to the sublease which allege any dealings Sublessee. Sublessor shall pay any commissions due to the Brokers pursuant to separate written agreement. The provisions of this Article shall survive the Expiration Date or any sooner termination of the Sublease.

11. Directory Listings. Sublessor agrees that it will, on behalf of Sublessee, request from the Landlord listings on the Building directory, and Sublessor will cooperate with Sublessee in obtaining such listings. Sublessee shall pay any fees or costs imposed by Landlord in connection with such listings.

12. Assignment and Sublet. (a) Sublessee shall not assign, mortgage or encumber this Sublease nor further sublet all or any part of the Demised Premises, nor suffer or permit the Demised Premises or any part thereof to be used or occupied by others, without the prior written consents of Sublessor and Landlord in each instance. Landlord's rights and obligations with respect to any assignment of this Sublease or further subletting shall be governed by the Lease, including but not limited to Section 4.07(v).

13. Security Deposit. Sublessee shall deposit with Sublessor upon the execution of this Sublease the sum of \$28,064.50 in cash as security for the faithful performance and observance by Sublessee of the terms, conditions, covenants and provisions of this sublease. It is agreed that if Sublessee defaults in respect of any of the terms, provisions, covenants or conditions of this Sublease, including, but not limited to, the payment of Fixed Rent or Additional Rent, Sublessor may use, apply and retain the whole or any part of the security so deposited to the extent required for the payment of any Fixed Rent or Additional Rent or any other sum as to which Sublessee is in default or for any sum which Sublessor may expend or may be required to expend by reason of Sublessee's default in respect of any of the terms, covenants and conditions of this Sublease, including, but not limited to, any damages

or deficiencies in reletting of the Demised Premises whether such damages or deficiencies accrued before or after summary proceedings or other re entry by Sublessor. In the event that Sublessee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Sublease, the security shall be returned to Sublessee, without interest, after the date herein fixed as the expiration date of this Sublease and after the surrender of possession of the entire Demised Premises to Sublessor in the manner called for by applicable provisions of the Lease as incorporated herein. Sublessee further covenants that it will not assign or encumber or attempt to assign or encumber the monies deposited hereunder as security and that neither Sublessor nor its successors or assigns shall be bound by any such assignment or encumbrance, or attempted assignment or encumbrance. If Sublessor at any time utilizes any portion of the security by reason of any default by Sublessee hereunder, Sublessee shall within five (5) days after demand, restore and pay Sublessor the amount so utilized.

14. Notices. All notices and demands hereunder shall be sent by registered or certified mail, return receipt requested, or delivered reputable overnight courier, if to Sublessor at its address hereinabove set forth, and if to Sublessee prior to the Commencement Date at its address hereinabove set forth and after the Commencement Date at the Demised Premises, or to such other address as either party designates for such purpose by a notice similarly transmitted. Notices and demands shall be deemed given three (3) business days after being so mailed or, if delivered by courier, on the date received or refused.

15. Obtaining Consent. In any instance when the consent, approval or satisfaction of the Landlord or another person designated by the Lease to act on Landlord's behalf is required or believed by Sublessor to be required, Sublessor, upon request by Sublessee, shall request such consent, approval or satisfaction and cooperate with Sublessee in seeking to obtain the same (without thereby being required to commence any action or proceeding, expend any monies or incur any expenses or liabilities).

16. Quiet Enjoyment. If and so long as Sublessee duly and timely pays the Fixed Rent and all Additional Rent and other charges due hereunder and duly and timely observes and performs all of its other obligations hereunder, Sublessee shall quietly enjoy the Demised Premises during the Term without hindrance or molestation by Sublessor or by anyone claiming by or through Sublessor, subject, however, to the terms of this Sublease and the Lease.

17. Merger: Modifications. All prior understandings and agreements between the parties are merged into this Sublease, which, alone, fully and completely sets forth the agreement of the parties. This Sublease may not be modified or terminated other than by the written agreement of Sublessor and Sublessee subject, if required by the Lease, to the prior consent of the Landlord.

18. Successors and Assigns: Captions. The terms and conditions set forth, and incorporated by reference, in this Sublease shall be binding upon and inure to the benefit of Sublessor and Sublessee and their respective permitted successors and assigns. Paragraph headings are inserted for convenience of reference only, and are not intended to define, limit or describe any of the provisions of this Sublease.

19. Applicable Law. This Sublease shall be deemed to have been entered into in, and shall be governed by, the internal laws of the State of New York, without giving effect to the conflicts of laws principles of such State.

20. End of Term. At the end of the Sublease term, Sublessee shall surrender the Demised Premises to Sublessor vacant and broom clean, in good order and condition, and otherwise in the condition required by applicable provisions of the Lease.

21. Consent of Landlord. This Sublease shall become effective only if the written consent hereto by the Landlord is obtained. Such consent must include Landlord's consent to the assignment of this Sublease to a wholly owned subsidiary of Cross Country Healthcare, Inc. If such written consent is not obtained on or before September 30, 2006, then this Sublease shall be void and of no force or effect, and neither party shall have any further obligation to the other, except that Sublessor will refund to Sublessee the amount paid upon execution hereof. Sublessor and Sublessee agree to cooperate and use reasonable efforts to obtain such consent and to submit such information (including, but not limited to, financial information) as the Landlord may reasonably require in connection therewith. Any legal, processing, administrative or similar fees or charges imposed by the Landlord in connection with such request for consent shall be paid by Sublessee, whether or not such consents shall be obtained,

and this obligation of the parties shall survive any expiration or termination of this Sublease pursuant to this Article or otherwise.

22. Failure to Give Possession. Except as otherwise set forth in Article 22 of this Sublease, if Sublessor fails to deliver possession of the Demised Premises on the date set forth above for the commencement of the Term, because of delays in obtaining Landlord's consent for any other reason, Sublessor shall not be subject to any liability for failure to give possession on said date and the validity of this Sublease shall not be impaired under such circumstances, nor shall the same be construed in any wise to extend the term of this Sublease, but the rent payable hereunder shall be abated until after Sublessor shall have given Sublessee notice that Sublessor is able to deliver possession under this Sublease. The provisions of this Paragraph are intended to constitute "an express provision to the contrary" within the meaning of Section 223-a of the New York Real Property Law.

IN WITNESS WHEREOF, Sublessor and Sublessee have executed this Sublease as of the day and year first above written.

SUBLESSOR:

PORT CITY PRESS, INC

By: Bruce G. Willis
Vice President

SUBLESSEE:

ARM ACQUISITION, INC.

By: Susan E. Ball
General Counsel and & Secretary

Certification

I, Joseph A. Boshart, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cross Country Healthcare, 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 officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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 registrant's board of directors (or persons performing the equivalent function):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2006

/s/ JOSEPH A. BOSHA

Joseph A. Boshart

President and Chief Executive Officer

Certification

I, Emil Hensel, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cross Country Healthcare, 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 officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of end of the period covered by this report based on such evaluation; and
 - d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer 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 registrant's board of directors (or persons performing the equivalent function):
 - a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: November 7, 2006

/s/ EMIL HENSEL

Emil Hensel
Chief Financial Officer

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the accompanying Quarterly Report on Form 10-Q of Cross Country Healthcare, Inc. (the "Company") for the quarterly period ended September 30, 2006 (the "Periodic Report"), I, Joseph A. Boshart, Chief Executive Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge the Periodic Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2006

/s/ JOSEPH A. BOSHA RT

Joseph A. Boshart

President and Chief Executive Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Cross Country Healthcare, Inc. and will be retained by Cross Country Healthcare, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is provided solely for purposes of complying with the provisions of Section 906 of the Sarbanes-Oxley Act of 2002.

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350

In connection with the accompanying Quarterly Report on Form 10-Q of Cross Country Healthcare, Inc. (the "Company") for the quarterly period ended September 30, 2006 (the "Periodic Report"), I, Emil Hensel, Chief Financial Officer of the Company, hereby certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge the Periodic Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in the Periodic Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: November 7, 2006

/s/ EMIL HENSEL

Emil Hensel
Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Cross Country Healthcare, Inc. and will be retained by Cross Country Healthcare, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is provided solely for purposes of complying with the provisions of Section 906 of the Sarbanes-Oxley Act of 2002.