

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, DC 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2004
OR

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

For the transition period from ___ to ___

Commission File Number: 000-23999

Manhattan Associates, Inc.

(Exact Name of Registrant As Specified in Its Charter)

Georgia
(State or Other Jurisdiction of
Incorporation or Organization)
2300 Windy Ridge Parkway, Suite 700
Atlanta, Georgia
(Address of Principal Executive Offices)

58-2373424
(I.R.S. Employer Identification No.)

30339
(Zip Code)

Registrant's telephone number, including area code: (770) 955-7070

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

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
None	None

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

Common Stock, \$.01 par value per share

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act).

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the Registrant, based upon the closing sales price of the Common Stock on June 30, 2004 as reported by the Nasdaq Stock Market, was approximately \$919,214,409. As of March 14, 2005, the Registrant had outstanding 29,591,324 shares of Common Stock.

DOCUMENTS INCORPORATED BY REFERENCE

The Registrant's definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 20, 2005 is incorporated by reference in Part III of this Form 10-K to the extent stated herein.

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Forward-Looking Statements

In addition to historical information, this Annual Report may contain “forward-looking statements” relating to Manhattan Associates, Inc. Prospective investors are cautioned that any such forward-looking statements are not guarantees of future performance and involve risks and uncertainties, and that actual results may differ materially from those contemplated by such forward-looking statements. Among the important factors that could cause actual results to differ materially from those indicated by such forward-looking statements are delays in product development, undetected software errors, competitive pressures, technical difficulties, market acceptance, availability of technical personnel, changes in customer requirements and general economic conditions. Additional factors are set forth in “Safe Harbor Compliance Statement for Forward-Looking Statements” included as Exhibit 99.1 to this Annual Report on Form 10-K. We undertake no obligation to update or revise forward-looking statements to reflect changed assumptions, the occurrence of unanticipated events or changes in future operating results. Our Annual Report on Form 10-K is available through our Web site at www.manh.com.

PART I

Item 1. *Business*

We are a leading global provider of technology-based solutions to improve the effectiveness of and the efficiencies within and across the supply chain. Our solutions, which consist of software, services and hardware, enhance distribution and transportation efficiencies through the real-time integration of supply chain constituents, including manufacturers, distributors, retailers, suppliers, transportation providers and consumers. Our software consists of five key solution groups within supply chain execution (“SCE”) systems: warehouse management, transportation management, trading partner management, distributed order management and reverse logistics management. In addition, we provide additional solutions that support or enhance the functionality of our five key solutions, such as performance management and Radio Frequency Identification (“RFID”). We refer to the combination of our solutions as Integrated Logistics Solutions™. Warehouse management solutions include the performance of the many processes that take place in the warehouse and distribution center, beginning with the placement of an order by a customer and ending with the order fulfillment process. Transportation management solutions include functionality that allows a company to optimally procure, plan and execute transportation services, including the delivery of the order to the end customer. Trading partner management solutions provide real-time synchronization of key processes and their associated information flows across the supply chain, including customer process synchronization, supplier process management, global inventory visibility and supply chain event management. Distributed order management solutions manage the order fulfillment lifecycle across the supply chain to coordinate the movement of goods, orchestrate the re-supply of products and consider global inventory for optimal fulfillment. Reverse logistics management solutions manage and automate the returns process, tracking, storing, referencing and reporting on returned merchandise to increase net asset recovery. Performance management solutions use analytic tools and alerting processes that allow distribution center managers to monitor events within the supply chain cycle, analyze historical data and generate reports. Our RFID in a Box® solution provides an integration and reporting platform between RFID readers and SCE and Enterprise Resource Planning (“ERP”) systems for electronic product code (“EPC”) compliance. We also provide services, including design, configuration, implementation, product assessments and training services, plus customer support services and software enhancement subscriptions.

We currently provide our solutions to manufacturers, distributors, retailers and transportation providers primarily in the following markets: retail, consumer goods, food and grocery, logistics service providers, industrial and wholesale, high technology and electronics, life sciences and government. As of December 31, 2004, our software has been licensed for use by more than 900 customers including Abbott Laboratories, Inc., AmerisourceBergen Services Corp., BJ’s Wholesale Club, Inc., Bristol-Myers Squibb Company, BMW Group, Cingular Wireless LLC, Costa’s PTY, Limited, Exel plc, Giant Eagle, Inc., Guess?, Inc., Gulf States Toyota, Halfords Ltd., Mary Kay Inc., Newell Rubbermaid Inc., NYK Logistics (Europe) Limited, Olympus America, Inc., Sara Lee Corporation, Sysco Corporation, TDG (UK) Limited, Tiffany and Co. and Wolverine World Wide, Inc.

We are a Georgia corporation formed in February 1998 to acquire all of the assets and liabilities of Manhattan Associates Software, LLC, our predecessor. References in this filing to the “Company,” “Manhattan,” “Manhattan

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Associates,” “we,” “our,” and “us” refer to Manhattan Associates, Inc., our predecessors, and our wholly-owned and consolidated subsidiaries. Our principal executive offices are located at 2300 Windy Ridge Parkway, Suite 700, Atlanta, Georgia 30339, and our telephone number is 770-955-7070.

Industry Background

Modern companies face increased globalization, outsourcing, channel convergence and regulatory and security requirements. In addition, technological innovations, such as RFID, rising logistics costs, increasing competition and smaller margins are causing companies to closely examine their supply chain operations. These companies have realized that, if executed properly, the supply chain can be a major competitive differentiator.

The traditional push methodology, where companies would dictate customers’ options, has given way to a more customer demand-driven, pull methodology. The result has been an increased need for communication with trading partners and a closer examination of business process and systems. Unlike in the past, when companies were looking to simply establish supply chain systems, they are now looking to maximize their investments across the supply chain. In doing so, they are seeking to solve specific operational pain points with solutions that can scale as their business grows and integrate with other systems, such as their ERP, material handling equipment or other solutions. In addition, companies are increasingly seeking to reduce the number of vendors they work with and increase overall integration without compromising quality or performance.

Manhattan Associates’ Solution

Our solutions are modular and employ leading database technology to address a full range of requirements of modern, complex distribution centers, transportation networks and the overall supply chain, including warehouse management, transportation management, trading partner management, distributed order management, reverse logistics management, RFID and performance management. Our warehouse management solutions include the performance of the many processes that take place in the warehouse and distribution center, beginning with the execution of an order by a customer and ending with the fulfillment and delivery of the order to the end customer. Our transportation management solutions include functionality that allows a company to optimally procure, plan and execute transportation services. Our trading partner management solutions provide real-time synchronization of key processes and their associated information flows across the extended supply chain, including customer process synchronization, supplier process management, global inventory visibility and supply chain event management, and includes real-time monitoring and alerting. Distributed order management solutions manage the order fulfillment lifecycle across the supply chain to coordinate the movement of goods, orchestrate the re-supply of products and consider global inventory for optimal fulfillment. Reverse logistics management solutions manage and automate the returns process, tracking, storing, referencing and reporting on returned merchandise to increase net asset recovery. In addition to these solutions, we also provide performance management and RFID solutions that enhance the functionality of our other key solutions. Performance management solutions use analytic tools, which allow distribution center managers to monitor events within the supply chain cycle, analyze historical data and generate reports. Our RFID in a Box® solution provides an integration and reporting platform between RFID readers and SCE and ERP systems for EPC compliance. Our solutions, together with our professional services capabilities, enable our customers to optimize their supply chain effectiveness and efficiencies by:

- reducing inventory levels and increasing inventory turnover;
- improving inventory and order accuracy;
- improving compliance with customer requirements, including the RFID/EPC compliance requirements;
- facilitating the requirements of multi-channel fulfillment, including complying with industry shipping standards, unique pallet configuration and customer-specific personalization, labeling and packaging;
- improving visibility of inventory, order status and delivery status;
- improving communication with other participants in the supply chain, including suppliers, customers and transportation providers;

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- bypassing links in the supply chain;
- enabling and facilitating distribution through multiple delivery channels;
- increasing the productivity of labor, facilities and materials-handling equipment; and
- lowering transportation costs.

Strategy

Our objective is to extend our position as a leading provider of technology-based SCE solutions. We aim to achieve this objective by delivering warehouse management, transportation management, trading partner management, distributed order management, reverse logistics, performance management and RFID solutions that help global manufacturers, retailers and transportation providers successfully manage the growing demands, complexity and volatility of their local and global supply chains. Our solutions are advanced, highly functional, highly scaleable and allow our customers to improve relationships with suppliers, customers and transportation providers, leverage their investments across the supply chain, effectively manage transportation costs and meet dynamically changing customer requirements. Our strategies to accomplish our objective include the following:

Develop and Enhance Software Solutions. We intend to continue to focus our product development resources on the development and enhancement of our software solutions. We offer what we believe to be the broadest solution set in the SCE marketplace, founded upon software solutions, as described herein, to address all aspects of warehouse management, transportation management, trading partner management, distributed order management, reverse logistics, performance management and RFID. In order to provide additional functionality and value to our solutions, we plan to continue to provide enhancements to existing solutions and to introduce new solutions to address evolving industry standards and market needs. We identify further enhancements to our solutions and opportunities for new solutions through our customer support organization as well as ongoing customer consulting engagements and implementations, interactions with our user groups and participation in industry standards and research committees. Our solutions address the needs of customers in various vertical markets including retail, consumer goods, food and grocery, logistics service providers, industrial and wholesale, high technology and electronics, life sciences and government. We intend to continue to enhance the functionality of our solutions to meet the dynamic requirements of these vertical markets as well as new vertical markets.

Expand International Sales. We believe that our solutions offer significant benefits for customers in international markets. We have more than 550 employees outside the United States focused on international sales, servicing our international clients and product development. In addition to offices in Australia, China, France, Germany, India, Japan, the Netherlands, Singapore and the United Kingdom, we have also established reseller partnerships in Latin America. Our international strategy includes leveraging the strength of our relationships with current customers that also have significant overseas operations and the pursuit of strategic marketing partnerships with international systems integrators and third-party software application providers.

Expand Our Strategic Alliances and Indirect Sales Channels. We currently sell our products primarily through our direct sales personnel. We have worked on joint projects and joint sales initiatives with industry-leading consultants and software systems implementers, including most of the large consulting firms and other systems consulting firms specializing in our targeted industries, to supplement our direct sales force and professional services organization. We have been expanding our indirect sales channels through reseller agreements, marketing agreements and agreements with third-party logistics providers. These alliances extend our market coverage and provide us with new business leads and access to trained implementation personnel. We have strategic alliances with complementary software providers, third party integrators/consultants and hardware vendors including Alien Technology, JDA Software, Lawson, Microsoft, Symbol Technologies, FKI Logistix, Siemens Logistics and Assembly Systems and Intenia.

Acquire or Invest in Complementary Businesses. We intend to pursue strategic acquisitions of technologies, solutions and businesses that enable us to enhance and expand our SCE solutions and service offerings. More specifically, we intend to pursue acquisitions that will provide us with complementary solutions and technologies, expand our geographic presence and distribution channels, extend our presence into other vertical markets with similar challenges and requirements of those we currently meet and/or further solidify our leadership position within

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the seven primary components of SCE: warehouse management, transportation management, trading partner management, distributed order management, reverse logistics management, performance management and RFID.

Solutions and Services

Solutions. Our solutions are designed to enable our customers to manage the operations of their distribution centers and transportation networks and improve visibility of critical information between supply chain partners to achieve greater effectiveness and efficiency across the supply chain. Our solutions operate across the Unix, iSeries (AS/400) and Windows computing platforms. Our solutions operate on multiple hardware platforms utilizing various hardware systems and inter-operate with many third-party software applications and legacy systems. This interfacing and open system capability enables customers to continue using their existing computer resources and to choose among a wide variety of existing and emerging computer hardware and peripheral technologies. We provide interface toolkits for most ERP systems to enhance communication and reduce implementation costs between our core products and our clients' host systems. We currently offer interface toolkits to systems developed by Oracle, SAP, Lawson, JDA Software, Essentus and Intentia.

Our Warehouse Management solution group includes our Warehouse Management solution, Labor Management solution, Slotting Optimization solution and Billing Management solution.

- ***Our Warehouse Management solution*** manages all aspects of distribution center operations including receiving, returns processing, inventory management and order fulfillment, including replenishment, picking, packing and shipping.
- ***Our Labor Management solution*** enables distribution center managers to access performance levels in real-time; visualize labor in graphics and spreadsheets; measure productivity against Engineered Labor Standards; and analyze efficiency throughout the warehouse.
- ***Our Slotting Optimization solution*** determines the most beneficial and ergonomic placement of items in a distribution center. This solution, which uses genetic algorithms, is a pickline optimization system that performs daily maintenance, is easy to implement and configure and reduces labor costs and workers' compensation claims, while increasing throughput.
- ***Our Billing Management solution*** is a dynamic billing solution that captures information from SCE systems to enable third-party logistics, or 3PL service providers to track and bill clients for inventory handling, storage, fulfillment and transportation activities.

Our Transportation Management solution group includes our Transportation Procurement solution, Transportation Planning & Execution solution, Load Management solution and Carrier Management solution.

- ***Our Transportation Procurement solution*** enables the development and management of a transportation strategy that considers critical business factors and enables shippers to solicit bids from transportation providers, design the most optimal strategic plan, acquire transportation service contracts and manage those contracts on an ongoing basis.
- ***Our Transportation Planning & Execution solution*** allows shippers to execute complex, strategic routing guides in real time and dynamically monitor critical metrics and events, enabling shippers to make ongoing adjustments to the routing guide that protect service and savings.
- ***Our Load Management solution*** provides visibility into yard activities so customers can plan and execute upon loads coming into and going out of their facilities. The solution enables the generation of an efficient plan for yard execution and considers all complex requirements associated with shipping and receiving as well as enables carriers and suppliers to schedule appointments or requests.
- ***Our Carrier Management solution*** is a management and analysis solution that allows transportation providers to determine the most profitable opportunities and then strategically target the most valuable freight and profitable destinations. It helps providers make globally optimal resource-to-load assignments,

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dramatically reducing overall empty mileage, enhance driver satisfaction and optimize fuel expenditures, while ensuring on-time service and maximizing net contribution per day.

Our Trading Partner Management solution group includes our Supplier Enablement solution, Logistics Hub Management solution, Carrier Enablement solution and Customer/Store Enablement solution.

- **Our Supplier Enablement solution** extends supply chain execution capabilities to vendors and factories through purchase order management and fulfillment and shipping management to improve visibility, operational efficiencies and inventory accuracy.
- **Our Logistics Hub Management solution** extends supply chain execution capabilities to hubs, enabling them to manage advance ship notices associated with incoming receipts as well as create automatic shipping notifications (ASNs) for outbound shipments.
- **Our Carrier Enablement solution** provides visibility to in-transit shipments and allows carriers to provide information regarding the status of the shipment to enable better planning around distribution activities as well as improved communication to other supply chain partners.
- **Our Customer/Store Enablement solution** provides order/inventory visibility and Web-based order entry for both customers and shippers. Orders are placed through the portal, processed and passed directly to back-end systems, and customers and stores can confirm receipts using the same portal.

Our Distributed Order Management solution group includes our Distributed Order Management solution.

- **Our Distributed Order Management solution** aggregates and manages customer orders from multiple channels and balances supply with demand to fulfill orders. In addition, it coordinates the movement of goods, orchestrates the re-supply of products and considers all global inventory for optimal fulfillment.

Our Reverse Logistics Management solution group includes our Reverse Logistics Management solution and Multi-Modal Returns Management solution.

- **Our Reverse Logistics Management solution** manages the returns process using a sophisticated workflow engine to automate each step of the return and disposition process. This Web-based solution tracks, stores, references and reports on critical business information to help companies boost net asset recovery.
- **Our Multi-Modal Returns Management solution** provides a smart label containing customer purchase data that is automatically printed and sent with every outbound order to better track returns.

Our Performance Management solution group includes our Events solution, Analysis solution and Reporting module.

- **Our Events solution** monitors processes and provides immediate notification of problems or important events, so companies can proactively address issues.
- **Our Analysis solution** provides strategic multi-dimensional distribution center activity and trend analysis of historical data presented in a flexible, graphic format.
- **Our Reporting module** provides users with a set of pre-configured, browser-based productivity and management reports. Users have the ability to extend and customize the pre-configured reports or create their own ad hoc reports utilizing the embedded report-writing tool.

Our RFID solution group includes our RFID in a Box® solution, Integration Platform for RFID, RFID Services and RFID-Enabled Applications.

- **Our RFID in a Box® solution** provides all the hardware, software and middleware components and services required to successfully deploy a targeted or enterprise-wide EPC-compliant RFID initiative.

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- **Our Integration Platform for RFID** is comprised of platform-independent middleware that eases deployment across RFID devices. It includes our Integration Manager, which simplifies integration and reduces implementation time, and our EPC Manager, which offers compliance with EPC standards.
- **Our RFID Services** are made up of our Implementation Services for RFID, which includes a proven implementation framework, pilot testing, full scale implementation and training, and our RFID Product Assessment, which simulates a variety of RFID environments to provide customers with a best scenario recommendation.
- **Our RFID-Enabled Applications**, which include our Warehouse Management and Transportation Management solutions, leverage the data transmitted by RFID tags and execute against it. This increases the speed and efficiency of warehouse processes and allows for easy location and tracking of containers to synchronize supply chain strategies across the trading partner network.

Professional Services. Our professional services provide our customers with expertise and assistance in planning and implementing our solutions. To ensure a successful product implementation, consultants assist customers with the initial installation of a system, the conversion and transfer of the customer's historical data onto our system, and ongoing training, education and system upgrades. We believe that our professional services enable the customer to implement our software rapidly, ensure the customer's success with our solution, strengthen the relationship with the customer, and adds to our industry-specific knowledge base for use in future implementations and product development efforts.

Although our professional services are optional, substantially all of our customers use at least some portion of these services for the implementation and ongoing support of our software products. Professional services are typically rendered under time and materials-based contracts, with services typically billed on an hourly basis. Professional services are sometimes rendered under fixed-fee based contracts, with payments due on specific dates or milestones. We believe that increased sales of our software solutions will drive higher demand for our consulting services.

Our professional services group consists of business consultants, systems analysts and technical personnel devoted to assisting customers in all phases of the implementation of our systems, including planning and design, customer-specific configuring of modules, and on-site implementation or conversion from existing systems. Our consulting personnel undergo extensive training on supply chain operations and our products. We believe that this training enables us to productively use newly-hired consulting personnel. At times, we use third-party consultants, such as those from major systems integrators, to assist our customers in certain implementations.

We have developed a proprietary, standardized implementation methodology called PRISM, which leverages our solutions' architecture with the knowledge and expertise gained from completing more than 1,600 installations worldwide. The modular design of our solutions significantly reduces the complexities associated with integrating to existing systems, including ERP, Supply Chain Management ("SCM"), Customer Relationship Management ("CRM"), e-business systems and complex material handling systems. As a result, we have been able to deploy a fully automated inbound and outbound system in less than two months.

Customer Support Services and Software Enhancements. We offer a comprehensive program that provides our customers with timely software upgrades that offer additional or improved functionality and technological advances incorporating emerging supply chain and industry initiatives. Over the last three years, our annual renewal rate of customers subscribing to comprehensive support and enhancements has been approximately 90%. We have the ability to remotely access the customer's system in order to perform diagnostics, on-line assistance and assist in software upgrades. We offer 24x7 customer support plus software upgrades for an annual fee paid in advance, determined based on the level of service needed by the customer.

Training. We offer training in a structured environment for new and existing users. Training programs are provided on a per-person, per-class basis at fixed fees. We currently have courses available to provide training on solution use, configuration, implementation and system administration. We have also developed several computer-based training programs that can be purchased for a fixed fee for use at client sites.

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Hardware. In conjunction with the licensing of our software, we resell a variety of hardware products developed and manufactured by third parties in order to provide our customers with an integrated supply chain execution solution. These products include computer hardware, radio frequency terminal networks, RFID chip readers, bar code printers and scanners, and other peripherals. We resell all third-party hardware products pursuant to agreements with manufacturers or through distributor-authorized reseller agreements pursuant to which we are entitled to purchase hardware products at discount prices and to receive technical support in connection with product installations and any subsequent product malfunctions. We generally purchase hardware from our vendors only after receiving an order from a customer. As a result, we do not maintain significant hardware inventory.

Sales and Marketing

We employ multiple discipline sales teams that consist of professionals with industry experience in sales and technical sales support. To date, we have generated the majority of our revenue from sales of software through our direct sales force. We plan to continue to invest significantly to expand our sales, services and marketing organizations within the United States, Europe, the Middle East and Africa (“EMEA”) and Asia Pacific and to pursue strategic marketing partnerships. We conduct comprehensive marketing programs that include advertising, public relations, trade shows, joint programs with vendors and consultants and ongoing customer communication programs. The sales cycle typically begins with the generation of a sales lead, through in-house telemarketing efforts, trade shows or other means of referral, or the receipt of a request for proposal from a prospective customer. The sales lead or request for proposal is followed by the qualification of the lead or prospect, an assessment of the customer’s requirements, a formal response to the request for proposal, presentations and product demonstrations, site visits to an existing customer using our supply chain execution system and contract negotiation. The sales cycle can vary substantially from customer to customer, but typically requires three to nine months.

In addition to sales to new customers, we will continue to leverage our existing customer base to provide for system upgrades, sales of additional licenses of purchased products and sales of new or add-on products. We also plan to further develop and expand our indirect sales channels, including sales through reseller agreements, marketing agreements and agreements with third-party logistics providers. To extend our market coverage and to provide us with new business leads and access to trained implementation personnel, we further intend to develop and expand our strategic alliances with systems integrators capable of performing implementations of our solutions. Business referrals and leads helping us to grow our business continue to be positively influenced by systems integrators, which include most of the large consulting firms and other systems consulting firms specializing in our targeted industries. We believe that our leadership position in providing SCE solutions perpetuates the willingness of systems integrators to recommend our solutions where appropriate.

We have an established program intended to foster joint sales and marketing efforts with our business partners. In some cases, this included joint development work to make our products and our partner’s products interface seamlessly. Among others, partnerships arising from our Manhattan Associates Partner Program (*MAP2*) include: JDA Software Group, Inc., a leading global provider of integrated software and professional services to retailers and their suppliers; Intentia International AB, a leading global supplier of ERP solutions; ProClarity Corporation (formerly Knosys, Inc.), a provider of analytic front-end technology designed specifically for Microsoft SQL Server 2000 Analysis Services; Siemens Logistics and Assembly Systems, Inc, a world leader in providing system solutions from concept through implementation in manufacturing, automotive, distribution, parcel and freight, postal, air cargo, baggage handling and software applications; IBM, a globally recognized leader in technology solutions; and Accenture, a leading global consulting company.

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Customers

To date, our customers have been suppliers, manufacturers, distributors, retailers and transportation providers in a variety of industries. The following table sets forth a representative list of customers that contracted to purchase solutions and services from us in 2004.

AEC One Stop Group, Inc.	Interstate Distributor Company
Alco Industries	JDC Logistics, Inc.
Argos Limited	Josiah Wedgwood & Sons, Ltd.
Automatiq, Inc.	Kellwood Company
Averitt Express, Inc.	KLLM Transport Services, Inc.
BCA (A Partnership)	Libbey Glass, Inc.
Bed, Bath & Beyond	LM Services, LLC (Schwab Co.)
Birds Eye Foods, Inc.	LVMH Perfumes & Cosmetics
Blair Corporation	Mary Kay, Inc.
Borders Group, Inc.	Metron North America, Ltd.
Bosch Sicherheitssysteme	Mothercare UK Limited
British Land Company PLC	Motorola, Inc.
C&S Wholesale Grocers	Nippon Express USA, Inc.
CalArk International	Norauto
Canon (UK) Limited	Novant Health, Inc.
Chico's Retail Services, Inc.	Party City Corporation
Coles Myer, Ltd.	Pearl, Incorporated
CoLinx	Perry Ellis International
Co-operative Group (CWS) Limited	Polo Ralph Lauren Corp.
Cornerstone Brands, Inc.	PT Sejatibina Delta Informatika
Cost Plus, Inc.	Revlon Consumer Products
CSK Auto, Inc.	Revman International
Dart Transit Company	Samskip hf.
Debenhams Retail, Plc.	Sara Lee Foods, Inc.
Deluxe Media Services	Saud Bahwan Automotive
Deschenes Group, Inc.	Shire, LLC
Distribudora Flexi, S.A. de C.V.	Sodimac S.A.
Dollar General Corporation	South Cone, Inc. (dba Reef)
Electronics for Imaging	Springs Industries
Estee Lauder N.V.	Tally-Weijl
Ewals Integrated Logistics	Technicolor Videocassette
Excell Home Fashions, Inc.	The Boots Company Plc.
Follett Higher Education Group, Ltd.	The Cato Corporation
GameStop Inc.	The Children's Place
Geest Foods Limited	The Forzani Group, Ltd.
Global Home Products	The Hillman Group
Global Logistics Services, Inc.	The Jay Group, Inc.
Global One Logistics	Thos. Somerville Company
Globe Express Services	Tibbett and Britten Limited
GSI Commerce Solutions, Inc.	TNT Fashion Logistics B.V.
Guangzhou Wise Logistics	TNT Logistics
Guess?, Inc.	University of Cambridge L.E.S.
Halfords	Urban Outfitters, Inc.
Healthcare Logistics	Walgreen Co.
Henkel Corporation	Warnaco, Inc.
Hewlett-Packard Oy	Wolverine Worldwide Inc.
HoMedics USA, Inc.	

Our top five customers in aggregate accounted for 16%, 16% and 14% of total revenue for each of the years ended December 31, 2002, 2003 and 2004, respectively. No single customer accounted for more than 10% of revenue in 2002, 2003 or 2004.

Product Development

Our development efforts are focused on adding new functionality to existing solutions, integrating the various solution offerings, enhancing the operability of our solutions across distributed and alternative hardware platforms, operating systems and database systems and developing new solutions. We believe that our future success depends in part upon our ability to continue to enhance existing solutions, to respond to dynamically changing customer requirements and to develop new or enhanced solutions that incorporate new technological developments and emerging supply chain and industry standards. To that end, our development efforts frequently focus on base system enhancements and the incorporation into our solutions of new user requirements and features identified and created through customer and industry interactions and systems implementations. As a result, we are able to continue to offer our customers a packaged, highly configurable solution with increasing functionality rather than a custom-developed software program. We have also developed interface toolkits for most major ERP systems to enhance communication and improve data flows between our core solutions and our clients' host systems.

We plan to principally conduct our development efforts internally in order to retain development knowledge and promote the continuity of programming standards; however, some projects that can be performed separately and/or require special skills may be outsourced. Periodically, we use third-party research and development companies to localize our products into Japanese, German, French and Spanish. We also established an off-shore development center in Bangalore, India during 2002, which now has more than 279 research and development professionals. The off-shore development center also employs several Indian citizens currently working for and holding extensive development experience with us.

We continue to devote a significant portion of our research and development efforts to the enhancement and integration of all of our solutions. We have developed a release program for all solutions, which provides our customers with updates to all of our solutions. Our product development efforts will principally be focused on enhancement of our existing solutions, development of new solutions and modules and continued localization of our solutions into various international markets.

Our research and development expenses for the years ended December 31, 2002, 2003 and 2004 were \$20.8 million, \$27.0 million, and \$28.8 million, respectively. We intend to continue to invest significantly in product development.

Competition

Our solutions are targeted at the SCE market, which is rapidly consolidating, intensely competitive and characterized by rapid technological change. The principal competitive factors affecting the market for our solutions include:

- vendor and product reputation;
- compliance with industry standards;
- solution architecture;
- solution functionality and features;
- ease and speed of implementation;
- return on investment;
- solution quality and performance;
- total cost of ownership;
- solution price; and
- level of support.

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We believe that we compete favorably with respect to each of these factors. Our competitors are diverse and offer a variety of solutions directed at various aspects of the extended supply chain, as well as the enterprise as a whole. Our existing competitors include:

- the corporate information technology departments of current or potential customers capable of internally developing solutions;
- supply chain execution vendors, including Catalyst International, Inc., Highjump (3M), Optum, Inc., Provia Software, Inc., RedPrairie Corporation and SSA Global Technologies, Inc. among others;
- ERP or SCM application vendors with solutions or modules of their solution offering varying degrees of SCE functionality, such as i2 Technologies, Manugistics Group, Inc., Oracle Corp., Retek, Inc. and SAP AG; and
- smaller independent companies that have developed or are attempting to develop distribution center management software that competes with our SCE solutions.

We may face competition in the future from ERP and SCM applications vendors and business application software vendors that may broaden their solution offerings by internally developing or by acquiring or partnering with independent developers of supply chain execution software. To the extent such ERP and SCM vendors develop or acquire systems with functionality comparable or superior to our solutions, their significant installed customer bases, long-standing customer relationships and ability to offer a broad solution could provide a significant competitive advantage over our solutions. In addition, it is possible that new competitors or alliances among current and new competitors may emerge and rapidly gain significant market share. Increased competition could result in price reductions, fewer customer orders, reduced gross margins and loss of market share. Both Oracle and SAP have entered the market for SCM applications. We believe that the domain expertise required to compete provides us with a competitive advantage and is a significant barrier to market entry. However, some of our competitors have significant resources at their disposal, and the degree to which we will compete with these new products in the marketplace is still undetermined.

Many of our competitors and potential competitors have longer operating histories, significantly greater financial, technical, marketing and other resources, greater name recognition and a larger installed base of customers than we do. In order to be successful in the future, we must continue to respond promptly and effectively to technological change and competitors' innovations. We cannot assure you that our current or potential competitors will not develop solutions comparable or superior in terms of price and performance features to those developed by us. In addition, we cannot assure you that we will not be required to make substantial additional investments in connection with our research, development, marketing, sales and customer service efforts in order to meet any competitive threat, or that we will be able to compete successfully in the future. Increased competition may result in reductions in market share, pressure for price reductions and related reductions in gross margins, any of which could materially and adversely affect our ability to achieve our financial and business goals. We cannot give assurance that in the future we will be able to successfully compete against current and future competitors.

International Operations

Our international revenue was approximately \$33.4 million, \$38.7 million and \$48.7 million for the years ended December 31, 2002, 2003 and 2004, respectively, which represents approximately 19%, 20% and 23% of our total revenue for the years ended December 31, 2002, 2003 and 2004, respectively. International revenue includes all revenue derived from sales to customers outside the United States. We now have over 550 employees outside the United States. We have offices in Australia, China, France, Germany, India, Japan, the Netherlands, Singapore and the United Kingdom, as well as representatives in Mexico and reseller partnerships in Latin America.

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We conduct our direct European operations principally out of offices in the United Kingdom, the Netherlands, Germany and France, consisting of approximately 170 employees. Total revenue for European operations was approximately \$29.3 million, \$31.9 million and \$35.5 million for the years ended December 31, 2002, 2003 and 2004, respectively, which represents approximately 17%, 16% and 17% of our total revenue for the years ended December 31, 2002, 2003 and 2004, respectively.

Proprietary Rights

We rely on a combination of copyright, trade secret, trademark, service mark and trade dress laws, confidentiality procedures and contractual provisions to protect our proprietary rights in our products and technology. We have registered trademarks for PkMS, PickTicket Management System, PTRS, Have/Needs Analysis, LogisticsPRO, InfoLink, InfoLink Order, Infolink Source, PkCost, PkView, PkAllocate, WorkInfo, SmartInfo, SlotInfo, SystemLink, DCMS, Logistics.com, RFID in a Box, Integrated Logistics Solutions, Manhattan Associates and the Manhattan Associates logo as a design mark. We have no registered copyrights. We generally enter into confidentiality agreements with our employees, consultants, clients and potential clients and limit access to, and distribution of, our proprietary information. We license our solutions to our customers and restrict the customer's use for internal purposes without the right to sublicense the solutions. However, we believe that this provides us only limited protection. Despite our efforts to safeguard and maintain our proprietary rights both in the United States and abroad, we cannot assure you that we will successfully deter misappropriation or independent third-party development of our technology or prevent an unauthorized third party from copying or obtaining and using our products or technology. In addition, policing unauthorized use of our solutions is difficult, and while we are unable to determine the extent to which piracy of our software solutions exist, software piracy could become a problem.

As the number of supply chain management solutions in the industry increases and the functionality of these solutions further overlaps, companies that develop software may increasingly become subject to claims of infringement or misappropriation of intellectual property rights. Third parties may assert infringement or misappropriation claims against us in the future for current or future products. Any claims or litigation, with or without merit, could be time-consuming, result in costly litigation, divert management's attention and cause product shipment delays or require us to enter into royalty or licensing arrangements. Any royalty or licensing arrangements, if required, may not be available on terms acceptable to us, if at all, which could have a material adverse effect on our business, financial condition and results of operations. Adverse determinations in such claims or litigation could also have a material adverse effect on our business, financial condition and results of operations.

We may be subject to additional risks as we enter into transactions in countries where intellectual property laws are not well developed or are poorly enforced. Legal protections of our rights may be ineffective in such countries. Litigation to defend and enforce our intellectual property rights could result in substantial costs and diversion of resources and could have a material adverse effect on our business, financial condition and results of operations, regardless of the final outcome of such litigation. Despite our efforts to safeguard and maintain our proprietary rights both in the United States and abroad, we cannot assure that we will be successful in doing so, or that the steps taken by us in this regard will be adequate to deter misappropriation or independent third party development of our technology or to prevent an unauthorized third party from copying or otherwise obtaining and using our products or technology. Any of these events could have a material adverse effect on our business, financial condition and results of operations.

Employees

As of December 31, 2004, we had nearly 1,400 full-time employees. None of our employees are covered by a collective bargaining agreement. We consider our relations with our employees to be good. As of December 31, 2004, certain of our employees were employed pursuant to the H-1(B), non-immigrant work-permitted visa classification.

Executive Officers and Directors

Our executive officers and directors and certain information about them are as follows:

<u>Name</u>	<u>Age</u>	<u>Position</u>
Peter F. Sinisgalli	49	President, Chief Executive Officer and Director
Steven R. Norton	43	Senior Vice President and Chief Financial Officer
Jeffrey S. Mitchell	37	Executive Vice President, Americas Operations
Jeffry W. Baum	42	Senior Vice President, International Operations
John J. Huntz, Jr.	54	Chairman of the Board of Directors(1)(2)(3)
Richard M. Haddrill	51	Vice Chairman of the Board of Directors
Brian J. Cassidy	59	Director(2)(3)
Paul R. Goodwin	61	Director(1)(3)
Thomas E. Noonan	44	Director(1)(2)
Deepak Raghavan	38	Director

- (1) Member of the Compensation Committee.
- (2) Member of the Audit Committee.
- (3) Member of the Nominating and Governance Committee.

The Board of Directors is divided into three classes, each of whose members serve for a staggered three-year term. The Board is currently comprised of two Class I directors (Messrs. Cassidy and Goodwin), two Class II directors (Messrs. Raghavan and Haddrill) and three Class III directors (Messrs. Huntz, Noonan and Sinisgalli). At each annual meeting of shareholders, a class of directors will be elected for a three-year term to succeed the directors of the same class whose terms are then expiring. The terms of the Class I directors, Class II directors and Class III directors will expire upon the election and qualification of successor directors at the 2005, 2006 and 2007 annual meetings of shareholders, respectively.

Peter F. Sinisgalli has served as our President and Chief Executive Officer and a member of our Board of Directors since July 1, 2004. Mr. Sinisgalli joined the Company in March 2004 as President and Chief Operating Officer, and assumed the role of Chief Executive Officer in July 2004. From April 2003 until February 2004, Mr. Sinisgalli served as President and Chief Executive Officer of NewRoads, Inc., a provider of outsourced solutions for fulfillment and customer care to companies engaged in one-to-one direct commerce. From November 1996 until January 2003, Mr. Sinisgalli served as President and Chief Operating Officer of CheckFree Corporation, a leading provider of electronic billing and payment services. Mr. Sinisgalli also serves on the Board of Directors of Witness Systems, Inc., a global provider of performance optimization software and services.

Steven R. Norton has served as our Senior Vice President and Chief Financial Officer since joining the Company in February 2005. Mr. Norton served as the Executive Vice President and Chief Financial Officer for Concurrent Computer Corporation, a publicly traded technology company that offers video-on-demand and real-time computer processing services, from October 1999 to January 2005. From March 1996 to April 1999, Mr. Norton served as Vice President of Finance and Administration for LHS Group, Inc., a provider of billing and customer care software and implementation services to wireless communications service providers. Prior to that, Mr. Norton served as an Audit Senior Manager for Ernst & Young LLP and KPMG LLP, public accounting firms.

Jeffrey S. Mitchell has served as our Executive Vice President, Americas Operations since January 2005. Previously, Mr. Mitchell served as our Executive Vice President — Americas Sales and Marketing, from January 2004 to January 2005. From April 1997 to January 2004, Mr. Mitchell held various sales management roles with Manhattan Associates. From April 1995 until April 1997, Mr. Mitchell was a sales representative for The Summit Group, now a part of CIBER Enterprise Solutions, a provider of supply chain and ERP services. From May 1991 until April 1995, Mr. Mitchell served in various aspects of account management in the employer services division of Automatic Data Processing, Inc., providing outsource payroll and human resources solutions.

Jeffry W. Baum has served as our Senior Vice President, International Operations since January 2000. From February 1998 until January 2000, Mr. Baum served as our Vice President — International Business Development. From January 1997 until February 1998, Mr. Baum served as Vice President - Sales and Marketing of Haushahn

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Systems & Engineers, a warehouse management systems and material handling automation provider that is now known as Provia Software. From March 1992 until December 1996, Mr. Baum served as Senior Account Manager at Haushahn. Prior to that, Mr. Baum served in a variety of business development, account management and marketing positions with Logisticon, Inc. and Hewlett-Packard Company.

John J. Huntz, Jr. has served as Chairman of our Board of Directors since April 2003 and has served as a member of our Board of Directors since January 1999. Mr. Huntz has served as Managing Director of Fuqua Ventures, LLC, a private equity investment firm since March 1998. Mr. Huntz served as Executive Vice President and Chief Operating Officer of Fuqua Enterprises, Inc., a company that manufactures health-care products, from August 1995 until March 1998 and as its Senior Vice President from March 1994 until August 1995. From September 1989 until January 1994, Mr. Huntz served as the Managing Partner of Noble Ventures International, Inc., a private international investment company. From 1984 until 1989, Mr. Huntz served as Director of Capital Resources for Arthur Young & Company, and from 1979 until 1984, Mr. Huntz was with Harrison Capital, Inc., a venture capital investment subsidiary of Texaco, Inc. Mr. Huntz founded and serves as President of the Atlanta Venture Forum, a risk capital network, and is a board member of the National Venture Capital Association. Mr. Huntz serves as a director of several of the portfolio companies of Fuqua Ventures, LLC. Mr. Huntz is also a member of the Securities and Exchange Commission Executive Committee on Small Business Capital Formation.

Richard M. Hadrill has served as the Vice Chairman of our Board of Directors since July 2004 and been a member of the Board of Directors since October 1999. Mr. Hadrill served as our Chief Executive Officer from April 2004 to July 2004 and served as President and Chief Executive Officer from October 1999 to April 2004. Mr. Hadrill is currently the President and Chief Executive Officer of Alliance Gaming Inc., a publicly traded company supplying technology to the gaming industry and has been on the board of directors of that company since April 2003. Mr. Hadrill previously worked for Powerhouse Technologies, Inc., a technology, services and gaming company where he served as Executive Vice President from December 1994 until September 1996 and as President, Chief Executive Officer and a member of the board of directors from September 1996 until June 1999, when Powerhouse was acquired by Anchor Gaming, which was acquired by International Game Technology in 2001. Mr. Hadrill also served as a consultant and member of the board of directors of Anchor Gaming from June 1999 until October 1999. Prior to Powerhouse, Mr. Hadrill served as the President of international subsidiaries for Knowledgeware, Inc. and as a Partner and Managing Partner of the accounting firm of Ernst & Young LLP. Mr. Hadrill also serves on the board of directors of OutlookSoft, Inc., a privately held business performance management software company.

Brian J. Cassidy has served as a member of our Board of Directors since May 1998. Mr. Cassidy was the co-founder of Webforia Inc., a developer and supplier of computer software applications, and served as Webforia's Vice Chairman from April 1996 until February 2003. Prior to forming Webforia, Mr. Cassidy served as Vice President of Business Development of Saros Corporation, a developer of document management software, from January 1993 until March 1996. Prior to joining Saros Corporation, Mr. Cassidy was employed by Oracle Corporation, as Joint Management Director of European Operations and a member of the Executive Management Board from 1983 until 1988 and as Worldwide Vice President of Business Development from 1988 until 1990.

Paul R. Goodwin has served as a member of our Board of Directors since April 2003. Mr. Goodwin is currently employed as a consultant to CSX Corporation, which, through its subsidiaries, operates the largest rail network in the eastern United States. Mr. Goodwin served as Vice-Chairman and Chief Financial Officer of CSX Corporation from April 2000 until June 2003 when he retired. From April 1995 until April 2000, Mr. Goodwin served as Executive Vice President – Finance and Chief Financial Officer of CSX Corporation. Mr. Goodwin started with CSX Corporation in 1965 and held various senior management positions with the company, including executive vice president and chief financial officer, senior vice president finance and planning, and executive vice president of finance and administration. Mr. Goodwin serves on the board of directors for the National Railroad Retirement Investment Trust, Horizon Lines LLC and Savannah Harbor Holdings LLC.

Thomas E. Noonan has served as a member of our Board of Directors since January 1999. Mr. Noonan has served as the President and member of the board of directors of Internet Security Systems, Inc., a provider of network security monitoring, detection and response software, since August 1995, and as its Chief Executive Officer and Chairman of the board of directors since November 1996. Prior to joining Internet Security Systems, Mr. Noonan served as Vice President, Sales and Marketing with TSI International, Inc., an electronic commerce

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company, from October 1994 until August 1995. From November 1989 until October 1994, Mr. Noonan held high-level sales and marketing positions at Dun & Bradstreet Software, a developer of enterprise business software.

Deepak Raghavan has served as a member of our Board of Directors since August 1998. Mr. Raghavan served as our Senior Vice President — Product Strategy from January 2001 until June 2002, as Senior Vice President and Chief Technology Officer from August 1998 until January 2001 and as Chief Technology Officer from our inception in October 1990 until August 1998. From 1987 until 1990, Mr. Raghavan served as a Senior Software Engineer for Infosys Technologies Limited, a software development company, where he specialized in the design and implementation of information systems for the apparel manufacturing industry. Since January 2003, Mr. Raghavan is enrolled as a full-time Graduate Student with the Department of Physics and Astronomy at Georgia State University, Atlanta, Georgia.

Item 2. *Properties*

Our principal administrative, sales, marketing, support and research and development facility is located in approximately 137,868 square feet of modern office space in Atlanta, Georgia. Substantially all of this space is leased to us through March 31, 2008. We have additional offices throughout the United States under multi-year agreements in California, Massachusetts, Indiana and Delaware. We also occupy facilities outside of the United States under multi-year agreements in the United Kingdom, the Netherlands, Japan, China, Singapore, India and Australia. We also occupy offices under short-term agreements in other geographical regions. Our office space is adequate to meet our immediate needs; however, we may expand into additional facilities in the future.

Item 3. *Legal Proceedings*

Many of our installations involve products that are critical to the operations of our clients' businesses. Any failure in our products could result in a claim for substantial damages against us, regardless of our responsibility for such failure. Although we attempt to limit contractually our liability for damages arising from product failures or negligent acts or omissions, there can be no assurance the limitations of liability set forth in our contracts will be enforceable in all instances. We are not currently a party to any material legal proceedings that would require disclosure under this Item.

Item 4. *Submission of Matters to a Vote of Security Holders*

There were no matters submitted to a vote of security holders during the fourth quarter of the fiscal year ended December 31, 2004.

PART II

Item 5. Market for Registrant’s Common Equity, Related Shareholder Matters and Issuer Purchases of Equity Securities

Our common stock is traded on the Nasdaq National Market under the symbol “MANH”. The following table sets forth the high and low closing sales prices of the common stock as reported by the Nasdaq National Market for the periods indicated:

Fiscal Period	High Price	Low Price
2003		
First Quarter	\$ 26.30	\$ 17.38
Second Quarter	30.45	17.65
Third Quarter	33.30	25.19
Fourth Quarter	33.65	26.64
2004		
First Quarter	\$ 29.65	\$ 26.06
Second Quarter	30.88	25.81
Third Quarter	29.56	22.64
Fourth Quarter	25.94	20.10

The closing sale price of our common stock as reported by the Nasdaq National Market on March 14, 2005 was \$21.04. The number of shareholders of record of our common stock as of March 14, 2005 was approximately 52.

We do not intend to declare or pay cash dividends in the foreseeable future. Our management anticipates that all earnings and other cash resources, if any, will be retained by us for investment in our business.

The following table provides information regarding our current equity compensation plans as of December 31, 2004:

Equity Compensation Plan Information			
Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights	Number of securities remaining available for future issuance under equity compensation plans
Equity compensation plans approved by security holders	7,382,512	\$ 24.19	111,755
Equity compensation plans not approved by security holders	—	—	—
Total	7,382,512	\$ 24.19	111,755

Additional information regarding our equity compensation plans can be found in Note 3 of the Notes to our Consolidated Financial Statements.

The following table provides information regarding our purchases under our publicly-announced repurchase program:

Period	(a) Total Number of Shares (or Units) Purchased	(b) Average Price Paid per Share (or Unit)	(c) Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs	(d) Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs
October 1 – October 31, 2004	—	—	—	\$ 16,307,685
November 1 – November 30, 2004	217,500	\$ 23.39	217,500	\$ 11,219,815
December 1 – December 31, 2004	294,400	\$ 23.75	294,400	\$ 4,228,167
Total	511,900	\$ 23.60	511,900	\$ 4,228,167

Item 6. Selected Consolidated Financial Data

You should read the following selected consolidated financial data in conjunction with our Consolidated Financial Statements and related Notes thereto and with “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included elsewhere in this Form 10-K. The statement of income data for the years ended December 31, 2002, 2003 and 2004, and the balance sheet data as of December 31, 2003 and 2004, are derived from, and are qualified by reference to, the audited financial statements included elsewhere in this Form 10-K. The statement of income data for the years ended December 31, 2000 and 2001, and the balance sheet data as of December 31, 2000, 2001 and 2002, are derived from the audited financial statements not included herein. Historical results are not necessarily indicative of results to be expected in the future.

	Year Ended December 31,				
	2000	2001	2002	2003	2004
(In thousands, except per share data)					
Statement of Income Data:					
Revenue:					
Software and hosting fees	\$ 26,190	\$ 35,436	\$ 40,233	\$ 43,229	\$ 49,886
Services	81,085	97,510	110,516	129,320	141,492
Hardware and other	31,344	27,760	22,675	23,417	23,541
Recovery (allowance) relating to bankrupt customer (1)	—	(4,328)	2,297	848	—
Total revenue	<u>138,619</u>	<u>156,378</u>	<u>175,721</u>	<u>196,814</u>	<u>214,919</u>
Costs and expenses:					
Cost of software and hosting fees	1,239	1,455	1,927	4,470	4,085
Amortization of acquired developed technology	250	1,500	1,500	1,999	2,079
Cost of services	34,299	42,372	46,611	54,218	65,853
Cost of hardware and other	26,345	23,092	19,027	20,123	20,071
Research and development	16,106	19,413	20,780	26,982	28,822
Sales and marketing	18,051	22,334	26,413	31,200	34,049
General and administrative	15,123	18,822	20,943	24,087	27,046
In-process research and development and acquisition-related charges	3,001	—	1,470	885	—
Restructuring charge	—	—	—	893	—
Amortization of acquisition-related intangibles	915	3,740	272	1,433	1,496
Total costs and expenses	<u>115,329</u>	<u>132,728</u>	<u>138,943</u>	<u>166,290</u>	<u>183,501</u>
Income from operations	23,290	23,650	36,778	30,524	31,418
Other income, net	2,718	2,059	2,801	2,746	3,257
Income before income taxes	26,008	25,709	39,579	33,270	34,675
Income tax expense	9,740	9,522	14,383	11,425	12,566
Net income	<u>\$ 16,268</u>	<u>\$ 16,187</u>	<u>\$ 25,196</u>	<u>\$ 21,845</u>	<u>\$ 22,109</u>
Diluted net income per share	<u>\$ 0.53</u>	<u>\$ 0.53</u>	<u>\$ 0.83</u>	<u>\$ 0.71</u>	<u>\$ 0.71</u>
Shares used in computing diluted net income per share	<u>30,453</u>	<u>30,742</u>	<u>30,451</u>	<u>30,882</u>	<u>31,067</u>

	December 31,				
	2000	2001	2002	2003	2004
(In thousands)					
Balance Sheet Data:					
Cash, cash equivalents and investments	\$ 67,667	\$ 104,189	\$ 121,857	\$ 155,403	\$ 172,656
Working capital	70,192	101,224	124,679	158,163	138,760
Total assets	152,406	180,720	220,196	264,882	290,501
Long-term portion of capital lease obligations and note payable	5,866	2,182	240	288	148
Total shareholders’ equity	110,032	141,204	185,286	228,242	244,627

- (1) In connection with a significant customer filing for bankruptcy under Chapter 11 of the United States Bankruptcy Code, an allowance of \$4.3 million was recorded to effectively defer revenues arising in the fourth quarter of 2001 from the significant customer, but unpaid at the time of the bankruptcy declaration. In the fourth quarter of 2002 and the second quarter of 2003, \$2.3 million and \$0.8 million of the receivable was recovered, respectively. See Note 1 of Notes to Consolidated Financial Statements for further details.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

All statements, trend analyses and other information contained in the following discussion relative to markets for our products and trends in revenue, gross margins and anticipated expense levels, as well as other statements including words such as "anticipate," "believe," "plan," "estimate," "expect," and "intend" and other similar expressions constitute forward-looking statements. These forward-looking statements are subject to business and economic risks and uncertainties, and our actual results of operations may differ materially from those contained in the forward-looking statements.

Business

We are a global leader in providing supply chain execution and optimization solutions. Our integrated logistics solutions leverage a comprehensive set of applications that can be implemented as an integrated whole or as individual point solutions to better manage the supply chain. This platform for logistics is comprised of various applications including warehouse management, transportation management, distributed order management, reverse logistics and trading partner management along with Radio Frequency Identification ("RFID") and performance management. Our solution offering is comprised of software, services, and hardware.

Our warehouse management solutions ("WMS") manage the processes that take place within the distribution center, from receipt of goods to fulfillment of orders, and include applications for optimizing labor and slotting. With our transportation management solutions ("TMS"), companies can optimally procure, plan and execute transportation services across transportation modes, such as air, ship and ground. Our distributed order management solution enables companies to balance supply with demand and source goods to meet customer needs in a timely and cost effective manner. With our reverse logistics management solutions, companies can effectively manage the returns process and improve net asset recovery. Our trading partner management solutions ("TPM") provide Web-based synchronization between trading partners, improving communication and visibility across the entire supply chain. Our RFID solutions offer a flexible, scalable and modular solution that provide an integration and reporting platform between RFID chip readers and supply chain execution and enterprise resource planning systems. Finally, our performance management applications include event management, alerting and reporting modules, which use analytic tools and alerting processes to monitor and proactively respond to events within the supply chain cycle, analyze historical and operational data and generate reports.

In addition to our software solutions, we also offer a variety of services to enhance the value we provide customers. Our offerings include design, configuration, implementation, training, product assessment, customer support, hardware, consulting services and software enhancement subscriptions.

Application of Critical Accounting Policies and Estimates

The SEC defines "critical accounting policies" as those that require application of management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain and may change in subsequent periods.

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions in certain circumstances that affect amounts reported in the accompanying consolidated financial statements and related footnotes. In preparing these financial statements, management has made estimates and judgments relating to certain amounts included in the financial statements. As a result, application of these accounting policies, could cause actual results to differ from these estimates.

We have identified the following as our critical accounting policies:

Revenues and Revenue Recognition

Our revenue is derived from (i) Software and Hosting Fees, which consist of revenue from the licensing and hosting of software and revenue from funded research and development efforts; (ii) Services Revenue, which consist of fees from consulting, implementation and training services (collectively, "professional services"), plus customer

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support services and software enhancement subscriptions; and (iii) Hardware and Other Revenue, which consists of sales of hardware and reimbursed project expenses.

Revenue recognition rules for software companies are very complex. We recognize software fees in accordance with Statement of Position No. 97-2, "Software Revenue Recognition" ("SOP 97-2"), as amended by Statement of Position No. 98-9, "Software Revenue Recognition, With Respect to Certain Transactions" ("SOP 98-9"). Although we follow very specific and detailed guidelines in measuring revenue, the application of those guidelines requires judgment including: (i) whether a software arrangement includes multiple elements, and if so, whether vendor-specific objective evidence of fair value exists for those elements; (ii) whether customizations or modifications of the software are significant; and (iii) whether collection of the software fee is probable. Additionally, we specifically evaluate any other elements in our license transactions, including but not limited to options to purchase additional software at a future date, extended payment terms, functionality commitments not delivered with the software and existing outstanding receivable balances in making the determination of the amount and timing of revenue recognition.

Most of our software arrangements include professional services. Professional services revenues are generally accounted for separately from the software license revenues because the arrangements qualify as "service transactions" as defined by SOP 97-2. The most significant factors considered in determining whether the revenue should be accounted for separately include the nature of the services (*i.e.*, consideration of whether the services are essential to the functionality of the licensed product), degree of risk, availability of services from other vendors and timing of payments. We provide our professional services under services agreements on a time and material basis or based on a fixed-price and/or fixed-time arrangement. The revenues from our time and material based professional consulting and implementation services are recognized as the work is performed, provided that the customer has a contractual obligation to pay, the fee is non-refundable and collection is probable. Delays in project implementation will result in delays in revenue recognition. For our professional consulting services under fixed-price and/or fixed-time arrangements, we recognize the related revenues using the percentage-of-completion method, with progress-to-completion measured by using labor costs input compared to estimated cost of completion. Revisions to the estimates are reflected in the period in which changes become known. Project losses are provided for in their entirety in the period they become known, without regard to the percentage-of-completion. If we do not accurately estimate the resources required or the scope of work to be performed, or if we do not manage our projects properly within the planned periods of time, then future consulting margins on our projects may be negatively affected or losses on existing contracts may need to be recognized.

Hardware revenue is generated from the resale of a variety of hardware products, developed and manufactured by third parties, which are integrated with and complementary to our software solutions. These products include computer equipment, radio frequency terminal networks, RFID chip readers, bar code printers and scanners and other peripherals. We generally purchase hardware from our vendors only after receiving an order from a customer, and revenue is recognized upon shipment by the vendor to the customer.

Accounts Receivable

We continuously monitor collections and payments from our customers and maintain an allowance for estimated credit losses based upon our historical experience and any specific customer collection issues that we have identified. Additions to the allowance for doubtful accounts generally represent a sales allowance on services revenue, which are recorded to operations as a reduction to services revenue. While such credit losses have historically been within our expectations and the provisions established, we cannot guarantee that we will continue to experience the same credit loss rates that we have in the past. Our top five customers in aggregate accounted for 16%, 16% and 14% of total revenue for each of the years ended December 31, 2002, 2003, and 2004, respectively. No single customer accounted for more than 10% of revenue in 2002, 2003 or 2004.

On January 22, 2002, a significant customer from 2001 filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code. As a result of the filing, the uncertainties around the bankruptcy proceedings and the ultimate timing of payment, we recorded an allowance of \$4.3 million in 2001 to effectively defer revenues arising in the fourth quarter of 2001 from the significant customer, but unpaid at the time of the bankruptcy declaration. We recorded a recovery of approximately \$2.3 million of the receivable in the fourth quarter of 2002. Upon receiving the final cash settlement in June 2003, subsequent to the significant customer emerging from bankruptcy, we recovered an additional \$848,000 of the receivable during the second quarter of 2003. The recoveries were recorded as separate revenue line items in the Consolidated Statements of Income and reductions to the allowance for doubtful accounts in the Consolidated Balance Sheets during the respective quarters.

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Valuation of long-lived and intangible assets and goodwill

In accordance with Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets* (“SFAS No. 142”), we do not amortize goodwill and other intangible assets with indefinite lives. Our long-lived and intangible assets and goodwill are subject to annual impairment tests, which require us to estimate the fair value of our business compared to the carrying value. The impairment reviews require an analysis of future projections and assumptions about our operating performance. Should such review indicate the assets are impaired, we would record an expense for the impaired assets.

Annual tests or other future events could cause us to conclude that impairment indicators exist and that our goodwill is impaired. For example, if we had reason to believe that our recorded goodwill and intangible assets had become impaired due to decreases in the fair market value of the underlying business, we would have to take a charge to income for that portion of goodwill or intangible assets that we believed was impaired. Any resulting impairment loss could have a material adverse impact on our financial position and results of operations. At December 31, 2004, our goodwill balance was \$32.5 million and our intangible assets with definite lives balance was \$8.3 million, net of accumulated amortization.

Income Taxes

We provide for the effect of income taxes on our financial position and results of operations in accordance with Statement of Financial Accounting Standards No. 109, *Accounting for Income Taxes*. Under this accounting pronouncement, income tax expense is recognized for the amount of income taxes payable or refundable for the current year and for the change in net deferred tax assets or liabilities resulting from events that are recorded for financial reporting purposes in a different reporting period than recorded in the tax return. Management must make significant assumptions, judgments and estimates to determine our current provision for income taxes and also our deferred tax assets and liabilities and any valuation allowance to be recorded against our net deferred tax asset. Our judgments, assumptions and estimates relative to the current provision for income tax take into account current tax laws, our interpretation of current tax laws, allowable deductions, projected tax credits and possible outcomes of current and future audits conducted by foreign and domestic tax authorities. Changes in tax law or our interpretation of tax laws and the resolution of current and future tax audits could significantly impact the amounts provided for income taxes in our financial position and results of operations. Our assumptions, judgments and estimates relative to the value of our net deferred tax asset take into account predictions of the amount and category of future taxable income. Actual operating results and the underlying amount and category of income in future years could render our current assumptions, judgments and estimates of recoverable net deferred taxes inaccurate, thus materially impacting our financial position and results of operations.

Results of Operations

Overview

Over the past several years, our primary goal has been and continues to be to expand of our position as a leading provider of supply chain execution and optimization solutions by delivering integrated, modular solutions to our customers. With the addition and integration of new products resulting from the acquisitions completed during 2002, 2003 and 2004, as discussed above, along with the synchronized release of new versions of our product suite with enhanced functionality, we were able to accomplish continued revenue growth.

During 2004, we continued to experience the effects of a weak spending environment for information technology in the United States and Europe, in the form of delayed and cancelled buying decisions by customers for our software, services and hardware, deferrals by customers of service engagements previously scheduled and pressure by our customers and competitors to discount our offerings. We believe that a deterioration in the current business climates or continued delay in capital spending within the United States and/or other geographic regions in which we operate, principally the United Kingdom and continental Europe, could have a material adverse impact on our future operations.

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In 2005, we plan to continue to enhance our solutions, expand globally and further develop our sales and marketing, including strategic alliances and indirect sales channels. Our success could be limited by several factors, including spending on information technology, the timely release of quality new products and releases, continued market acceptance of our solutions and the introduction of new products by existing or new competitors.

On December 31, 2002, we acquired certain assets of Logistics.com, Inc. for a cash payment of approximately \$21.3 million. The acquisition has been accounted for under the purchase method of accounting; thus the results of operations reflect the incremental effect beginning January 1, 2003. \$1.5 million of the purchase price was allocated to acquired in-process research and development. Values assigned to the acquired in-process research and development (“IPRD”) were determined using the income approach. To determine the value of the IPRD, we considered, among other factors, the state of development of each project, the time and costs required to complete each project, expected income and associated risks, which included the inherent difficulties and uncertainties in completing the project and achieving technological feasibility and risks related to the viability of and potential changes in future target markets. This analysis resulted in amounts assigned to IPRD for projects that had not yet reached technological feasibility and do not have alternative future uses.

Revenue

	Year Ended December 31, 2002	% Change 2002 to 2003	Year Ended December 31, 2003	% Change 2003 to 2004	Year Ended December 31, 2004
Software and hosting fees	\$ 40,233	7%	\$ 43,229	15%	\$ 49,886
Percentage of total revenues	23%		22%		23%
Services	110,516	17%	129,320	9%	141,492
Percentage of total revenues	63%		66%		66%
Hardware and other	22,675	3%	23,417	1%	23,541
Percentage of total revenues	13%		12%		11%
Recovery relating to bankrupt customer	2,297	*	848	*	—
Total revenue	\$ 175,721	12%	\$ 196,814	9%	\$ 214,919

* Percentage is not meaningful

Our revenue consists of fees generated from the licensing and hosting of software; fees from professional services, customer support services and software enhancement subscriptions; and sales of complementary radio frequency and computer equipment, which are considered non-strategic. We believe our revenue growth in the last two years is attributable to several factors, including, among others, increased sales of our expanded product suite, geographic expansion, our market leadership positions as to breadth of product offerings and financial stability and a compelling return on investment proposition for our customers.

Software and hosting fees. The increase in software and hosting fees from 2002 to 2003 was due to sales of newer products, hosting fees and funded development, relating primarily to the TMS products obtained through the acquisition of Logistics.com. Sales of our solution groups other than our warehouse management solution group increased by \$10.9 million, or 166%, from 2002 to 2003, while sales of our warehouse management solution group decreased by \$7.9 million, or 24%, from 2002 to 2003. The increase from 2003 to 2004 was attributable to an increase of \$2.8 million, or 11%, in sales of our warehouse management solution group and an increase of \$3.9 million, or 22%, for all other solution groups. Sales outside of North America also impacted the increase from 2003 to 2004 as sales increased from 18% of total software and hosting fees in 2003 to 28% in 2004.

Services revenue. The increases in services revenue from 2002 to 2003 and 2003 to 2004 were principally due to: (i) increases of 14% and 13% in 2003 and 2004, respectively, in the number of active engagements required to implement the increased amount of software sold and to upgrade existing customers to more current versions of our offerings; and (ii) renewals of customer support services and software enhancement subscription agreements on a growing installed base. Revenue from software enhancement subscription agreements increased by 30% and 20% during 2003 and 2004, respectively. During the economic downturn, we have experienced some pricing pressures with regard to our services. We believe that the pricing pressures are attributable to global macro-economic conditions and competitive pressures. Our services revenue growth has been and will likely continue to be affected

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by the mix of products sold. The individual engagements involving our newer products, including TMS, RFID and TPM, typically require less implementation services; however, the number of engagements continue to grow.

Hardware and other. Sales of hardware are non-strategic and largely dependent upon customer-specific desires. Sales of hardware decreased \$0.4 million, or 2%, from approximately \$17.3 million in 2002 to approximately \$16.9 million in 2003 and decreased an additional \$0.4 million, or 2%, to approximately \$16.5 million in 2004. The decreases in hardware sales from 2002 to 2003 and 2003 to 2004 are attributable to customers' desires in the current macro-economic environment to buy hardware from other suppliers offering greater discounts, combined with increased sales of our optimization and transportation products, which require less hardware than our core warehouse management products. As described in the Notes to Consolidated Financial Statements, reimbursements for out-of-pocket expenses are required to be classified as revenue and are included in hardware and other revenue. For 2002, 2003 and 2004, reimbursements by customers for out-of-pocket expenses were approximately \$5.4 million, \$6.5 million and \$7.0 million, respectively.

Recovery relating to bankrupt customer. On January 22, 2002, a significant customer for 2001 filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code. As a result of the filing, the uncertainties around the bankruptcy proceedings and the ultimate timing of payment, we recorded an allowance of \$4.3 million in 2001 to effectively defer revenues arising in the fourth quarter of 2001 from the significant customer, but unpaid at the time of the bankruptcy declaration. We recorded a recovery of approximately \$2.3 million of the receivable in the fourth quarter of 2002. Upon receiving the final cash settlement in June 2003, subsequent to the significant customer emerging from bankruptcy, we recovered an additional \$848,000 of the receivable during the second quarter of 2003. The recoveries were recorded as separate revenue line items in the Consolidated Statements of Income and reductions to the allowance for doubtful accounts in the Consolidated Balance Sheets during the respective quarters.

Costs and Expenses

	Year Ended December 31, 2002	% Change 2002 to 2003	Year Ended December 31, 2003	% Change 2003 to 2004	Year Ended December 31, 2004
Cost of software and hosting fees	\$ 1,927	132%	\$ 4,470	(9%)	\$ 4,085
Percentage of software and hosting fees	5%		10%		8%
Amortization of acquired developed technology	1,500	33%	1,999	4%	2,079
Percentage of software and hosting fees	4%		5%		4%
Cost of services	46,611	16%	54,218	21%	65,853
Percentage of services revenues	42%		42%		47%
Cost of hardware and other	19,027	6%	20,123	0%	20,071
Percentage of hardware and other revenues	84%		86%		85%
Research and development	20,780	30%	26,982	7%	28,822
Percentage of total revenues	12%		14%		13%
Sales and marketing	26,413	18%	31,200	9%	34,049
Percentage of total revenues	15%		16%		16%
General and administrative	20,943	15%	24,087	12%	27,046
Percentage of total revenues	12%		12%		13%
Amortization of acquisition-related intangibles	272	427%	1,433	4%	1,496
Percentage of total revenues	0%		1%		1%
In-process research and development and acquisition-related charges	1,470	*	885	*	—
Restructuring charge	—	*	893	*	—

* Percentage is not meaningful

Cost of Software and Hosting Fees. Cost of software and hosting fees consists of the costs associated with software reproduction; hosting services; funded development; media, packaging and delivery, documentation and other related costs; royalties on third-party software sold with or as part of our products; and the amortization of capitalized research and development costs. The increase in cost of software fees, as a percent of software and hosting fees and in absolute dollars, in 2003 is principally attributable to the costs associated with hosting certain of our software solutions, which was approximately \$1.7 million in 2003. As discussed above, we did not offer hosting services during 2002. In addition, sales of our open systems products as a percentage of total revenue from all

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products sold, increased from approximately 50% in 2002 to approximately 80% in 2003 which resulted in higher royalties paid to third parties during 2003. The decrease in cost of software fees, as a percentage of software and hosting fees and in absolute dollars, in 2004 is attributable to lower telecommunication costs associated with hosting certain of our software solutions and lower amortization expense. There was approximately \$300,000 of amortization expense in 2003 associated with capitalized development costs, which were fully amortized by the end of 2003.

Amortization of Acquired Developed Technology. Amortization of acquired developed technology increased from \$1.5 million in 2002 to \$2.0 million in 2003 to \$2.1 million in 2004. The increases were the result of the acquisitions of Logistics.com in December 2002, ReturnCentral in June 2003, Streamsoft in October 2003 and Avere in January 2004.

Cost of Services. Cost of services consists primarily of salaries and other personnel-related expenses of employees dedicated to professional and technical services and customer support services. The increases in cost of services from 2002 to 2003 and 2003 to 2004 were principally due to increases in salary-related costs resulting from: (i) increases of 11% and 19%, respectively, in the number of personnel dedicated to the delivery of professional and technical services; and (ii) annual compensation increases. The decrease in the services gross margin from 58% in 2002 and 2003 to 53.5% during 2004 was attributable to the shift in the product mix to open systems, fixed price contracts, including unusually high costs associated with the implementation for one particularly challenging customer, and increased costs due to international expansion and training. The implementation of our warehouse management open systems products is more costly than the implementation of our legacy warehouse management product, the iSeries or AS400, due to the lower maturity level of the product and limited experience of the services personnel and integration requirements with multiple third party hardware and software products. Due to the shift towards open systems sales and less implementation services on our other products outside of warehouse management, we do not anticipate our services gross margin to return to the 2002 and 2003 levels, although some improvement is anticipated.

Cost of Hardware and other. Cost of hardware decreased from approximately \$13.6 million in 2002 and 2003 to approximately \$13.1 million in 2004 as a direct result of lower sales of hardware. Cost of hardware and other includes out-of-pocket expenses to be reimbursed by customers of approximately \$5.4 million, \$6.5 million and \$7.0 million for 2002, 2003 and 2004, respectively. The increase in reimbursed out-of-pocket expenses is due to increased travel related to the increase in services projects.

Research and Development. Research and development expenses primarily consist of salaries and other personnel-related costs for personnel involved in our research and development activities. The increases in research and development expenses from 2002 to 2003 and 2003 to 2004 are principally attributable to: (i) increases in the number of full-time and contracted personnel dedicated to our ongoing research and development activities; (ii) the expansion of our offshore development center in India, which was formed in 2002; and (iii) annual compensation increases. Domestic research and development personnel increased by approximately 11% from the end of 2002 to the end of 2003 and 4% from the end of 2003 to the end of 2004. The number of personnel related to our offshore development center increased from 32 at December 31, 2002 to 164 at December 31, 2003 to 279 at December 31, 2004. Our principal research and development activities in 2004 focused on the expansion and integration of new products and the synchronized product release, which included expanded product functionality, interoperability and testing.

Computer software development costs are charged to research and development expense until technological feasibility is established, after which remaining software production costs are capitalized. We have defined technological feasibility as the point in time at which we have a detailed program design or a working model of the related product, depending upon the type of development effort. For the years ended December 31, 2002, 2003 and 2004, we capitalized no research and development costs because the costs between the attainment of technological feasibility for the related software product through the date of general release were insignificant.

Sales and Marketing. Sales and marketing expenses include salaries, commissions, travel and other personnel-related costs of sales and marketing personnel and the costs of our marketing and alliance programs and related activities. The increases in sales and marketing expenses from 2002 to 2003 and 2003 to 2004 are principally attributable to: (i) an increase in salary-related costs resulting from a 9% increase in the average number of international and domestic sales and marketing personnel in 2003 compared to 2002 and no increase in 2004 compared to 2003; (ii) greater incentive compensation paid on 7% and 15% higher license and hosting fees in 2003 over 2002 and 2004 over 2003, respectively; and (iii) continued global expansion of our sales and marketing programs.

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General and Administrative. General and administrative expenses consist primarily of salaries and other personnel-related costs of executive, financial, human resources, information technology and administrative personnel, as well as facilities, depreciation, legal, insurance, accounting and other administrative expenses. The increases in general and administrative expenses from 2002 to 2003 and 2003 to 2004 were principally attributable to increases in salary-related costs from increases of approximately 16% each year in the average number of general and administrative personnel, primarily from our international expansion, and increased audit and outside consulting costs associated with Sarbanes-Oxley compliance. Depreciation expense is included in general and administrative expenses and was \$6.3 million, \$7.6 million and \$7.2 million during 2002, 2003 and 2004, respectively.

Amortization of Acquisition-Related Intangibles. We have recorded goodwill and other acquisition-related intangible assets as part of the purchase accounting associated with various acquisitions, including the acquisitions of Logistics.com in December 2002, ReturnCentral in June 2003, Streamsoft in October 2003, Avere in January 2004, and eebiznet in July 2004. The increase in the amortization of acquisition-related intangibles is the result of amortization of intangible assets with finite lives that were purchased as part of the various acquisitions. Effective January 1, 2002, we adopted SFAS No. 142, which requires that goodwill and certain intangible assets no longer be amortized to earnings, but instead be tested for impairment at least annually.

In-Process Research and Development and Acquisition-Related Charges. On December 31, 2002, we acquired certain assets of Logistics.com, Inc. from Internet Capital Group for a cash payment of approximately \$21.3 million. The acquisition was accounted for under the purchase method of accounting. The purchase price was allocated to net assets acquired of \$1.2 million, acquired in-process research and development of \$1.5 million, acquired developed technology of \$1.5 million, and other intangible assets of \$17.1 million.

During the third quarter of 2003, we recorded expenses of \$885,000 relating to fees incurred in connection with two potential acquisitions that we decided not to consummate. The acquisition-related charges are presented as a separate line item in the Consolidated Statements of Income and consist primarily of legal, accounting and travel expenses associated with the two transactions.

Restructuring Charge. During the second quarter of 2003, we recorded a restructuring charge of \$893,000 relating to an internal reorganization. The reorganization more closely aligned our implementation teams and customer support organization with our technical teams. The charge consisted primarily of severance payments. Approximately \$857,000 was paid prior to December 31, 2003 and the remaining \$36,000 was and paid out in January 2004.

	<u>Year Ended</u> <u>December 31,</u> <u>2002</u>	<u>% Change</u> <u>2002 to 2003</u>	<u>Year Ended</u> <u>December 31,</u> <u>2003</u>	<u>% Change</u> <u>2003 to 2004</u>	<u>Year Ended</u> <u>December 31,</u> <u>2004</u>
Income from operations	\$ 36,778	(17%)	\$ 30,524	3%	\$ 31,418
Percentage of total revenues	21%		16%		15%
Other income, net	2,801	(2%)	2,746	19%	3,257
Percentage of total revenues	2%		1%		2%
Income tax provision	14,383	(21%)	11,425	10%	12,566
Percentage of income before income taxes	36%		34%		36%

Income from Operations. The decrease in operating income from 2002 to 2003 was attributable to a lower margin on our software fees resulting from our hosting services, a \$1.5 million decrease in the amount recovered relating to the bankrupt customer and an overall increase in operating expenses from the continued investment in global expansion initiatives and the further development of our product suite. Operating income for 2002 reflects a recovery relating to the bankrupt customer totaling \$2.3 million; a charge for in-process research and development totaling \$1.5 million associated with the acquisition of Logistics.com and non-cash, acquisition-related intangible asset amortization totaling \$1.8 million. Operating income for 2003 reflects a recovery relating to the bankrupt customer totaling \$0.8 million; acquisition-related expenses of \$0.9 million; a restructuring charge of \$0.9 million; and non-cash, acquisition-related intangible asset amortization totaling \$3.4 million. The increase in operating income from 2003 to 2004 resulted from the growth in higher margin software fees. Operating income for 2004 reflects acquisition-related intangible asset amortization totaling \$3.6 million.

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Other Income, Net. Other income, net includes interest income and interest expense and foreign currency gains and losses. Interest income decreased from \$2.1 million in 2002 to \$1.5 million in 2003 due to an overall decline in market interest rates, and increased to \$2.4 million in 2004 due to an overall increase in market interest rates along with an increase in the cash available to invest. The weighted-average interest rates on investment securities at December 31, 2002 was approximately 1.4%, as compared to 1.1% at December 31, 2003 and 2.2% at December 31, 2004. Interest expense was \$147,000 in 2002, \$13,000 in 2003, and \$26,000 in 2004. We recorded net foreign currency gains of \$0.8 million in 2002, \$1.3 million in 2003, and \$0.9 million in 2004. The foreign currency gains resulted from gains on intercompany transactions denominated in U.S. dollars with subsidiaries due to the weakening of the U.S. dollar relative to other foreign currencies, primarily the British Pound and Euro.

Income Tax Provision. The fluctuation in the income tax provision during 2003 and 2004 is directly attributable to the decrease during 2003 and increase during 2004 of income before income taxes. Our effective income tax rates were 36.3%, 34.3% and 36.2% in 2002, 2003 and 2004, respectively. Our effective income tax rate takes into account the source of taxable income, domestically by state and internationally by country, and available income tax credits. The decrease in the tax rates in 2003 was attributable to an increase in income generated in countries with lower tax rates along with an increase in the utilization of research and development credits. The increase in the tax rates in 2004 was attributable to a decrease in income generated in countries with lower tax rates. The provisions for income taxes for 2002, 2003 and 2004 do not include the \$14.0 million, \$11.3 million and \$10.7 million of tax benefits realized from stock options exercised during the years, respectively. These tax benefits reduce our income tax liabilities and are included in additional paid-in capital.

Liquidity and Capital Resources

During 2003 and 2004, we funded our operations primarily through cash generated from operations. As of December 31, 2003, we had \$155.4 million in cash, cash equivalents and investments compared to \$172.7 million at December 31, 2004.

Our operating activities provided cash of \$45.5 million in 2002, \$37.0 million in 2003 and \$44.5 million in 2004. Cash from operating activities for 2002 arose principally from a substantial increase in operating income, the income tax benefits arising from exercises of stock options by employees, partially off-set by the increase in accounts receivable. Cash from operating activities for 2003 arose principally from operating income, the income tax benefits arising from exercises of stock options by employees, the increase in deferred revenue and rent, partially off-set by the increase in accounts receivable and decreases in accounts payable and accrued liabilities. Days sales outstanding increased from 65 days at December 31, 2002 to 76 days at December 31, 2003, as a result of slower collections associated with international revenues. Cash from operating activities for 2004 arose principally from operating income, the income tax benefits arising from exercises of stock options by employees, increases in deferred revenue, accounts payable and accrued liabilities, partially off-set by the increase in accounts receivable. Days sales outstanding was 76 days at December 31, 2004, consistent with the prior year.

Our investing activities used approximately \$65.7 million, \$77.8 million, and \$20.9 million of cash during the years ended December 31, 2002, 2003 and 2004, respectively. During 2002, our principal uses of cash were \$21.2 million for the acquisition of Logistics.com, \$6.0 million for purchases of capital equipment to support our business and infrastructure and net purchases of \$38.6 million in investments. During 2003, our principal uses of cash were for net purchases of \$65.3 million in investments, purchases of capital equipment of \$7.7 million to support our business and infrastructure, \$2.6 million for the acquisitions of ReturnCentral and Streamsoft, and the \$2.0 million investment in Alien Technology. During 2004, our principal uses of cash were \$7.6 million for purchases of capital equipment to support our business and infrastructure, \$1.7 million for acquisitions and net purchases of \$11.6 million in investments.

Our financing activities used cash of approximately \$0.9 million in 2002 and \$17.9 million in 2004 and provided approximately \$9.0 million of cash in 2003. The principal uses of cash for financing activities in 2002 was for the repurchase of 260,000 shares of our common stock for approximately \$4.1 million and the repayment of \$5.3 million relating to the note payable issued in conjunction with the acquisition of Intrepa, L.L.C. in October 2000. The principal source of cash provided by financing activities in 2003 was \$9.3 million in proceeds from the issuance

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of common stock pursuant to the exercise of stock options. The principal uses of cash for financing activities in 2004 was for repurchase of 885,400 shares of our common stock for approximately \$21.8 million, partially off-set by the proceeds from the issuance of common stock pursuant to the exercise of stock options of approximately \$4.0 million. The stock purchases in 2002 and 2004 were through open market transactions as part of a publicly-announced repurchase program.

We believe there are opportunities to grow our business through the acquisition of complementary and synergistic companies, products and technologies. Any material acquisition could result in a decrease to our working capital depending on the amount, timing and nature of the consideration to be paid. Our Board of Directors has approved a stock repurchase program covering up to \$20 million of our common stock over a period ending no later than July 21, 2005, of which \$4.2 million in approved but unspent stock repurchases remains at December 31, 2004. In February 2005, our Board of Directors authorized us to purchase up to \$20 million of our common stock, including the amount that had previously been approved but not yet spent, over a period ending no later than February 3, 2006. We expect to fund purchases under the program through existing cash, cash equivalents and investments.

We believe that our existing liquidity and expected cash flows from operations will satisfy our capital requirements for normal operations for the foreseeable future. We believe that existing balances of cash, cash equivalents and short-term investments will be sufficient to meet our working capital and capital expenditure needs at least for the next twelve months, although there can be no assurance that this will be the case.

New Accounting Pronouncements

In March 2004, the Financial Accounting Standards Board (“FASB”) approved the consensus reached on the EITF Issue No. 03-1, “The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments.” The objective of this Issue is to provide guidance for identifying impaired investments. EITF 03-1 also provides new disclosure requirements for investments that are deemed to be temporarily impaired. The accounting provisions of EITF 03-1 were effective for all reporting periods beginning after June 15, 2004, while the disclosure requirements were effective only for annual periods ending after June 15, 2004. The adoption of EITF 03-1 did not have a material effect on the Consolidated Statements of Income, financial position or liquidity.

In December 2004, the FASB issued FASB Statement No. 123 (revised 2004), *Share-Based Payment*, which is a revision of FASB Statement No. 123, *Accounting for Stock-Based Compensation*. Statement 123(R) supersedes APB Opinion No. 25, *Accounting for Stock Issued to Employees*, and amends FASB Statement No. 95, *Statement of Cash Flows*. Generally, the approach in Statement 123(R) is similar to the approach described in Statement 123. However, Statement 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. Pro forma disclosure is no longer an alternative.

Statement 123(R) must be adopted no later than July 1, 2005. Early adoption will be permitted in periods in which financial statements have not yet been issued.

Statement 123(R) permits public companies to adopt its requirements using one of two methods:

1. A “modified prospective” method in which compensation cost is recognized beginning with the effective date (a) based on the requirements of Statement 123(R) for all share-based payments granted after the effective date and (b) based on the requirements of Statement 123 for all awards granted to employees prior to the effective date of Statement 123(R) that remain unvested on the effective date.
2. A “modified retrospective” method, which includes the requirements of the modified prospective method described above, but also permits entities to restate based on the amounts previously recognized under Statement 123 for purposes of pro forma disclosures either (a) all prior periods presented or (b) prior interim periods of the year of adoption.

We will adopt Statement 123(R) beginning on July 1, 2005 and are currently in the process of evaluating which method we will adopt.

As permitted by Statement 123, we currently account for share-based payments to employees using Opinion 25’s intrinsic value method and, as such, generally recognize no compensation cost for employee stock options. Accordingly, the adoption of Statement 123(R)’s fair value method will have a significant impact on our result of operations. The impact of adoption of Statement 123(R) cannot be predicted at this time because it will depend on levels of share-based payments granted in the

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future. However, had we adopted Statement 123(R) in prior periods, the impact of that standard would have approximated the impact of Statement 123 as described in the disclosure of pro forma net income and earnings per share in Note 1. Pro forma net income for 2002 was \$182,000 compared to reported net income of \$25.2 million. Pro forma net loss for 2003 and 2004 was \$6.5 million and \$8.5 million, respectively, compared to reported net income of \$21.8 million and \$22.1 million in 2003 and 2004, respectively. Statement 123(R) also requires the benefits of tax deductions in excess of recognized compensation cost to be reported as a financing cash flow, rather than as an operating cash flow as required under current literature. This requirement will reduce net operating cash flows and increase net financing cash flows in periods after adoption. While we cannot estimate what those amounts will be in the future (because they depend on, among other things, when employees exercise stock options), the amount of operating cash flows recognized in prior periods for such excess tax deductions were \$14.0 million, \$11.3 million, and \$10.7 million in 2002, 2003 and 2004, respectively.

In December 2004, the FASB issued FASB Staff Position (“FSP”) Financial Accounting Standard (“FAS”) 109-1, “Application of FASB Statement No. 109, Accounting for Income Taxes, to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004 (the Act)” that provides tax relief to U.S. domestic manufacturers. The FSP states that the manufacturers’ deduction provided for under the Act should be accounted for as a special deduction in accordance with Statement 109 rather than as a tax rate reduction. Also in December 2004, the FASB issued FSP FAS 109-2, “Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004,” addressing accounting and disclosure guidance relating to a company’s repatriation program. The additional disclosures required under this FSP are included in Note 2, Income Taxes. Both FSPs were effective upon issuance.

Off-Balance Sheet Arrangements and Aggregate Contractual Obligations

Our principal commitments as of December 31, 2004, consist of obligations under operating leases. We expect to fulfill all of the following commitments from our working capital.

Lease Commitments

We lease certain of our facilities and some of our equipment under noncancelable operating lease arrangements that expire at various dates through 2008. Rent expense for these leases aggregated \$4.0 million, \$5.0 million and \$5.9 million during fiscal 2002, 2003 and 2004, respectively.

The following table summarizes our contractual commitments as of December 31, 2004 (in thousands):

	<u>Total</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>After 2009</u>
Non-cancelable operating leases	\$ 22,233	\$ 5,554	\$ 6,373	\$ 6,007	\$ 2,715	\$ 1,298	\$ 286
Capital leases	\$ 304	\$ 152	\$ 152	\$ —	\$ —	\$ —	\$ —

Indemnifications

Our sales agreements with customers generally contain infringement indemnity provisions. Under these agreements, we agree to indemnify, defend and hold harmless the customer in connection with patent, copyright or trade secret infringement claims made by third parties with respect to the customer’s authorized use of our products and services. The indemnity provisions generally provide for our control of defense and settlement and cover costs and damages finally awarded against the customer, as well as our modification of the product so it is no longer infringing or, if it cannot be corrected, return of the product for a refund. Our sales agreements with customers sometimes also contain indemnity provisions for death, personal injury or property damage caused by our personnel or contractors in the course of performing services to customers. Under these agreements, we agree to indemnify, defend and hold harmless the customer in connection with death, personal injury and property damage claims made by third parties with respect to actions of our personnel or contractors. The indemnity provisions generally provide for our control of defense and settlement and cover costs and damages finally awarded against the customer. The indemnity obligations contained in sales agreements generally have no specified expiration date and no specified monetary limitation on the amount of award covered. We have not previously incurred costs to settle claims or pay awards under these indemnification obligations. We account for these indemnity obligations in accordance with SFAS No. 5, *Accounting for Contingencies*, and record a liability for these obligations when a loss is probable and reasonably estimable. We have not recorded any liabilities for these agreements as of December 31, 2004.

We warrant to our customers that our software products will perform in all material respects in accordance with our standard published specifications in effect at the time of delivery of the licensed products to the customer for 90 days after first use of the licensed products, but no more than 24 months after execution of the license agreement. Additionally, we warrant to our customers that our services will be performed consistent with generally accepted industry standards or specific service levels through completion of the agreed upon services. If necessary, we would provide for the estimated cost of product and service warranties based on specific warranty claims and claim history. However, we have not incurred significant recurring expense under our product or service warranties. As a result, we believe the estimated fair value of these agreements is nominal. Accordingly, we have no liabilities recorded for these agreements as of December 31, 2004.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk

Foreign Business

Our international business is subject to risks typical of an international business, including, but not limited to: differing economic conditions, changes in political climate, differing tax structures, other regulations and restrictions, and foreign exchange rate volatility. Our international operations currently include business activity out of offices in the United Kingdom, the Netherlands, Germany, France, Australia, Japan, China, Singapore and India. When the U.S. dollar strengthens against a foreign currency, the value of our sales and expenses in that currency converted to U.S. dollars decreases. When the U.S. dollar weakens, the value of our sales and expenses in that currency converted to U.S. dollars increases.

We recognized foreign exchange rate gains of approximately \$0.8 million during 2002, \$1.3 million in 2003, and \$0.9 million in 2004, classified in "Other income, net" on our Consolidated Statements of Income. A fluctuation of 10% in the period end exchange rates at December 31, 2003 and December 31, 2004 relative to the US dollar would result in changes of approximately \$0.2 million and \$1.0 million in the reported foreign currency gains, respectively.

Interest Rates

We invest our cash in a variety of financial instruments, including taxable and tax-advantaged floating rate and fixed rate obligations of corporations, municipalities, and local, state and national governmental entities and agencies. These investments are denominated in U.S. dollars. Cash balances in foreign currencies overseas are derived from operations.

We account for our investment instruments in accordance with Statement of Financial Accounting Standards No. 115, "Accounting for Certain Investments in Debt and Equity Securities" ("SFAS No. 115"). All of the cash equivalents and investments are treated as available-for-sale under SFAS No. 115.

Investments in both fixed rate and floating rate interest earning instruments carry a degree of interest rate risk. Fixed rate securities may have their fair market value adversely impacted due to a rise in interest rates, while floating rate securities may produce less income than expected if interest rates fall. Due in part to these factors, our future investment income may fall short of expectations due to changes in interest rates, or we may suffer losses in principal if forced to sell securities that have seen a decline in market value due to changes in interest rates. The weighted-average interest rate on investment securities at December 31, 2003 was approximately 1.1%, as compared to 2.2% at December 31, 2004. The fair value of cash equivalents and investments held at December 31, 2003 and 2004 was \$149.3 million and \$161.3 million, respectively. Based on the average investments outstanding during 2003 and 2004, increases or decreases of 25 basis points would result in increases or decreases to interest income of approximately \$325,000 and \$400,000 in 2003 and 2004, respectively, from the reported interest income.

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Item 8. Financial Statements and Supplementary Data

Financial Statements

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MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Management of the Company is responsible for establishing and maintaining effective internal control over financial reporting as defined in Rules 13a-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting is designed to provide reasonable assurance to the Company's management and Board of Directors regarding the preparation and fair presentation of published financial statements. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation.

Under the supervision and with the participation of our management, including our Chief Financial Officer and Principal Accounting Officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2004 based on the framework in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on that evaluation, our management concluded that our internal control over financial reporting was not effective as of December 31, 2004 due to a material weakness.

A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. As of December 31, 2004, management has determined that the Company's controls over monitoring vendor-specific objective evidence of fair value for undelivered elements related to sales contracts with multiple revenue elements were insufficient. Although no material misstatements related to revenue recognition were discovered, until this deficiency is remediated, there is a more than remote likelihood that a material misstatement to the annual or interim consolidated financial statements could occur and not be prevented or detected by the Company's controls in a timely manner. Because of this material weakness, we have concluded that the Company did not maintain effective internal control over financial reporting as of December 31, 2004 based on the criteria in the *Internal Control — Integrated Framework*.

Management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2004, has been audited by Ernst & Young LLP, the independent registered public accounting firm who also audited the Company's consolidated financial statements. Ernst & Young's attestation report on management's assessment of the Company's internal control over financial reporting appears beginning on page 31 hereof.

/s/ Steven R. Norton

Steven R. Norton
Senior Vice President and Chief Financial Officer

/s/ Peter F. Sinisgalli

Peter F. Sinisgalli
President and Chief Executive Officer

Report of Independent Registered Public Accounting Firm on Internal Control over Financial Reporting

**The Board of Directors and Shareholders
Manhattan Associates, Inc.**

We have audited management's assessment, included in the accompanying Management's Report on Internal Control over Financial Reporting, that Manhattan Associates, Inc. did not maintain effective internal control over financial reporting as of December 31, 2004, because of the effect of the material weakness identified in management's assessment related to insufficient controls over monitoring vendor-specific objective evidence of fair value for undelivered elements related to sales contracts with multiple revenue elements, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). Manhattan Associates, Inc.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

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

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

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

A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. The following material weakness has been identified and included in management's assessment. As of December 31, 2004, management has determined that the Company's controls over monitoring vendor-specific objective evidence of fair value for undelivered elements related to sales contracts with multiple revenue elements were insufficient. Although no material misstatements related to revenue recognition were discovered, until this deficiency is remediated, there is a more than remote likelihood that a material misstatement to the annual or interim consolidated financial statements could occur and not be prevented or detected by the Company's controls in a timely manner. This material weakness was considered in determining the nature, timing, and extent of audit tests applied in our audit of the 2004 financial statements, and this report does not affect our report dated March 16, 2005 on those financial statements.

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In our opinion, management's assessment that Manhattan Associates, Inc. did not maintain effective internal control over financial reporting as of December 31, 2004, is fairly stated, in all material respects, based on the COSO control criteria. Also, in our opinion, because of the effect of the material weakness described above on the achievement of the objectives of the control criteria, Manhattan Associates, Inc. has not maintained effective internal control over financial reporting as of December 31, 2004, based on the COSO control criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Manhattan Associates, Inc. and subsidiaries as of December 31, 2003 and 2004, and the related consolidated statements of income, shareholders' equity, comprehensive income and cash flows for each of the three years in the period ended December 31, 2004 and our report dated March 16, 2005 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP

Atlanta, Georgia
March 16, 2005

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM
ON THE CONSOLIDATED FINANCIAL STATEMENTS**

**The Board of Directors and Shareholders
Manhattan Associates, Inc.**

We have audited the accompanying consolidated balance sheets of Manhattan Associates, Inc. and subsidiaries (the “Company”) as of December 31, 2003 and 2004, and the related consolidated statements of income, shareholders’ equity, comprehensive income and cash flows for each of the three years in the period ended December 31, 2004. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and schedule are the responsibility of the Company’s management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of the Company at December 31, 2003 and 2004, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2004, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of the Company’s internal control over financial reporting as of December 31, 2004, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 16, 2005 expressed an unqualified opinion on management’s assessment and an adverse opinion on the effectiveness of internal control over financial reporting.

/s/ ERNST & YOUNG LLP

Atlanta, Georgia
March 16, 2005

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(In thousands, except share and per share data)

	December 31,	
	2003	2004
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 31,407	\$ 37,429
Short-term investments	114,549	88,794
Accounts receivable, net of a \$3,181 and \$4,171 allowance for doubtful accounts in 2003 and 2004, respectively	40,790	45,996
Deferred income taxes	2,086	4,257
Refundable income taxes	—	776
Prepaid expenses and other current assets	4,627	6,311
Total current assets	<u>193,459</u>	<u>183,563</u>
Property and equipment, net	13,015	13,598
Long-term investments	9,447	46,433
Acquisition-related intangible assets, net	10,942	8,320
Goodwill, net	31,688	32,469
Deferred income taxes	4,110	3,583
Other assets	2,221	2,535
Total assets	<u>\$ 264,882</u>	<u>\$ 290,501</u>
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 5,235	\$ 6,800
Accrued compensation and benefits	6,702	6,639
Accrued liabilities	3,617	6,079
Current portion of capital lease obligations	132	139
Income taxes payable	1,470	2,233
Deferred rent	203	203
Deferred revenue	17,937	22,710
Total current liabilities	<u>35,296</u>	<u>44,803</u>
Long-term portion of capital lease obligations	288	148
Deferred income taxes	396	466
Deferred rent	660	457
Commitments and contingencies (see footnote 5)		
Shareholders' equity:		
Preferred stock, no par value; 20,000,000 shares authorized, no shares issued or outstanding in 2003 or 2004	—	—
Common stock, \$.01 par value; 100,000,000 shares authorized, 30,086,164 shares issued and outstanding in 2003 and 29,580,724 shares issued and outstanding in 2004	301	296
Additional paid-in-capital	143,766	138,074
Retained earnings	83,653	105,762
Accumulated other comprehensive income	720	882
Deferred compensation	(198)	(387)
Total shareholders' equity	<u>228,242</u>	<u>244,627</u>
Total liabilities and shareholders' equity	<u>\$ 264,882</u>	<u>\$ 290,501</u>

The accompanying notes are an integral part of these Consolidated Balance Sheets.

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF INCOME

(In thousands, except per share data)

	Year Ended December 31,		
	2002	2003	2004
Revenue:			
Software and hosting fees	\$ 40,233	\$ 43,229	\$ 49,886
Services	110,516	129,320	141,492
Hardware and other	22,675	23,417	23,541
Recovery relating to bankrupt customer	2,297	848	—
Total revenue	<u>175,721</u>	<u>196,814</u>	<u>214,919</u>
Costs and expenses:			
Cost of software and hosting fees	1,927	4,470	4,085
Amortization of acquired developed technology	1,500	1,999	2,079
Cost of services	46,611	54,218	65,853
Cost of hardware and other	19,027	20,123	20,071
Research and development	20,780	26,982	28,822
Sales and marketing	26,413	31,200	34,049
General and administrative	20,943	24,087	27,046
In-process research and development and other acquisition-related charges	1,470	885	—
Restructuring charge	—	893	—
Amortization of acquisition-related intangibles	272	1,433	1,496
Total operating expenses	<u>138,943</u>	<u>166,290</u>	<u>183,501</u>
Income from operations	36,778	30,524	31,418
Interest income	2,098	1,503	2,383
Interest expense	(147)	(13)	(26)
Other income, net	850	1,256	900
Income before income taxes	39,579	33,270	34,675
Income tax provision	14,383	11,425	12,566
Net income	<u>\$ 25,196</u>	<u>\$ 21,845</u>	<u>\$ 22,109</u>
Basic net income per share	<u>\$ 0.88</u>	<u>\$ 0.74</u>	<u>\$ 0.74</u>
Diluted net income per share	<u>\$ 0.83</u>	<u>\$ 0.71</u>	<u>\$ 0.71</u>
Weighted average shares:			
Basic	<u>28,653</u>	<u>29,532</u>	<u>30,056</u>
Diluted	<u>30,451</u>	<u>30,882</u>	<u>31,067</u>

The accompanying notes are an integral part of these Consolidated Statements of Income.

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(In thousands, except share data)

	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Deferred Compensation	Total Shareholders' Equity
	Shares	Amount					
Balance, December 31, 2001	27,719,753	\$ 277	\$ 104,445	\$ 36,612	\$ (25)	\$ (105)	\$ 141,204
Cancellation of common stock options	—	—	(5)	—	—	5	—
Exercise of common stock options	1,571,354	16	8,620	—	—	—	8,636
Buyback of Manhattan common stock	(260,000)	(3)	(4,107)	—	—	—	(4,110)
Tax benefit from stock options exercised	—	—	14,024	—	—	—	14,024
Amortization of deferred compensation	—	—	—	—	—	58	58
Foreign currency translation adjustment	—	—	—	—	306	—	306
Unrealized loss on investments	—	—	—	—	(28)	—	(28)
Net income	—	—	—	25,196	—	—	25,196
Balance, December 31, 2002	29,031,107	290	122,977	61,808	253	(42)	185,286
Cancellation of common stock options	—	—	(24)	—	—	24	—
Exercise of common stock options	1,046,948	11	9,259	—	—	—	9,270
Issuance of restricted stock	8,109	—	232	—	—	(232)	—
Tax benefit from stock options exercised	—	—	11,322	—	—	—	11,322
Amortization of deferred compensation	—	—	—	—	—	52	52
Foreign currency translation adjustment	—	—	—	—	482	—	482
Unrealized loss on investments	—	—	—	—	(15)	—	(15)
Net income	—	—	—	21,845	—	—	21,845
Balance, December 31, 2003	30,086,164	301	143,766	83,653	720	(198)	228,242
Exercise of common stock options	334,157	3	4,036	—	—	—	4,039
Issuance of restricted stock	45,803	1	1,289	—	—	(1,290)	—
Buyback of Manhattan common stock	(885,400)	(9)	(21,754)	—	—	—	(21,763)
Tax benefit from stock options exercised	—	—	10,737	—	—	—	10,737
Amortization of deferred compensation	—	—	—	—	—	1,101	1,101
Foreign currency translation adjustment	—	—	—	—	421	—	421
Unrealized loss on investments	—	—	—	—	(259)	—	(259)
Net income	—	—	—	22,109	—	—	22,109
Balance, December 31, 2004	29,580,724	\$ 296	\$ 138,074	\$ 105,762	\$ 882	\$ (387)	\$ 244,627

The accompanying notes are an integral part of these Consolidated Statements of Shareholders' Equity.

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands)

	<u>Year Ended December 31,</u>		
	<u>2002</u>	<u>2003</u>	<u>2004</u>
Net income	\$ 25,196	\$ 21,845	\$ 22,109
Other comprehensive income (loss), net of tax:			
Foreign currency translation adjustment, net of tax expense of \$174, \$248, and \$222 in 2002, 2003 and 2004, respectively	306	482	421
Unrealized loss on investments, net of tax benefit of \$16, \$8, and \$136 in 2002, 2003 and 2004, respectively	<u>(28)</u>	<u>(15)</u>	<u>(259)</u>
Other comprehensive income	<u>278</u>	<u>467</u>	<u>162</u>
Comprehensive income	<u>\$ 25,474</u>	<u>\$ 22,312</u>	<u>\$ 22,271</u>

The accompanying notes are an integral part of these Consolidated Statements of Comprehensive Income.

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

	Year Ended December 31,		
	2002	2003	2004
Cash flows from operating activities:			
Net income	\$ 25,196	\$ 21,845	\$ 22,109
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	6,801	7,982	7,207
Amortization of acquired developed technology and acquisition-related intangibles	1,772	3,432	3,575
Stock compensation	58	52	1,101
Loss (gain) on disposal of equipment	(8)	—	42
Unrealized foreign currency gain	(520)	(281)	(643)
Acquired in-process research and development	1,470	—	—
Tax benefit of options exercised	14,024	11,322	10,737
Deferred income taxes	(627)	(273)	(1,632)
Changes in operating assets and liabilities, net of acquisitions:			
Accounts receivable, net	(3,685)	(6,814)	(4,018)
Other assets	1,437	(1,345)	(1,878)
Accounts payable	(2,237)	(1,750)	1,413
Accrued liabilities	(1,017)	(658)	2,089
Income taxes	2,314	253	26
Deferred rent	—	863	(203)
Deferred revenue	468	2,367	4,556
Net cash provided by operating activities	45,446	36,995	44,481
Cash flows from investing activities:			
Purchases of property and equipment	(5,990)	(7,733)	(7,572)
Purchases of investments	(114,728)	(609,078)	(1,095,608)
Maturities and sales of investments	76,151	543,751	1,083,982
Payments in connection with the investment in Alien Technologies	—	(2,000)	—
Payments in connection with various acquisitions, net of cash acquired (see footnote 6)	(21,163)	(2,750)	(1,698)
Net cash used in investing activities	(65,730)	(77,810)	(20,896)
Cash flows from financing activities:			
Repayment of note payable	(5,250)	—	—
Payment of capital lease obligations	(191)	(234)	(133)
Purchase of Manhattan common stock	(4,110)	—	(21,763)
Proceeds from issuance of common stock from option exercises	8,636	9,270	4,039
Net cash provided by (used in) financing activities	(915)	9,036	(17,857)
Foreign currency impact on cash	334	22	294
Increase (decrease) in cash and cash equivalents	(20,865)	(31,757)	6,022
Cash and cash equivalents, beginning of year	84,029	63,164	31,407
Cash and cash equivalents, end of year	\$ 63,164	\$ 31,407	\$ 37,429
Supplemental cash flow disclosures:			
Cash paid for interest	\$ 248	\$ 14	\$ 26
Cash paid (refund received) for income taxes	\$ (2,478)	\$ 163	\$ 2,816
Non-cash transaction:			
Issuance of restricted stock	\$ —	\$ 232	\$ 1,290

The accompanying notes are an integral part of these Consolidated Statements of Cash Flows.

MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

December 31, 2002, 2003 and 2004

1. Organization and Summary of Significant Accounting Policies

Organization and Business

Manhattan Associates, Inc. (“Manhattan” or the “Company”) is a provider of technology-based solutions to improve supply chain effectiveness and efficiencies across the supply chain. The Company’s solutions are designed to optimize the receipt, storage, assembly and distribution of inventory and the management of equipment and personnel within a distribution center, enhance the management of transportation costs and transportation providers, and improve the management of trading partners. The Company’s solutions consist of *software*, including, the licensing or hosting of a comprehensive suite of robust and modular software products; *services*, including design, configuration, implementation and training services, plus customer support services and software enhancements subscriptions; and *hardware*.

The Company’s operations are in North America, Europe and Asia/Pacific. Its European operations are conducted through its wholly-owned subsidiaries, Manhattan Associates Limited, Manhattan Associates Europe B.V., Manhattan France SARL, and Manhattan Associates GmbH, in the United Kingdom, the Netherlands, France, and Germany, respectively. The Company’s Asia/Pacific operations are conducted through its wholly-owned subsidiaries, Manhattan Associates Pty Ltd., Manhattan Associates KK, Manhattan Associates Software (Shanghai), Co. Ltd., Manhattan Associates Software Pte Ltd., and Manhattan Associates (India) Development Centre Private Limited in Australia, Japan, China, Singapore, and India, respectively. The Company occasionally sells its products and services in other countries, such as countries in Latin America, through its direct sales channel as well as various reseller channels.

Principles of Consolidation and Foreign Currency Translation

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

The financial statements of foreign subsidiaries have been translated into United States dollars in accordance with Financial Accounting Standards Board (“FASB”) Statement of Financial Accounting Standards (“SFAS”) No. 52, *Foreign Currency Translation*. Revenues and expenses from international operations were denominated in the respective local currencies and translated using the average monthly exchange rates for the year. All balance sheet accounts have been translated using the exchange rates in effect at the balance sheet date and the effect of changes in exchange rates from year to year are disclosed as a separate component of shareholders’ equity and comprehensive income.

Summary of Significant Accounting Policies

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with original maturities of three months or less to be cash or cash equivalents.

1. Organization and Summary of Significant Accounting Policies (continued)

Concentrations of Credit Risk

Financial instruments that potentially subject the Company to significant concentrations of credit risk consist principally of cash and cash equivalents, short- and long-term investments and accounts receivable. The Company maintains cash and cash equivalents and short- and long-term investments with various financial institutions. The Company's sales are primarily to companies located in the United States, Europe and Asia. The Company performs periodic credit evaluations of its customers' financial condition and does not require collateral. Accounts receivable are due principally from large U.S., European and Asia Pacific companies under stated contract terms. Accounts receivable as of December 31, 2003 for the United States, Europe and Asia Pacific companies were \$31.1 million, \$9.3 million and \$0.4 million, respectively. Accounts receivable as of December 31, 2004 for the United States, Europe and Asia Pacific companies were \$32.3 million, \$11.0 million and \$2.7 million, respectively. The Company provides for estimated uncollectible amounts and credit losses at the time of sale.

The Company's top five customers in aggregate accounted for 16%, 16% and 14% of total revenue for each of the years ended December 31, 2002, 2003, and 2004, respectively. No single customer accounted for more than 10% of revenue in the years ended December 31, 2002, 2003, and 2004. On January 22, 2002, a significant customer for 2001 filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code. As a result of the filing, the uncertainties around the bankruptcy proceedings and the ultimate timing of payment, we recorded an allowance of \$4.3 million in 2001 to effectively defer revenues arising in the fourth quarter of 2001 from the significant customer, but unpaid at the time of the bankruptcy declaration. The allowance included approximately \$2.3 million of software fees, \$1.6 million of fees for professional services and \$0.4 million of hardware. In September 2002, the United States Bankruptcy Court for the Northern District of Illinois Eastern Division authorized the significant customer's request to assume the software license, services, support and enhancement agreement. With the appeals process completed in October 2002, the Company recovered approximately \$2.3 million of the receivable during the fourth quarter of 2002. Upon receiving the final cash settlement in June 2003, subsequent to the significant customer emerging from bankruptcy, the Company recovered an additional \$848,000 of the receivable during the second quarter of 2003. The recoveries were recorded as separate revenue line items in the Consolidated Statements of Income and reductions to the allowance for doubtful accounts in the Consolidated Balance Sheets during the respective quarters.

Investments

The Company's investments in marketable securities consist of debt instruments of the U.S. Treasury, U.S. government agencies, state and local government agencies and corporate commercial paper. These investments are categorized as available-for-sale securities and recorded at fair market value, as defined by SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities." Investments with original maturities of 90 days or less are classified as cash equivalents; investments with original maturities of greater than 90 days but less than one year are classified as short-term investments; and those with original maturities of greater than one year are classified as long-term investments. The long-term investments consist of debt instruments of U.S. government agencies and mature after one year through five years. The Company holds investments in Auction Rate Securities, which have original maturities greater than one year, but which have auctions to reset the yield every 7 to 35 days. The Company has classified these assets as short-term investments. Unrealized holding gains and losses are reflected as a net amount in a separate component of shareholders' equity until realized. For the purposes of computing realized gains and losses, cost is identified on a specific identification basis.

1. Organization and Summary of Significant Accounting Policies (continued)

The following is a summary of the available-for-sale securities (in thousands):

	Cost	Unrealized gains	Unrealized losses	Market Value	Cash and Equivalents	Short-term Investments	Long-term Investments
December 31, 2003							
Investments:							
U.S. government obligations	\$ 25,823	\$ 14	\$ 9	\$ 25,828	\$ 13,150	\$ 4,231	\$ 8,447
State and local obligations	110,909	—	—	110,909	—	109,909	1,000
U.S. corporate commercial paper	12,580	—	—	12,580	12,171	409	—
Total	\$ 149,312	\$ 14	\$ 9	\$ 149,317	\$ 25,321	\$ 114,549	\$ 9,447
	Cost	Unrealized gains	Unrealized losses	Market Value	Cash and Equivalents	Short-term Investments	Long-term Investments
December 31, 2004							
Investments:							
U.S. government obligations	\$ 7,659	\$ —	\$ 16	\$ 7,643	\$ —	\$ —	\$ 7,643
State and local obligations	87,450	—	1	87,449	—	85,949	1,500
U.S. corporate commercial paper	66,568	—	373	66,195	26,060	2,845	37,290
Total	\$ 161,677	\$ —	\$ 390	\$ 161,287	\$ 26,060	\$ 88,794	\$ 46,433

As of December 31, 2004, \$38.1 million, \$35.7 million, \$0 and \$87.5 million of the Company's investments mature within 1 year, after 1 year through 5 years, after 5 years through 10 years and after 10 years, respectively.

On July 11, 2003, the Company made a cash investment of \$2 million in Alien Technology Corp. ("Alien"), a provider of ultra-low cost radio frequency identification (RFID) tags and hardware. The investment represents approximately a 1.5% ownership interest in the privately-held corporation. The Company's maximum exposure to loss as a result of its involvement with Alien is its investment of \$2 million. The investment has been accounted for under the cost method, and is included in "Other Assets" on the Consolidated Balance Sheets. The fair value of this investment is not estimated as there were no identified events or changes in circumstances that had a significant adverse effect on the fair value of the investment.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Significant estimates include the allowance for doubtful accounts, which is based upon an evaluation of historical amounts written-off, the Company's customers' ability to pay and general economic conditions; the useful lives of intangible assets; self insurance accruals; the recoverability or impairment of intangible asset values; and the Company's effective income tax rate and deferred tax assets, which are based upon the Company's expectations of future taxable income, allowable deductions, and projected tax credits. Actual results could differ from these estimates.

Fair Value of Financial Instruments

The carrying values of cash, accounts receivable, accounts payable, and other financial instruments included in the accompanying Consolidated Balance Sheets approximate their fair values principally due to the short-term maturities of these instruments. Unrealized gains and losses on investments are included as a separate component of "Accumulated other comprehensive income", net of any related tax effect, in the Consolidated Balance Sheets.

1. Organization and Summary of Significant Accounting Policies (continued)

Risks Associated with Single Business Line, Technological Advances, and Foreign Operations

The Company currently derives a substantial portion of its revenues from sales of its software and related services and hardware. The markets for supply chain execution are subject to rapid technological change, changing customer needs, frequent new product introductions, and evolving industry standards that may render existing products and services obsolete. As a result, the Company's position in these markets could be eroded rapidly by unforeseen changes in customer requirements for application features, functions, and technologies. The Company's growth and future operating results will depend, in part, upon its ability to enhance existing applications and develop and introduce new applications that meet changing customer requirements that respond to competitive products and that achieve market acceptance. Any factor adversely affecting the markets for supply chain execution solutions could have an adverse effect on the Company's business, financial condition, and results of operations.

The Company's international business is subject to risks typical of an international business, including, but not limited to: differing economic conditions, changes in political climate, differing tax structures, other regulations and restrictions, and foreign exchange rate volatility. Accordingly, the future results could be materially adversely impacted by changes in these or other factors. The Company recognized foreign exchange rate gains of approximately \$830,000 in 2002, \$1,283,000 in 2003 and \$927,000 in 2004, classified in "Other income, net" on the Consolidated Statements of Income.

Revenue Recognition

The Company's revenue consists of revenues from the licensing and hosting of software; fees from consulting, implementation and training services (collectively, "professional services"), plus customer support services and software enhancement subscriptions; and sales of hardware.

The Company recognizes software license revenue under Statement of Position No. 97-2, "Software Revenue Recognition" ("SOP 97-2"), as amended by Statement of Position No. 98-9, "Software Revenue Recognition, With Respect to Certain Transactions" ("SOP 98-9"), specifically when the following criteria are met: (1) a signed contract is obtained; (2) delivery of the product has occurred; (3) the license fee is fixed or determinable; and (4) collectibility is probable. SOP 98-9 requires recognition of revenue using the "residual method" when (1) there is vendor-specific objective evidence of the fair values of all undelivered elements in a multiple-element arrangement that is not accounted for using long-term contract accounting; (2) vendor-specific objective evidence of fair value does not exist for one or more of the delivered elements in the arrangement; and (3) all revenue-recognition criteria in SOP 97-2, other than the requirement for vendor-specific objective evidence of the fair value of each delivered element of the arrangement are satisfied. For those contracts that contain significant customization or modifications, license revenue is recognized under the percentage of completion method.

The Company's services revenue consists of fees generated from professional services, customer support services and software enhancement subscriptions related to the Company's software products. Fees from professional services performed by the Company are generally billed on an hourly basis, and revenue is recognized as the services are performed. Professional services are sometimes rendered under agreements in which billings are limited to contractual maximums or based upon a fixed-fee for portions of or all of the engagement. Revenue related to fixed-fee based contracts is recognized on a percent complete basis based on the hours incurred. Project losses are provided for in their entirety in the period in which they become known. Revenue related to customer support services and software enhancement subscriptions are generally paid in advance and recognized ratably over the term of the agreement, typically 12 months.

Hardware revenue is generated from the resale of a variety of hardware products, developed and manufactured by third parties, that are integrated with and complementary to the Company's software solutions. As part of a complete solution, the Company's customers frequently purchase hardware from the Company in conjunction with the licensing of software. These products include computer hardware, radio frequency terminals networks, RFID chip readers, bar code printers and scanners, and other peripherals. Hardware revenue is recognized upon shipment to the customer when title passes. The Company generally purchases hardware from its vendors only after receiving an order from a customer. As a result, the Company does not maintain significant hardware inventory.

1. Organization and Summary of Significant Accounting Policies (continued)

In accordance with the FASB's Emerging Issues Task Force Issue No. 01-14 ("EITF No. 01-14"), "Income Statement Characterization of Reimbursements Received for Out-of-Pocket Expenses Incurred," the Company recognizes amounts associated with reimbursements from customers for out-of-pocket expenses as revenue. Such amounts have been classified to hardware and other revenue. The total amount of expense reimbursement recorded to revenue was \$5.4 million, \$6.5 million and \$7.0 million for 2002, 2003 and 2004, respectively.

Deferred Revenue

Deferred revenue represents amounts collected prior to having completed performance of professional services, customer support services and software enhancement subscriptions and significant remaining obligations under license agreements. The Company expects to complete such services or obligations within the next twelve months.

Returns and Allowances

The Company has not experienced significant returns or warranty claims to date and, as a result, has not recorded a provision for the cost of returns and product warranty claims at December 31, 2003 or 2004.

The Company records an allowance for doubtful accounts based on the historical experience of write-offs and a detailed assessment of accounts receivable. Additions to the allowance for doubtful accounts generally represent a sales allowance on services revenue, which are recorded to operations as a reduction to services revenue. The total amounts charged to operations were \$3.1 million, \$3.5 million and \$4.0 million for 2002, 2003 and 2004, respectively. In estimating the allowance for doubtful accounts, management considers the age of the accounts receivable, the Company's historical write-offs, and the credit worthiness of the customer, among others. Should any of these factors change, the estimates made by management will also change accordingly, which could affect the level of the Company's future provision for doubtful accounts. Uncollectible accounts are written off when it is determined that the specific balance is not collectible.

Property and Equipment

Property and equipment consists of furniture, computers, other office equipment, purchased software for internal use, and leasehold improvements recorded at cost. The Company depreciates the cost of furniture, computers, other office equipment and purchased software on a straight-line basis over their estimated useful lives (three years for computer equipment and software, five years for office equipment, seven years for furniture). Leasehold improvements are depreciated over the lesser of their useful lives or the term of the lease. Included in computer equipment and software are assets under a capital lease of approximately \$247,000 as of December 31, 2003 and 2004. Accumulated depreciation relating to the assets under a capital lease was \$0 and \$82,000 as of December 31, 2003 and 2004, respectively. Depreciation and amortization expense for property and equipment, including assets under a capital lease, for the years ended December 31, 2002, 2003 and 2004 was approximately \$6,275,000, \$7,639,000 and \$7,207,000, respectively, and was included in general and administrative expenses in the Consolidated Statements of Income.

Property and equipment, at cost, consist of the following (in thousands):

	December 31,	
	2003	2004
Computer equipment and software	\$ 23,624	\$ 29,198
Furniture and office equipment	7,432	8,221
Leasehold improvements	4,743	5,258
	<u>35,799</u>	<u>42,677</u>
Less accumulated depreciation and amortization	<u>(22,784)</u>	<u>(29,079)</u>
	<u>\$ 13,015</u>	<u>\$ 13,598</u>

[Table of Contents](#)**1. Organization and Summary of Significant Accounting Policies (continued)***Acquisition-Related Intangible Assets*

Acquisition-related intangible assets are stated at historical cost and include acquired software and certain other intangible assets with definite lives. The acquired software is being amortized over the greater of the amount computed using (a) the ratio that current gross revenues for a product bear to the total of current and anticipated future gross revenues for that product or (b) the straight-line method over the remaining estimated economic life of the product including the period being reported on. The other intangible assets are being amortized on a straight-line basis over a period of two to ten years. Total amortization expense related to acquisition-related intangible assets was approximately \$1,772,000, \$3,432,000 and \$3,575,000 for the years ended December 31, 2002, 2003 and 2004, respectively, and is included in amortization of acquired developed technology and amortization of acquisition-related intangibles in the accompanying Consolidated Statements of Income.

Acquisition-Related Intangible Assets consist of the following (in thousands):

	December 31,	
	2003	2004
Cost:		
Acquired software	\$ 10,218	\$ 11,171
Other intangible assets with definite lives	8,597	8,597
	<u>18,815</u>	<u>19,768</u>
Accumulated amortization:		
Acquired software	5,460	7,528
Other intangible assets with definite lives	2,413	3,920
	<u>7,873</u>	<u>11,448</u>
Net book value:		
Acquired software	\$ 4,758	\$ 3,643
Other intangible assets with definite lives	6,184	4,677
	<u>\$ 10,942</u>	<u>\$ 8,320</u>

The Company expects amortization expense for the next five years to be as follows based on intangible assets as of December 31, 2004 (in thousands):

2005	\$ 3,264
2006	2,014
2007	1,855
2008	744
2009	418
Thereafter	25

Goodwill

Goodwill, which represents the excess of purchase price over fair value of net identified tangible and intangible assets and liabilities acquired is no longer being amortized. On January 1, 2002, the Company adopted SFAS No. 142, "Goodwill and Other Intangible Assets." Under the new statement, the Company no longer amortizes goodwill, but instead tests for impairment on at least an annual basis. Goodwill consists of the following (in thousands):

	December 31,	
	2003	2004
Goodwill	\$ 36,268	\$ 37,049
Less accumulated amortization	(4,580)	(4,580)
	<u>\$ 31,688</u>	<u>\$ 32,469</u>

Approximately \$35.8 million of the gross Goodwill is deductible for income tax purposes.

1. Organization and Summary of Significant Accounting Policies (continued)

Software Development Costs

Research and development expenses are charged to expense as incurred. The Company determines the amount of development costs capitalizable under the provisions of SFAS No. 86, "Accounting for Costs of Computer Software to Be Sold, Leased, or Otherwise Marketed." Computer software development costs are charged to research and development expense until technological feasibility is established, after which remaining software production costs are capitalized in accordance with SFAS No. 86. The Company has defined technological feasibility as the point in time at which the Company has a detailed program design or a working model of the related product, depending on the type of development efforts. For the years ended December 31, 2002, 2003 and 2004, the Company capitalized no internal research and development costs because the costs incurred between the attainment of technological feasibility for the related software product through the date when the product was available for general release to customers has been insignificant. Total amortization expense related to software development costs capitalized prior to 2002 was approximately \$526,000, \$343,000 and \$0 for the years ended December 31, 2002, 2003 and 2004, respectively, and is included in cost of software and hosting fees in the accompanying Consolidated Statements of Income. As of December 31, 2003 and 2004, all capitalized development costs were fully amortized.

Impairment of Long-Lived and Intangible Assets

The Company periodically reviews the values assigned to long-lived assets, including property and certain intangible assets, to determine whether events and circumstances have occurred which indicate that the remaining estimated useful lives may warrant revision or that the remaining balances may not be recoverable. In such reviews, undiscounted cash flows associated with these assets are compared with their carrying value to determine if a write-down to fair value is required. Management believes the long-lived and intangible assets in the accompanying Consolidated Balance Sheets are fairly valued.

The evaluation of asset impairment requires management to make assumptions about future cash flows over the life of the asset being evaluated. These assumptions require significant judgment, and actual results may differ from assumed and estimated amounts.

Impairment of Goodwill

In accordance with SFAS No. 142, "Goodwill and Other Intangible Assets," which was adopted in its entirety on January 1, 2002, the Company evaluates the carrying value of goodwill and other intangible assets annually as of December 31 and between annual evaluations if events occur or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying amount. Such circumstances could include, but are not limited to, (1) a significant adverse change in legal factors or in business climate, (2) unanticipated competition, or (3) an adverse action or assessment by a regulator. When evaluating whether the goodwill or other intangible asset is impaired, the Company compares the fair value of the reporting unit to which the goodwill or other intangible asset is assigned to its carrying amount, including goodwill and the other intangible assets. If the carrying amount of a reporting unit exceeds its fair value, then the amount of the impairment loss must be measured. The impairment loss would be calculated by comparing the implied fair value of reporting unit goodwill to its carrying amount. In calculating the implied fair value of goodwill or other intangible assets, the fair value of the reporting unit is allocated to all of the other assets and liabilities of that unit based on their fair values. The excess of the fair value of a reporting unit over the amount assigned to its other assets and liabilities is the implied fair value of goodwill. The initial evaluation of goodwill and other intangible assets completed as of June 30, 2002 in accordance with SFAS No. 142 resulted in no impairment losses. Additionally, the Company performed its periodic review of its goodwill and other intangible assets for impairment as of December 31, 2002, 2003 and 2004, and did not identify any asset impairment as a result of the review.

1. Organization and Summary of Significant Accounting Policies (continued)

Guarantees and Indemnifications

The Company accounts for guarantees in accordance with Financial Interpretation No. 45 (“FIN 45”), *Guarantor’s Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*. The Company’s sales agreements with customers generally contain infringement indemnity provisions. Under these agreements, the Company agrees to indemnify, defend and hold harmless the customer in connection with patent, copyright or trade secret infringement claims made by third parties with respect to the customer’s authorized use of the Company’s products and services. The indemnity provisions generally provide for the Company’s control of defense and settlement and cover costs and damages finally awarded against the customer, as well as the Company’s modification of the product so it is no longer infringing or, if it cannot be corrected, return of the product for a refund. The sales agreements with customers sometimes also contain indemnity provisions for death, personal injury or property damage caused by the Company’s personnel or contractors in the course of performing services to customers. Under these agreements, the Company agrees to indemnify, defend and hold harmless the customer in connection with death, personal injury and property damage claims made by third parties with respect to actions of the Company’s personnel or contractors. The indemnity provisions generally provide for the Company’s control of defense and settlement and cover costs and damages finally awarded against the customer. The indemnity obligations contained in sales agreements generally have no specified expiration date and no specified monetary limitation on the amount of award covered. The Company has not previously incurred costs to settle claims or pay awards under these indemnification obligations. The Company accounts for these indemnity obligations in accordance with SFAS No. 5, *Accounting for Contingencies*, and records a liability for these obligations when a loss is probable and reasonably estimable. The Company has not recorded any liabilities for these agreements as of December 31, 2004.

The Company warrants to its customers that its software products will perform in all material respects in accordance with the standard published specifications in effect at the time of delivery of the licensed products to the customer for 90 days after first use of the licensed products, but no more than 24 months after execution of the license agreement. Additionally, the Company warrants to its customers that services will be performed consistent with generally accepted industry standards or specific service levels through completion of the agreed upon services. If necessary, the Company will provide for the estimated cost of product and service warranties based on specific warranty claims and claim history. However, the Company has not incurred significant recurring expense under product or service warranties. As a result, the Company believes the estimated fair value of these agreements is nominal. Accordingly, the Company has no liabilities recorded for these agreements as of December 31, 2004.

Segment Information

The Company operates in a single segment as defined by SFAS No. 131, “Disclosures about Segments of an Enterprise and Related Information.” See Note 8 for discussion of foreign operations.

Advertising Costs

Advertising costs are expensed as incurred and totaled approximately \$715,000, \$855,000 and \$534,000 in 2002, 2003 and 2004, respectively. Advertising costs are included in sales and marketing on the Consolidated Statements of Income.

Basic and Diluted Net Income Per Share

Basic net income per share is computed using net income divided by the weighted average number of shares of common stock outstanding (“Weighted Shares”) for the period presented.

[Table of Contents](#)**1. Organization and Summary of Significant Accounting Policies (continued)**

Diluted net income per share is computed using net income divided by Weighted Shares, and the treasury stock method effect of common equivalent shares (“CESs”) outstanding for each period presented. The following is a reconciliation of the shares used in the computation of net income per share for the years ended December 31, 2002, 2003 and 2004:

	2002		2003		2004	
	Basic	Diluted	Basic	Diluted	Basic	Diluted
Weighted shares	28,652,609	28,652,609	29,532,466	29,532,466	30,055,916	30,055,916
Effect of CESs	—	1,797,952	—	1,349,210	—	1,010,873
	<u>28,652,609</u>	<u>30,450,561</u>	<u>29,532,466</u>	<u>30,881,676</u>	<u>30,055,916</u>	<u>31,066,789</u>

Options to purchase 1,924,075 shares, 1,866,351 shares and 3,020,952 shares of common stock were outstanding during the years ended December 31, 2002, 2003 and 2004, respectively, but were not included in the computation of diluted earnings per share because the options exercise price was greater than the average market price of the common shares during the respective years. See Note 3 for further information on those securities.

Stock-Based Compensation

The Company accounts for its stock-based compensation plan for stock issued to employees under Accounting Principles Board (“APB”) Opinion No. 25, “Accounting for Stock Issued to Employees,” and, accordingly, records deferred compensation for options granted at an exercise price below the fair value of the underlying stock. The deferred compensation is presented as a component of equity in the accompanying Consolidated Balance Sheets and is amortized over the periods to be benefited, generally the vesting period of the options. Effective in fiscal year 1996, the Company adopted the pro forma disclosure option for stock-based compensation issued to employees of SFAS No. 123, “Accounting for Stock-Based Compensation.”

Pro forma information regarding net income and net income per share is required by SFAS No. 123, which also requires that the information be determined as if the Company had accounted for its employee stock option grants under the fair value method required by SFAS No. 123. The fair value of each option grant has been estimated as of the date of grant using the Black-Scholes option pricing model with the following weighted-average assumptions:

	2002	2003	2004
Dividend yield	—	—	—
Expected volatility	84%	73%	62%
Risk-free interest rate at the date of grant	2.0%	3.3%	4.3%
Expected life	6 years	6 years	7.5 years

Using these assumptions, the fair values of the stock options granted during the years ended December 31, 2002, 2003 and 2004 are \$24,693,000, \$24,980,000 and \$32,257,000, respectively, which would be amortized over the vesting period of the options.

The weighted average fair values of options at the date of grant for the years ended December 31, 2002, 2003 and 2004 was \$16.61, \$17.52 and \$16.95 per share, respectively.

1. Organization and Summary of Significant Accounting Policies (continued)

The following pro forma information adjusts the net income and net income per share of common stock for the impact of SFAS No. 123:

	2002	2003	2004
Net income (loss):			
As reported	\$ 25,196	\$ 21,845	\$ 22,109
Add: Stock-based employee compensation expense included in reported net income, net of taxes	58	52	658
Deduct: Stock-based employee compensation expense determined under the fair-value method for all awards, net of taxes	(25,072)	(28,380)	(31,290)
Pro forma in accordance with SFAS No. 123	<u>\$ 182</u>	<u>\$ (6,483)</u>	<u>\$ (8,523)</u>
Basic net income or pro forma net income (loss) per share:			
As reported	\$ 0.88	\$ 0.74	\$ 0.74
Pro forma in accordance with SFAS No. 123	\$ 0.01	\$ (0.22)	\$ (0.28)
Diluted net income or pro forma net income (loss) per share:			
As reported	\$ 0.83	\$ 0.71	\$ 0.71
Pro forma in accordance with SFAS No. 123	\$ 0.01	\$ (0.22)	\$ (0.28)

The Company's estimated forfeiture rate of unvested stock options used in 2002 and 2003 when determining the stock-based employee compensation expense determined under the fair-value method, net of taxes, used an incorrect assumption when determining the appropriate forfeiture rate. As a result, the pro forma information was restated to reflect the proper forfeiture rate. The impact of the restatement is presented below (in thousands):

	2002		2003	
	As previously reported	As restated	As previously reported	As restated
Pro forma net income (loss)	\$ 2,463	\$ 182	\$ (3,672)	\$ (6,483)
Pro forma net income (loss) per share:				
Basic	\$ 0.09	\$ 0.01	\$ (0.12)	\$ (0.22)
Diluted	\$ 0.09	\$ 0.01	\$ (0.12)	\$ (0.22)

On December 16, 2004, the FASB issued FASB Statement No. 123 (revised 2004), *Share-Based Payment*, which is a revision of FASB Statement No. 123, *Accounting for Stock-Based Compensation*. Statement 123(R) supersedes APB Opinion No. 25, *Accounting for Stock Issued to Employees*, and amends FASB Statement No. 95, *Statement of Cash Flows*. Generally, the approach in Statement 123(R) is similar to the approach described in Statement 123. However, Statement 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. Pro forma disclosure is no longer an alternative.

Statement 123(R) must be adopted no later than July 1, 2005. Early adoption will be permitted in periods in which financial statements have not yet been issued.

Statement 123(R) permits public companies to adopt its requirements using one of two methods:

1. A "modified prospective" method in which compensation cost is recognized beginning with the effective date (a) based on the requirements of Statement 123(R) for all share-based payments granted after the effective date and (b) based on the requirements of Statement 123 for all awards granted to employees prior to the effective date of Statement 123(R) that remain unvested on the effective date.
2. A "modified retrospective" method, which includes the requirements of the modified prospective method described above, but also permits entities to restate based on the amounts previously recognized under Statement 123 for purposes of pro forma disclosures either (a) all prior periods presented or (b) prior interim periods of the year of adoption.

The Company will be adopting Statement 123(R) beginning July 1, 2005 and is currently in the process of evaluating which method will be adopted.

As permitted by Statement 123, the Company currently accounts for share-based payments to employees using Opinion 25's intrinsic value method and, as such, generally recognize no compensation cost for employee stock options. Accordingly, the adoption of Statement 123(R)'s fair value method will have a significant impact on the Company's results of operations. The impact of adoption of Statement 123(R) cannot be predicted at this time because it will depend on levels of share-based payments granted in the future. However, had the Company adopted Statement 123(R) in prior periods, the impact of that standard would have approximated the impact of Statement 123 as described in the disclosure of pro forma net income and earnings per share above. Statement 123(R) also requires the benefits of tax deductions in excess of recognized compensation cost to be reported as a financing cash flow, rather than as an operating cash flow as required under current literature. This requirement will reduce net operating cash flows and increase net financing cash flows in periods after adoption. While the Company cannot estimate what those amounts will be in the future (because they depend on, among other things, when employees exercise stock options), the amount of operating cash flows recognized in prior periods for such excess tax deductions were \$14.0 million, \$11.3 million, and \$10.7 million in 2002, 2003 and 2004, respectively.

1. Organization and Summary of Significant Accounting Policies (continued)

Comprehensive Income

The Company's comprehensive income includes net income, foreign currency translation adjustments and unrealized gains and losses on short-term investments. The components of accumulated other comprehensive income (loss) as of December 31, 2003 and 2004 are as follows (in thousands):

	December 31,	
	2003	2004
Foreign currency translation adjustment	\$ 717	\$ 1,138
Unrealized gain (loss) on investments	3	(256)
Total	\$ 720	\$ 882

Reclassifications

Certain reclassifications were made to the prior years' financial statements to conform to the 2004 presentation. Auction rate securities previously included in cash and cash equivalents in the Consolidated Balance Sheets were reclassified to short-term investments. These reclassifications also impacted the amounts relating to both cash and investments in the Consolidated Statements of Cash Flows. See *Investments* above for a further description of these securities.

A lease incentive payment received during 2003 previously included as a reduction to net property and equipment was reclassified from net property and equipment and to deferred rent in the Consolidated Balance Sheets. These reclassifications also impacted the amounts relating to depreciation and amortization, deferred rent and property and equipment in the Consolidated Statements of Cash Flows.

Amortization expense relating to acquired developed technology previously included in amortization of acquisition-related intangibles in the Consolidated Statements of Income was reclassified to amortization of acquired developed technology.

Depreciation expense relating to the off-shore development center in India previously included in research and development in the Consolidated Statements of Income was reclassified to general and administrative.

Unrealized gains and losses on intercompany balances were previously included in foreign currency impact on cash and were reclassified to unrealized foreign currency gain under cash flow from operations in the Consolidated Statements of Cash Flows.

The reclassifications described above were not considered material. The following represents the previously reported amounts and amounts after the reclassification adjustments (in thousands):

	As reported 2002	Reclassification 2002	Adjusted 2002	As reported 2003	Reclassification 2003	Adjusted 2003
Balance Sheets:						
Cash and cash equivalents	\$ 20,780	\$ (1,500)	\$ 63,164	\$ 140,964	\$ (109,557)	\$ 31,407
Short-term investments	57,193	1,500	58,693	4,992	109,557	114,549
Property and equipment, net	12,352	—	12,352	12,152	863	13,015
Deferred rent	—	—	—	—	863	863
Statements of Income:						
Amortization of acquired developed technology	\$ —	\$ 1,500	\$ 1,500	\$ —	\$ 1,999	\$ 1,999
Research and development	20,780	—	20,780	27,358	(376)	26,982
General and administrative	20,943	—	20,943	23,711	376	24,087
Amortization of acquisition-related intangibles	1,772	(1,500)	272	3,432	(1,999)	1,433
Statements of Cash Flow:						
Depreciation and amortization	\$ 6,801	\$ —	\$ 6,801	\$ 7,830	\$ 152	\$ 7,982
Unrealized foreign currency gain	—	(520)	(520)	—	(281)	(281)
Deferred rent	—	—	—	—	863	863
Net cash provided by operating activities	45,966	(520)	45,446	36,261	734	36,995
Purchases of property and equipment	(5,990)	—	(5,990)	(6,718)	(1,015)	(7,733)
Net purchases (maturities) of investments	(37,077)	(1,500)	(38,577)	42,730	(108,057)	(65,327)
Net cash provided by (used in) investing activities	(64,230)	(1,500)	(65,730)	31,262	(109,072)	(77,810)
Foreign currency impact on cash	(186)	520	334	(259)	281	22

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1. Organization and Summary of Significant Accounting Policies (continued)

New Accounting Pronouncements

In March 2004, the FASB approved the consensus reached on the EITF Issue No. 03-1, "The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments." The objective of this Issue is to provide guidance for identifying impaired investments. EITF 03-1 also provides new disclosure requirements for investments that are deemed to be temporarily impaired. The accounting provisions of EITF 03-1 were effective for all reporting periods beginning after June 15, 2004, while the disclosure requirements were effective only for annual periods ending after June 15, 2004. The adoption of EITF 03-1 did not have a material effect on the Consolidated Statements of Income, financial position or liquidity.

In December 2004, the FASB issued FASB Staff Position ("FSP") Financial Accounting Standard ("FAS") 109-1, "Application of FASB Statement No. 109, Accounting for Income Taxes, to the Tax Deduction on Qualified Production Activities Provided by the American Jobs Creation Act of 2004 (the Act)" that provides tax relief to U.S. domestic manufacturers. The FSP states that the manufacturers' deduction provided for under the Act should be accounted for as a special deduction in accordance with Statement 109 rather than as a tax rate reduction. Also in December 2004, the FASB issued FSP FAS 109-2, "Accounting and Disclosure Guidance for the Foreign Earnings Repatriation Provision within the American Jobs Creation Act of 2004," addressing accounting and disclosure guidance relating to a company's repatriation program. The additional disclosures required under this staff position are included in Note 2, Income Taxes. Both FSPs were effective upon issuance.

2. Income Taxes

The Company is subject to future federal and state income taxes and has recorded net deferred tax assets on the Consolidated Balance Sheets at December 31, 2003 and 2004. Deferred tax assets and liabilities are determined based on the difference between the financial accounting and the tax bases of assets and liabilities. Significant components of the Company's deferred tax assets and liabilities as of December 31, 2003 and 2004 are as follows (in thousands):

	December 31,	
	2003	2004
Deferred tax assets:		
Accounts receivable	\$ 970	\$ 1,069
Net operating loss carryforwards	7,938	—
Accrued liabilities	1,011	878
Stock compensation expense	26	368
Intangible assets	2,407	2,293
Depreciation	1,001	542
Research and development credits	4,846	2,834
AMT Credit	—	1,911
Other	21	—
	<u>18,220</u>	<u>9,895</u>
Deferred tax liabilities:		
Other	396	466
	<u>17,824</u>	<u>9,429</u>
Tax reserve	(1,700)	(2,055)
Valuation allowance	(10,324)	—
Net deferred tax assets	<u>\$ 5,800</u>	<u>\$ 7,374</u>

The components of income from domestic and foreign operations before income tax expense for the years ended December 31, 2002, 2003 and 2004 are as follows (in thousands):

	2002	2003	2004
Domestic	\$ 37,658	\$ 31,498	\$ 33,334
Foreign	1,921	1,772	1,341
Total	<u>\$ 39,579</u>	<u>\$ 33,270</u>	<u>\$ 34,675</u>

The components of the historical income tax provision for the years ended December 31, 2002, 2003 and 2004 are as follows (in thousands):

	2002	2003	2004
Current:			
Federal	\$ 12,218	\$ 9,811	\$ 11,629
State	1,801	1,361	1,752
Foreign	991	375	759
	<u>15,010</u>	<u>11,547</u>	<u>14,140</u>

Deferred:

Federal	(551)	(192)	(1,554)
State	(76)	(34)	39
Foreign	—	104	(59)
	<u>(627)</u>	<u>(122)</u>	<u>(1,574)</u>
Total	<u>\$ 14,383</u>	<u>\$ 11,425</u>	<u>\$12,566</u>

The income tax benefits related to the exercise of stock options were allocated to additional paid-in capital. Such amounts were approximately \$14,024,000, \$11,322,000 and \$10,737,000 for 2002, 2003 and 2004, respectively.

The Company has approximately \$2.8 million of research and development tax credit carryforwards that expire in 2020 to 2024. The Company has provided a tax reserve of \$2.1 million for the carryforwards. As the Company utilizes the carryforwards, the amount of tax benefit realized will be charged to Additional paid-in-capital.

The valuation allowance referred to above represents the removal of deferred tax items for net operating loss carryforwards which were generated by stock option exercises recorded to additional paid-in-capital. In fiscal 2004, all net operating loss carryforwards were utilized therefore the deferred tax asset and related valuation allowance decreased to \$0 at December 31, 2004.

2. Income Taxes (continued)

The Company currently has a tax holiday in India through March of 2009. As a result of this holiday, the Company had income of approximately \$771,000 in 2003 and \$2,028,000 in 2004 that was not subject to tax. The India entity did not have income in 2002. The impact on diluted earnings per share if the income had been taxable was decreases of \$.01 per share and \$.02 per share in 2003 and 2004, respectively.

Deferred taxes are not provided for temporary differences of approximately \$4.2 million, \$5.5 million and \$8.7 million as of December 31, 2002, 2003 and 2004, respectively, representing earnings of non-U.S. subsidiaries that are intended to be permanently reinvested. Those earnings are considered to be indefinitely reinvested; accordingly, no provision for U.S. federal and state income taxes has been provided thereon. Upon repatriation of those earnings, in the form of dividends or otherwise, the Company would be subject to both U.S. income taxes (subject to an adjustment for foreign tax credits) and withholding taxes payable to various foreign countries.

In October 2004, the American Jobs Creation Act of 2004 (the Act) was signed into law. The Act provides for a special one-time deduction of 85% of certain foreign earnings that are repatriated. The Company may elect to apply this provision to qualifying earnings repatriations in 2005. As of December 31, 2004, the Company has started an evaluation of the effects of the repatriation provision, but does not expect to be able to complete this evaluation until the second quarter of 2005. While no repatriation decisions have been made as of December 31, 2004, the range of possible amounts that the Company is considering for repatriation is between zero and \$8.7 million. The related potential range of deferred taxes that would have to be provided should a repatriation decision be made is between zero and \$3 million.

The following is a summary of the items that cause recorded income taxes to differ from taxes computed using the statutory federal income tax rate for the years ended December 31, 2002, 2003 and 2004:

	2002	2003	2004
Statutory federal income tax rate	35.0%	35.0%	35.0%
Effect of:			
State income tax, net of federal benefit	2.9	2.8	3.4
Research and development credits	(2.2)	(2.6)	(0.7)
Foreign operations	0.6	(0.8)	0.1
Tax exempt income	(0.2)	(0.5)	(1.2)
Meals and entertainment	0.2	0.5	0.4
Intangibles	(0.1)	(0.1)	—
Other	0.1	—	(0.8)
Income taxes	<u>36.3%</u>	<u>34.3%</u>	<u>36.2%</u>

3. Stock Option Plans

The Manhattan Associates LLC Option Plan (the “LLC Option Plan”) became effective on January 1, 1997. The LLC Option Plan is administered by a committee appointed by the Board of Directors. The options are granted at terms determined by the committee; however, the options cannot have a term exceeding ten years. Options granted under the LLC Option Plan have vesting periods ranging from immediately to six years. Subsequent to February 28, 1998, no additional options could be granted pursuant to the LLC Option Plan.

Prior to the establishment of the LLC Option Plan, the Company issued options to purchase 661,784 shares of common stock to certain employees. These grants contain provisions similar to options issued under the LLC Option Plan.

The Manhattan Associates, Inc. 1998 Stock Incentive Plan (the “Stock Incentive Plan”) was adopted by the Board of Directors and approved by the shareholders in February 1998. The Stock Incentive Plan provides for the grant of incentive stock options. Optionees have the right to purchase a specified number of shares of common stock at a specified option price and subject to such terms and conditions as are specified in connection with the option grant. The Stock Incentive Plan is administered by the Compensation Committee of the Board of Directors. The committee has the authority to adopt, amend and repeal the administrative rules, guidelines and practices relating to the Stock Incentive Plan generally and to interpret the provisions thereof. Options granted under the Stock Incentive Plan cannot have a term exceeding ten years and typically vest over a period of two to six years.

As of December 31, 2004, the Stock Incentive Plan provides for issuance of up to 13,603,085 shares of common stock (subject to adjustment in the event of stock splits and other similar events), less the number of shares issued under the LLC Option Plan, in the form of stock options and other stock incentives. The number of shares available for issuance under the Plan is automatically adjusted, without shareholder approval, on the first day of each fiscal year, beginning with the 2000 fiscal year, by a number of shares such that the total number of shares reserved for issuance under the Plan equals the sum of (i) the aggregate number of shares previously issued under the Plan and the LLC Option Plan; (ii) the aggregate number of shares subject to then outstanding stock incentives granted under the Plan and the LLC Option Plan; and (iii) 5% of the number of shares of common stock outstanding on the last day of the preceding fiscal year. However, no more than 1,000,000 of the shares available for grant each year shall be available for issuance pursuant to incentive stock options, and no more than 10,000,000 shares resulting from such automatic adjustments may ever be issued during the term of the Plan.

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3. Stock Option Plans (continued)

A summary of changes in outstanding options is as follows:

	Options	Weighted Average Exercise Price
December 31, 2001	6,532,767	\$ 17.04
Granted	1,637,900	\$ 23.12
Canceled	(270,871)	\$ 26.54
Exercised	(1,571,354)	\$ 5.49
December 31, 2002	6,328,442	\$ 21.08
Granted	1,541,075	\$ 26.40
Canceled	(444,541)	\$ 27.90
Exercised	(1,046,948)	\$ 8.86
December 31, 2003	6,378,028	\$ 23.90
Granted	1,938,825	\$ 25.15
Canceled	(600,184)	\$ 30.86
Exercised	(334,157)	\$ 12.09
December 31, 2004	<u>7,382,512</u>	\$ 24.19

Details of options outstanding at December 31, 2004 are as follows:

Exercise Prices	Outstanding			Exercisable	
	Options Outstanding	Weighted Average Remaining Contractual Life	Weighted Average Exercise Prices	Options Exercisable	Average Exercise Price
\$0.56-3.50	286,250	1.9	\$ 2.10	286,250	\$ 2.10
3.51 - 7.50	172,354	3.8	5.87	172,236	5.87
7.51 - 15.00	690,699	5.0	10.64	611,366	10.25
15.01 - 23.00	1,529,100	8.3	19.68	511,857	18.31
23.01 - 27.00	1,736,215	7.7	25.38	964,909	25.55
27.01 - 31.00	2,230,744	8.4	28.15	849,522	28.05
31.01 - 40.00	460,400	6.2	37.52	422,825	37.84
40.01 - 68.38	276,750	5.8	55.48	265,700	55.66
	<u>7,382,512</u>	7.3	\$ 24.19	<u>4,084,665</u>	\$ 23.63

At December 31, 2004, the Company has 7,548,179 shares of common stock reserved for issuance and 111,755 shares available for future grant under the Stock Incentive Plan. On January 1, 2005, the number of shares of common stock available for future grant under the Stock Incentive Plan was increased by 1,359,172 in accordance with the automatic adjustment described above.

The Company recorded deferred compensation of \$580,000 on options granted during 1998, as the exercise price was less than the deemed fair value of the underlying common stock. In addition, the Company recorded deferred compensation of \$232,000 and \$1,290,000 during 2003 and 2004, respectively, for the issuance of 8,109 and 45,803 shares of restricted stock under the stock incentive plan. The Company amortizes deferred compensation over the vesting periods on a straight-line basis. The Company recorded compensation expense of \$58,000, \$52,000 and \$1,101,000 for the years ended December 31, 2002, 2003 and 2004, respectively, and had deferred compensation expense of \$198,000 and \$387,000 at December 31, 2003 and 2004, respectively.

4. Shareholders' Equity

During 2002 and 2004, the Company purchased 260,000 and 885,400 shares of the Company's common stock for approximately \$4,110,000 and \$21,763,000, respectively, through open market transactions as part of a publicly-announced buy-back program. No shares of the Company's common stock were purchased during 2003.

5. Commitments and Contingencies

Leases

Rents charged to expense were approximately \$4,015,000, \$5,020,000 and \$5,907,000 for the years ended December 31, 2002, 2003 and 2004, respectively. The leases for the Company's headquarters in Atlanta, Georgia expire on March 31, 2008, at which time the Company has the option to renew for an additional five years at then current market rates. Aggregate future minimum lease payments under the capital lease and noncancellable operating leases as of December 31, 2004 are as follows (in thousands):

Year Ended December 31,	Capital Leases	Operating Leases
2005	\$ 152	\$ 5,554
2006	152	6,373
2007	—	6,007
2008	—	2,715
2009	—	1,298
Thereafter	—	286
Total	\$ 304	\$ 22,233
Less amount representing interest	(17)	
Net present value of future minimum lease payments	287	
Less current portion of capital lease obligation	(139)	
Long-term portion of capital lease obligation	\$ 148	

Employment Agreements

The Company has entered into employment contracts with certain executives and other key employees. The agreements provide for total severance payments of up to approximately \$2.1 million for termination of employment for any reason other than cause. Payment terms vary from a lump sum payment to equal monthly installments over a period of not more than 24 months. No amounts have been accrued because the amounts cannot be reasonably estimated.

Legal and Other Matters

The Company is currently in the process of implementing its warehouse management system at a large customer with whom it is having challenging discussions surrounding their delayed implementation, although no legal claims have been filed by either party to date. The Company believes that its contractual obligations to date have been met and it is entitled to the outstanding receivables of approximately \$3 million from the customer at December 31, 2004. The Company is in discussions with this customer regarding resolution of this matter as well as payment; however, no such resolution has been reached at this time. While no assurance can be given regarding the outcome of the matter discussed, because of the nature and inherent uncertainties of disputes, should the outcome of this matter be unfavorable, the Company's business, financial condition, results of operations and cash flows could be materially adversely affected.

From time to time, the Company may be involved in litigation relating to claims arising out of its ordinary course of business. Many of the Company's installations involve products that are critical to the operations of its clients' businesses. Any failure in a Company product could result in a claim for substantial damages against the Company, regardless of the Company's responsibility for such failure. Although the Company attempts to limit contractually its liability for damages arising from product failures or negligent acts or omissions, there can be no assurance the limitations of liability set forth in its contracts will be enforceable in all instances. The Company is not presently involved in any material litigation. However, it is involved in various legal proceedings. The Company believes that any liability that may arise as a result of these proceedings will not have a material adverse effect on its financial condition. The Company expenses legal costs associated with loss contingencies as such legal costs are incurred.

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6. Acquisitions

Logistics.com

On December 31, 2002, the Company acquired certain assets of Logistics.com, Inc. from Internet Capital Group for a one-time cash payment of approximately \$21.3 million, of which \$1.5 million was held in escrow until December 31, 2003. Logistics.com provided logistics planning and execution solutions that provide cost savings to shippers and carriers. The Company acquired the assets of Logistics.com to enhance its existing transportation management product offering and to expand its customer base. The acquisition has been accounted for under the purchase method of accounting, and the results of operations are included in the Company's operations after that date. No amounts were included in the operating results for the year ended December 31, 2002.

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of acquisition, December 31, 2002 (in thousands):

Current assets	\$ 1,825
Property and equipment	1,190
Research and development assets	1,470
Intangible assets subject to amortization:	
Computer software (5 year life)	\$ 1,530
Customers (7 year life)	2,880
Tradename (5 year life)	1,920
Other intangibles (2 year life)	<u>360</u>
	6,690
Goodwill	<u>11,944</u>
Total assets acquired	23,119
Current liabilities	<u>1,782</u>
Total liabilities assumed	1,782
Net assets acquired	<u>\$ 21,337</u>

The \$1.5 million assigned to in-process research and development assets was written off at the date of acquisition in accordance with FASB Interpretation No. 4, *Applicability of FASB Statement No. 2 to Business Combinations Accounted for by the Purchase Method*.

The Goodwill is not being amortized, but is reviewed for impairment on an annual basis.

Unaudited pro forma operating results for the year ended December 31, 2002, assuming that the acquisition had occurred at the beginning of 2002 is as follows (in thousands):

	<u>2002</u>
Revenues	\$183,537
Pro forma net income	15,090
Pro forma diluted net income per share	\$ 0.50

6. Acquisitions (continued)

ReturnCentral

On June 30, 2003, the Company acquired certain assets of ReturnCentral for a cash payment of approximately \$1.5 million. The purchase price includes the earnout of approximately \$900,000 recorded through December 31, 2004, and will be further adjusted for additional potential earnout based upon the total ReturnCentral software and services fees received and recognized prior to August 31, 2005. The earnout payment for the first twelve months is the sum of: (i) 30% of all ReturnCentral software fees up to and including \$800,000; plus 33% of all ReturnCentral software fees greater than \$800,000 and up to and including \$1.3 million; plus 36% of all ReturnCentral software fees greater than \$1.3 million and up to and including \$2.0 million; plus 40% of all ReturnCentral software fees greater than \$2.0 million; and (ii) 13% of all ReturnCentral service fees. The earnout payment, if any, for the following fourteen month period will be the sum of: (i) 30% of all ReturnCentral software fees up to and including \$2.0 million; plus 33% of all ReturnCentral software fees greater than \$2.0 million and up to and including \$3.0 million; plus 36% of all ReturnCentral software fees greater than \$3.0 million and up to and including \$4.0 million; plus 40% of all ReturnCentral software fees greater than \$4.0 million; and (ii) 13% of all ReturnCentral service fees. The results of operations are included in operations after June 30, 2003. The entire purchase price has been recorded as acquired developed technology and is being amortized over the greater of the amount computed using (a) the ratio that current gross revenues for a product bear to the total of current and anticipated future gross revenues for that product or (b) the straight-line method over the remaining estimated economic life of the product (5 years) including the period being reported on.

Streamsoft

On October 14, 2003, the Company closed an Asset Purchase Agreement with Streamsoft, a provider of warehouse optimization software. The Company acquired substantially all of the assets of Streamsoft for a purchase price of approximately \$2.1 million. The purchase price includes the earnout of approximately \$250,000 recorded through December 31, 2004, and will be further adjusted for additional potential earnout based upon the total Streamsoft software fees received and recognized prior to September 30, 2005. The earnout payment shall be calculated as 10% of all net software fees recognized, and is subject to additional terms and conditions, as defined in the purchase agreement. The acquisition has been accounted for under the purchase method of accounting, and the results of operations are included in operations after October 14, 2003. The purchase price has been allocated to net assets acquired of \$0.2 million, acquired developed technology of \$0.2 million, and other intangible assets of \$1.7 million. Acquired developed technology is being amortized over the greater of the amount computed using (a) the ratio that current gross revenues for a product bear to the total of current and anticipated future gross revenues for that product or (b) the straight-line method over the remaining estimated economic life of the product (5 years) including the period being reported on. Approximately \$0.1 million of other intangible assets is being amortized over a ten-year useful life. The remaining \$1.6 million of other intangible assets is goodwill, which is not being amortized, but is being reviewed for impairment on an annual basis.

Avere

On January 23, 2004, the Company acquired certain assets of Avere, Inc. ("Avere"), a provider of order management software. The Company completed the acquisition to enhance its product offering. The Company acquired substantially all of the assets of Avere for a purchase price of approximately \$285,000 in cash plus a potential earnout based upon the total Avere software fees recognized by the Company during the period starting on December 31, 2003 and ending on December 31, 2005. The earnout payment, if any, will be calculated as the following percentages of all Avere software fees recognized during the earnout period: (i) 25% of the Avere software fees greater than \$200,000 and up to and including \$2 million; (ii) 30% of the Avere software fees greater than \$2 million and up to and including \$4 million; and (iii) 35% of the Avere software fees greater than \$4 million. The entire purchase price has been recorded as acquired developed technology and is being amortized over the greater of the amount computed using (a) the ratio that current gross revenues for a product bear to the total of current and anticipated future gross revenues for that product or (b) the straight-line method over the remaining five-year estimated economic life of the product, including the period being reported on. The operating results of Avere were included in the Company's operations after January 23, 2004.

eebiznet

On July 9, 2004, the Company acquired certain assets of eebiznet ("eebiznet"), whose primary business activities consist of the marketing and sale of supply software in France. The Company acquired eebiznet to expand its presence in Europe. The Company acquired all the outstanding shares of eebiznet for approximately \$493,000 in cash plus a potential earnout based upon the sales of its software and service solutions in France during the period

[Table of Contents](#)**6. Acquisitions (continued)**

starting April 1, 2004 through March 31, 2006. The earnout payment, if any, will be calculated based on the following percentages of all license sales in France recognized during the period: (i) 30% of the software fees in France up to €1.5 million (\$2.05 million as of December 31, 2004); (ii) 40% of the software fees in France over €1.5 million (\$2.05 million as of December 31, 2004); and (iii) 2% of all service revenues. The entire purchase price has been recorded on a preliminary basis to goodwill, as eebiznet's assets and liabilities were immaterial. The operating results of eebiznet were included in the Company's operations after July 9, 2004.

7. In-Process Research and Development, Acquisition-Related Expenses and Restructuring Charge

In-process research and development represents the value assigned in a purchase business combination to research and development projects of the acquired business that had commenced but had not reached technological feasibility and has no alternative future use. In accordance with SFAS No. 2, "Accounting for Research and Development Costs," as clarified by FASB Interpretation No. 4, amounts assigned to in-process research and development meeting the above stated criteria must be charged to expense as part of the allocation of the purchase price of the business combination. Accordingly, a charge totaling \$1,470,000 was recorded during 2002 as part of the allocation of the purchase price related to the acquisition of Logistics.com.

During the third quarter of 2003, the Company recorded expenses of approximately \$885,000 relating to fees incurred in connection with two potential acquisitions that the Company decided not to consummate. The acquisition-related expenses are presented as a separate line item in the Consolidated Statements of Income. The expenses consist primarily of legal, accounting and travel expenses associated with the two transactions.

During the second quarter of 2003, the Company recorded a restructuring charge relating to an internal reorganization of \$893,000. The restructuring charge is presented as a separate line item in the Consolidated Statements of Income. The reorganization more closely aligns the Company's customer advocates with implementation teams, and the customer support organization with the technical teams. The charge consists primarily of one-time severance payments to 25 employees. The Company anticipates no further costs relating to this reorganization.

	<u>2003 Charge</u>	<u>Paid 2003</u>	<u>Paid 2004</u>
Employee severance-related costs	\$ 893,000	\$ 857,000	\$ 36,000

8. Geographic and Product Information

Geographic revenue information for the three years ended December 31, 2004 is based on the location of the customer. Long-lived asset information is based on the physical location of the assets at the end of each of the fiscal years.

Revenue by geographic region/country was as follows (in thousands):

	<u>2002</u>	<u>2003</u>	<u>2004</u>
United States	\$ 142,296	\$ 158,120	\$ 166,267
Europe	29,333	31,920	35,532
Rest of world	4,092	6,774	13,120
Total international	33,425	38,694	48,652
Total revenue	<u>\$ 175,721</u>	<u>\$ 196,814</u>	<u>\$ 214,919</u>

Total U.S. long-lived assets were approximately \$66.8 million and \$100.6 million as of December 31, 2003 and 2004, respectively. Total international long-lived assets, which include assets in Australia, China, France, Germany, India, Japan, the Netherlands, Singapore and the United Kingdom, were approximately \$3.8 million and \$5.7 million as of December 31, 2003 and 2004, respectively.

The software products that the Company sells consist of the following Solution Groups: Warehouse Management, Transportation Management, Trading Partner Management, Distributed Order Management, Reverse Logistics Management, Performance Management and RFID. The Company has not included annual revenue for each of the solution groups in the footnote disclosures primarily to avoid the somewhat misleading method of allocating the revenue to the various products when multiple solutions groups are sold in a single contract. Although the Company currently uses the list prices as a basis for allocating the revenue to the various products, it does not believe that this information is always an accurate indicator of the products' success because of the way certain products are added to contracts for incentive reasons, although the customer may not have the desire to implement that product immediately. The allocation method places revenue on products that could be significantly in excess of the value the customer would place on it in some cases. Therefore, the Company believes that disclosing the software and hosting fees for the Warehouse Management Solution Group and combining all other Solution Groups into one is the most useful information. Software and hosting fees for the three years ended December 31, 2004 were as follows (in thousands):

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Warehouse Management Solution Group	\$ 33,653	\$ 25,704	\$ 28,455
All Other Solution Groups	6,580	17,525	21,431
Total Software and Hosting Fees	<u>\$ 40,233</u>	<u>\$ 43,229</u>	<u>\$ 49,886</u>

9. Employee Benefit Plan

The Company sponsors the Manhattan Associates 401(k) Plan and Trust (the “401(k) Plan”), a qualified profit sharing plan with a 401(k) feature covering substantially all employees of the Company. Under the 401(k) Plan’s deferred compensation arrangement, eligible employees who elect to participate in the 401(k) Plan may contribute up to 60% of eligible compensation up to \$14,000, as defined, to the 401(k) Plan. The Company provides for a 50% matching contribution up to 6% of eligible compensation being contributed after the participant’s first year of employment. During the years ended December 31, 2002, 2003 and 2004, the Company made matching contributions to the 401(k) Plan of \$1,006,000, \$1,250,000 and \$1,314,000, respectively.

10. Related Party Transactions

During the years ended December 31, 2003 and 2004, the Company purchased software and services for approximately \$250,000 and \$63,000, respectively, from a company whose President and Chief Executive Officer is a member of Manhattan’s Board of Directors. In the opinion of management, the rates, terms and consideration of the transaction approximated those with unrelated parties. As of December 31, 2004, there was \$1,400 outstanding relating to the purchases.

During the year ended December 31, 2003 and 2004, the Company sold software and services for approximately \$400,000 and \$90,000, respectively, to a company whose Chief Executive Officer is a relative of a member of the Company’s executive management team. In the opinion of management, the rates, terms and consideration of the transaction approximated those with unrelated parties. As of December 31, 2004, there was \$90,000 outstanding and included in accounts receivable relating to the 2004 sales.

During the years ended December 31, 2003 and 2004, the Company purchased hardware of approximately \$75,000 and \$200,000, respectively, from Alien Technology, a party in which the Company made a \$2 million investment during 2003. See Note 1 for further details on the investment. In the opinion of management, the rates, terms and consideration of the transaction approximated those with unrelated parties. As of December 31, 2004, there was approximately \$13,000 outstanding relating to the purchases.

During the year ended December 31, 2002, there were no related party transactions.

11. Quarterly Results of Operations (Unaudited)

The following is a summary of the quarterly results of operations of the Company for the years ended December 31, 2003 and 2004. The unaudited quarterly results have been prepared on substantially the same basis as the audited Consolidated Financial Statements.

	Quarter Ended							
	Mar. 31, 2003	June 30, 2003	Sept. 30, 2003	Dec. 31, 2003	Mar. 31, 2004	June 30, 2004	Sept. 30, 2004	Dec. 31, 2004
	(In thousands, except per share data)							
Statement of Income Data:								
Revenue:								
Software and hosting fees	\$ 10,159	\$ 11,357	\$ 9,636	\$ 12,077	\$ 12,306	\$ 13,784	\$ 10,257	\$ 13,539
Services	30,240	33,385	33,546	32,149	33,606	36,328	36,759	34,799
Hardware and other	5,698	5,455	7,045	5,219	5,381	5,858	4,853	7,449
Recovery (allowance) relating to bankrupt customer	—	848	—	—	—	—	—	—
Total revenue	46,097	51,045	50,227	49,445	51,293	55,970	51,869	55,787
Costs and expenses:								
Cost of software and hosting fees	1,123	1,222	1,027	1,098	823	850	977	1,435
Amortization of acquired developed technology	452	452	492	603	493	518	521	547
Cost of services	12,766	14,084	13,911	13,457	15,096	16,523	17,009	17,225
Cost of hardware and other	4,927	4,629	6,016	4,551	4,578	5,071	4,211	6,211
Research and development	6,717	6,947	6,708	6,610	7,200	7,281	7,090	7,251
Sales and marketing	7,572	8,608	7,276	7,744	7,920	8,942	8,062	9,125
General and administrative	5,771	5,929	6,155	6,232	6,528	6,605	6,833	7,080
In-process research and development charge and other acquisition-related charges	—	—	885	—	—	—	—	—
Amortization of acquisition-related intangibles	311	373	374	375	377	373	373	373
Restructuring Charge	—	893	—	—	—	—	—	—
Total costs and expenses	39,639	43,137	42,844	40,670	43,015	46,163	45,076	49,247
Income from operations	6,458	7,908	7,383	8,775	8,278	9,807	6,793	6,540
Other income, net	557	1,055	402	732	389	304	540	2,024
Income before income taxes	7,015	8,963	7,785	9,507	8,667	10,111	7,333	8,564
Income taxes	2,475	3,174	2,795	2,981	2,990	3,491	2,683	3,402
Net income	\$ 4,540	\$ 5,789	\$ 4,990	\$ 6,526	\$ 5,677	\$ 6,620	\$ 4,650	\$ 5,162
Diluted net income per share	\$ 0.15	\$ 0.19	\$ 0.16	\$ 0.21	\$ 0.18	\$ 0.21	\$ 0.15	\$ 0.17

Shares used in diluted net income per share	<u>30,446</u>	<u>30,688</u>	<u>31,208</u>	<u>31,341</u>	<u>31,349</u>	<u>31,403</u>	<u>30,786</u>	<u>30,770</u>
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Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We have established disclosure controls and procedures to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the officers who certify the Company's financial reports and to other members of senior management and the Board of Directors.

Based on their evaluation as of December 31, 2004, the principal executive officer and principal financial officer of the Company have concluded that, due to the material weakness discussed in Management's Report on Internal Control over Financial Reporting on page 30 hereof, 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) were not effective to ensure that the information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms.

The material weakness identified by management relates to revenue recognition for sales contracts with multiple revenue elements. The Company has historically been able to establish vendor specific objective evidence ("VSOE") of fair value of its professional services and customer support services and software enhancement subscriptions ("maintenance") but not for its software licenses and, therefore, typically allocates arrangement consideration using the residual method and recognizes software license revenue upon the execution of the software license contract, provided that all other revenue recognition criteria have been met. Although various preventive controls have been in place, management believes that additional detective controls should be established to ensure that professional services and maintenance, when sold separately, are not being offered at prices substantially different than the established VSOE of fair market value for those services. If substantial variations from VSOE of fair value exist, then appropriate evidence of fair value does not exist and the Company would be required to recognize the revenue from software license fees ratably over the service period, rather than at the time of contract execution.

The Company does not believe that the lack of these additional controls has resulted in errors in our revenue recognition. Based on analyses performed by management, we believe that appropriate VSOE of fair value did exist during 2004 for professional services and maintenance. We are improving our internal controls over monitoring VSOE of fair value as it relates to revenue recognition beginning immediately by:

- establishing a quarterly procedure of comparing actual professional services billing rates and rates for maintenance renewals to management's assessment of VSOE of fair value for those services to ensure that VSOE of fair value still exists for our consulting and maintenance services, and
- providing additional training and documentation of our internal pricing policies to our sales, services, and product management personnel.

Management's Report on Internal Control over Financial Reporting

Management's assessment of the effectiveness of the Company's internal control over financial reporting as of December 31, 2004 and the attestation report of Ernst & Young LLP on management's assessment of the Company's internal control over financial reporting are contained on pages 30, 31 and 32, respectively, of this report.

Change in Internal Control over Financial Reporting

There are no changes in the Company's internal control over financial reporting that occurred during the Company's last fiscal quarter that have materially affected or are reasonably likely to materially affect the Company's internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers of the Registrant

Certain information required by this item is incorporated by reference from the information contained in our Proxy Statement for the Annual Meeting of Shareholders expected to be filed with the Commission on or prior to April 29, 2005 under the captions "Code of Ethics," "Election of Directors," "Executive Officers" and "Section 16(a) Beneficial Ownership Reporting Compliance." Certain information regarding our executive officers is included in Part I of this report on Form 10-K under the caption "Executive Officers."

Item 11. Executive Compensation

The information required by this item is incorporated by reference from the information contained in our Proxy Statement for the Annual Meeting of Shareholders expected to be filed with the Commission on or prior to April 29, 2005 under the caption "Executive Compensation."

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters

The information required by this item is incorporated by reference from the information contained in our Proxy Statement for the Annual Meeting of Shareholders expected to be filed with the Commission on or prior to April 29, 2005 under the caption "Security Ownership of Certain Beneficial Owners and

Item 13. *Certain Relationships and Related Transactions*

The information required by this item is incorporated by reference from the information contained in our Proxy Statement for the Annual Meeting of Shareholders expected to be filed with the Commission on or prior to April 29, 2005 under the caption "Certain Transactions."

Item 14. *Principal Accountant Fees and Services*

The information required by this item is incorporated by reference from the information contained in our Proxy Statement for the Annual Meeting of Shareholders expected to be filed with the Commission on or prior to April 29, 2005.

PART IV

Item 15. *Exhibits and Financial Statement Schedules*

(a) 1. *Financial Statements.*

The response to this item is submitted as a separate section of this Form 10-K. See Item 8.

2. *Financial Statement Schedule.*

The following financial statement schedule is filed as a part of this report:

SCHEDULE II

**MANHATTAN ASSOCIATES, INC. AND SUBSIDIARIES
VALUATION AND QUALIFYING ACCOUNTS**

Classification:	Balance at Beginning of Period	Additions Charged to Operations	Net Deductions	Balance at End of Period
Allowance for doubtful accounts for the year ended:				
December 31, 2002	\$ 8,533,000	\$ 3,082,000	\$ 6,442,000 (1)	\$ 5,173,000
December 31, 2003	\$ 5,173,000	\$ 3,453,000	\$ 5,445,000 (2)	\$ 3,181,000
December 31, 2004	\$ 3,181,000	\$ 4,048,000	\$ 3,058,000	\$ 4,171,000

- (1) Included in the net deductions for 2002 is the write-off of approximately \$1.8 million and recovery of approximately \$2.3 million relating to the significant customer. Also included is the addition of the allowance balance of approximately \$477,000 acquired as part of the Logistics.com acquisition, which did not impact operations. Excluding these amounts, the net deduction amount for 2002 was \$2.8 million.
- (2) Included in the net deductions for 2003 is the recovery of approximately \$0.8 million relating to the significant customer. Also included is a true-up of approximately \$0.2 million relating to the allowance balance acquired as part of the Logistics.com acquisition, which did not impact operations. Excluding these amounts, the net deduction amount for 2003 was \$4.4 million.

All other schedules are omitted because they are not required or the required information is shown in the consolidated financial statements or notes thereto.

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(b) *Exhibits.* The following exhibits are filed as part of, or are incorporated by reference into, this report on Form 10-K:

Exhibit Number	Description
3.1	Articles of Incorporation of the Registrant (Incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
3.2	Bylaws of the Registrant (Incorporated by reference to Exhibit 3.2 to the Company's Quarterly Report for the period ended September 30, 2003 (File No. 000-23999), filed on November 14, 2003).
4.1	Provisions of the Articles of Incorporation and Bylaws of the Registrant defining rights of the holders of common stock of the Registrant (Incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
4.2	Specimen Stock Certificate (Incorporated by reference to Exhibit 4.2 to the Company's Pre-Effective Amendment No. 1 to its Registration Statement on Form S-1 (File No. 333-47095), filed on April 2, 1998).
10.1	Lease Agreement by and between Wildwood Associates, a Georgia general partnership, and the Registrant dated September 24, 1997 (Incorporated by reference to Exhibit 10.1 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.2	First Amendment to Lease between Wildwood Associates, a Georgia general partnership, and the Registrant dated October 31, 1997 (Incorporated by reference to Exhibit 10.2 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.3	Second Amendment to Lease Agreement between Wildwood Associates, a Georgia general partnership, and the Registrant, dated February 27, 1998 (Incorporated by reference to Exhibit 10.8 to the Company's Pre-Effective Amendment No. 1 to its Registration Statement on Form S-1 (File No. 333-47095), filed on April 2, 1998).
10.4	Third Amendment to Lease Agreement between Wildwood Associates and the Registrant, dated October 24, 2000 (Incorporated by reference to Exhibit 10.9 to the Company's Annual Report for the period ended December 31, 2000 (File No. 000-23999), filed on April 2, 2001).
10.5	Lease Agreement by and between Wildwood Associates, a Georgia general partnership, and the Registrant, dated June 25, 2001 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended June 30, 2001 (File No. 000-23999), filed August 14, 2001).
10.6	Lease Agreement by and between Tektronix UK Limited, Manhattan Associates Limited and Manhattan Associates, Inc., dated October 21, 1999 (Incorporated by reference to Exhibit 10.27 to the Company's Annual Report for the period ended December 31, 1999 (File No. 000-23999), filed on March 30, 2000).
10.7	Lease (Burlington Business Center) by and between Gateway Rosewood, Inc. and Manhattan Associates, Inc., dated August 23, 2004.
10.8	Agreement to Build and Lease between Orchid Apartments Private Limited and Manhattan Associates India Development Centre Private Limited, executed on November 19, 2004.
10.9	Lease Agreement between IGE Energy Services (UK) Limited, Manhattan Associates Limited and Manhattan Associates, Inc., dated February 1, 2005.

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<u>Exhibit Number</u>	<u>Description</u>
10.10	Sub-Sublease Agreement between Scientific Research Corporation, a Georgia corporation, and the Registrant, dated July 2, 1998 (Incorporated by reference to Exhibit 10.19 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.11	Sub-Sublease Agreement between The Profit Recovery Group International 1, Inc., a Georgia corporation, and the Registrant, dated August 19, 1998 (Incorporated by reference to Exhibit 10.20 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.12	Standard Sublease Agreement between Life Office Management Association, Inc. and the Registrant, dated October 20, 2000 (Incorporated by reference to Exhibit 10.17 to the Company's Annual Report for the period ended December 31, 2000 (File No. 000-23999), filed on April 2, 2001).
10.13	Standard Sublease Agreement between Chevron USA Inc. and the Registrant, dated November 20, 2000 (Incorporated by reference to Exhibit 10.18 to the Company's Annual Report for the period ended December 31, 2000 (File No. 000-23999), filed on April 2, 2001).
10.14	Form of Indemnification Agreement with certain directors and officers of the Registrant (Incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report for the period ended June 30, 2004 (File No.000-23999), filed on August 9, 2004).
10.15	Form of Tax Indemnification Agreement for direct and indirect shareholders of Manhattan Associates Software, LLC (Incorporated by reference to Exhibit 10.7 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.16	Summary Plan Description of the Registrant's Money Purchase Plan & Trust, effective January 1, 1997 (Incorporated by reference to Exhibit 10.3 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.17	Summary Plan Description of the Registrant's 401(k) Plan and Trust, effective January 1, 1995 (Incorporated by reference to Exhibit 10.4 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.18	Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 10.10 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.19	First Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 10.22 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.20	Second Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 10.23 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.21	Third Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 10.24 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.22	Fourth Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 10.25 to the Company's Annual Report for the period ended December 31, 1999 (File No. 000-23999), filed on March 30, 2000).
10.23	Fifth Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 4.8 to the Company's Form S-8 (File No. 333-68968), filed on September 5, 2001).

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Exhibit Number	Description
10.24	Sixth Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Annex A to the Company's Annual Report for the period ended December 31, 2001 (File No. 000-23999), filed on April 1, 2002).
10.25	Amendment No. 7 to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 4.10 to the Company's Form S-8 (File No. 333-105913), filed on June 6, 2003).
10.26	Manhattan Associates, LLC Option Plan (Incorporated by reference to Exhibit 10.11 to the Company's Registration Statement on Form S-1 (File No. 333-47095), filed on February 27, 1998).
10.27	Executive Employment Agreement by and between the Registrant and Peter F. Sinisgalli, effective as of February 25, 2004 (Incorporated by reference to Exhibit 10.28 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.28	Separation and Non-Competition Agreement by and between the Registrant and Peter F. Sinisgalli, effective as of February 25, 2004 (Incorporated by reference to Exhibit 10.29 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.29	Executive Employment Agreement by and between the Registrant and Steve Norton, effective as of January 24, 2005 (Incorporated by reference to Exhibit 10.1 to the Company's Form 8-K (File No. 000-23999), filed on January 12, 2005).
10.30	Severance and Non-Competition Agreement by and between the Registrant and Steve Norton, effective as of January 24, 2005 (Incorporated by reference to Exhibit 10.2 to the Company's Form 8-K (File No. 000-23999), filed on January 12, 2005).
10.31	Executive Employment Agreement by and between the Registrant and Richard M. Hadrill, dated October 11, 1999 (Incorporated by reference to Exhibit 10.26 to the Company's Annual Report for the period ended December 31, 1999 (File No. 000-23999), filed on March 30, 2000).
10.32	Executive Employment Agreement Modification by and between the Registrant and Richard M. Hadrill, effective July 19, 2001 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended September 30, 2001 (File No. 000-23999), filed on November 14, 2001).
10.33	Executive Employment Agreement Second Modification by and between the Registrant and Richard M. Hadrill, effective November 10, 2003 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended September 30, 2003 (File No. 000-23999), filed on November 14, 2003).
10.34	Executive Employment Agreement Third Modification by and between the Registrant and Richard M. Hadrill, effective February 25, 2004 (Incorporated by reference to Exhibit 10.27 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.35	Executive Employment Agreement by and between the Registrant and Edward K. Quibell, effective as of April 25, 2003 (Incorporated by reference to Exhibit 10.30 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.36	Severance and Non-Competition Agreement by and between the Registrant and Edward K. Quibell, dated April 25, 2003 (Incorporated by reference to Exhibit 10.31 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).

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Exhibit Number	Description
10.37	Executive Employment Agreement by and between the Registrant and Jeffrey Mitchell, effective as of September 3, 1999 (Incorporated by reference to Exhibit 10.32 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.38	Executive Non-Competition and Severance Agreement by and between the Registrant and Jeffrey S. Mitchell, dated June 22, 2004 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended June 30, 2004 (File No. 000-23999), filed on August 9, 2004).
10.39	Executive Employment Agreement by and between the Registrant and Jeffry Baum, effective as of October 30, 2000 (Incorporated by reference to Exhibit 10.36 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.40	Executive Employment Agreement by and between the Registrant and Ramesh Srinivasan, effective as of January 1, 2004 (Incorporated by reference to Exhibit 10.33 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.41	Severance and Non-Competition Agreement by and between the Registrant and Ramesh Srinivasan, dated January 1, 2004 (Incorporated by reference to Exhibit 10.34 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.42	Separation and Non-Competition Agreement by and between the Registrant and Ramesh Srinivasan, dated January 25, 2005.
10.43	Employment Agreement by and between the Registrant and Eric Peters, dated April 23, 2002 (Incorporated by reference to Exhibit 10.35 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.44	Separation Agreement and Release, by and between the Registrant and Neil Thall, dated March 26, 2003 (Incorporated by reference to Exhibit 10.28 to the Company's Annual Report for the period ended December 31, 2002 (File No. 000-23999), filed on March 31, 2003).
10.45	Non-Competition Agreement, by and between the Registrant and Neil Thall, dated March 26, 2003 (Incorporated by reference to Exhibit 10.29 to the Company's Annual Report for the period ended December 31, 2002 (File No. 000-23999), filed on March 31, 2003).
10.46	Form of License Agreement, Software Maintenance Agreement and Consulting Agreement (Incorporated by reference to Exhibit 10.18 to the Company's Pre-Effective Amendment No. 1 to its Registration Statement on Form S-1 (File No. 333-47095), filed on April 2, 1998).
10.47	Form of Software License, Services and Maintenance Agreement (Incorporated by reference to Exhibit 10.21 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.48	Asset Purchase Agreement, dated December 31, 2002, by and between the Registrant and Logistics.com, Inc. (Incorporated by reference to Exhibit 2.1 to the Company's Form 8-K (File No. 000-23999), filed on January 15, 2003).
16.1	Letter from Arthur Andersen LLP, dated April 25, 2002, to the Securities and Exchange Commission (Incorporated by reference to Exhibit 16.1 to the Company's Form 8-K (File No. 000-23999), filed on April 29, 2002).
21.1	List of Subsidiaries.
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
31.1	Certificate of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

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Exhibit Number	Description
31.2	Certificate of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certificate of Chief Executive Officer and Chief Financial Officer.
99.1	Safe Harbor Compliance Statement for Forward-Looking Statements.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

MANHATTAN ASSOCIATES, INC.

By: /s/ Peter F. Sinisgalli
Peter F. Sinisgalli
Chief Executive Officer, President and Director

Date: March 16, 2005

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ JOHN J. HUNTZ, JR.</u> John J. Huntz, Jr.	Chairman of the Board	March 16, 2005
<u>/s/ PETER F. SINISGALLI</u> Peter F. Sinisgalli	Chief Executive Officer, President and Director (Principal Executive Officer)	March 16, 2005
<u>/s/ STEVEN R. NORTON</u> Steven R. Norton	Senior Vice President, Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	March 16, 2005
<u>/s/ RICHARD M. HADDRILL</u> Richard M. Haddrill	Vice-Chairman of the Board	March 16, 2005
<u>/s/ BRIAN J. CASSIDY</u> Brian J. Cassidy	Director	March 16, 2005
<u>/s/ PAUL R. GOODWIN</u> Paul R. Goodwin	Director	March 16, 2005
<u>/s/ THOMAS E. NOONAN</u> Thomas E. Noonan	Director	March 16, 2005
<u>/s/ DEEPAK RAGHAVAN</u> Deepak Raghavan	Director	March 16, 2005

EXHIBIT INDEX

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10.12	Standard Sublease Agreement between Life Office Management Association, Inc. and the Registrant, dated October 20, 2000 (Incorporated by reference to Exhibit 10.17 to the Company's Annual Report for the period ended December 31, 2000 (File No. 000-23999), filed on April 2, 2001).
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10.23	Fifth Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Exhibit 4.8 to the Company's Form S-8 (File No. 333-68968), filed on September 5, 2001).
10.24	Sixth Amendment to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (Incorporated by reference to Annex A to the Company's Annual Report for the period ended December 31, 2001 (File No. 000-23999), filed on April 1, 2002).

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10.32	Executive Employment Agreement Modification by and between the Registrant and Richard M. Hadrill, effective July 19, 2001 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended September 30, 2001 (File No. 000-23999), filed on November 14, 2001).
10.33	Executive Employment Agreement Second Modification by and between the Registrant and Richard M. Hadrill, effective November 10, 2003 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended September 30, 2003 (File No. 000-23999), filed on November 14, 2003).
10.34	Executive Employment Agreement Third Modification by and between the Registrant and Richard M. Hadrill, effective February 25, 2004 (Incorporated by reference to Exhibit 10.27 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.35	Executive Employment Agreement by and between the Registrant and Edward K. Quibell, effective as of April 25, 2003 (Incorporated by reference to Exhibit 10.30 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.36	Severance and Non-Competition Agreement by and between the Registrant and Edward K. Quibell, dated April 25, 2003 (Incorporated by reference to Exhibit 10.31 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.37	Executive Employment Agreement by and between the Registrant and Jeffrey Mitchell, effective as of September 3, 1999 (Incorporated by reference to Exhibit 10.32 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.38	Executive Non-Competition and Severance Agreement by and between the Registrant and Jeffrey S. Mitchell, dated June 22, 2004 (Incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report for the period ended June 30, 2004 (File No. 000-23999), filed on August 9, 2004).

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<u>Exhibit Number</u>	<u>Description</u>
10.39	Executive Employment Agreement by and between the Registrant and Jeffrey Baum, effective as of October 30, 2000 (Incorporated by reference to Exhibit 10.36 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.40	Executive Employment Agreement by and between the Registrant and Ramesh Srinivasan, effective as of January 1, 2004 (Incorporated by reference to Exhibit 10.33 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.41	Severance and Non-Competition Agreement by and between the Registrant and Ramesh Srinivasan, dated January 1, 2004 (Incorporated by reference to Exhibit 10.34 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.42	Separation and Non-Competition Agreement by and between the Registrant and Ramesh Srinivasan, dated January 25, 2005.
10.43	Employment Agreement by and between the Registrant and Eric Peters, dated April 23, 2002 (Incorporated by reference to Exhibit 10.35 to the Company's Annual Report for the period ended December 31, 2003 (File No. 000-23999), filed on March 15, 2004).
10.44	Separation Agreement and Release, by and between the Registrant and Neil Thall, dated March 26, 2003 (Incorporated by reference to Exhibit 10.28 to the Company's Annual Report for the period ended December 31, 2002 (File No. 000-23999), filed on March 31, 2003).
10.45	Non-Competition Agreement, by and between the Registrant and Neil Thall, dated March 26, 2003 (Incorporated by reference to Exhibit 10.29 to the Company's Annual Report for the period ended December 31, 2002 (File No. 000-23999), filed on March 31, 2003).
10.46	Form of License Agreement, Software Maintenance Agreement and Consulting Agreement (Incorporated by reference to Exhibit 10.18 to the Company's Pre-Effective Amendment No. 1 to its Registration Statement on Form S-1 (File No. 333-47095), filed on April 2, 1998).
10.47	Form of Software License, Services and Maintenance Agreement (Incorporated by reference to Exhibit 10.21 to the Company's Annual Report for the period ended December 31, 1998 (File No. 000-23999), filed on March 31, 1999).
10.48	Asset Purchase Agreement, dated December 31, 2002, by and between the Registrant and Logistics.com, Inc. (Incorporated by reference to Exhibit 2.1 to the Company's Form 8-K (File No. 000-23999), filed on January 15, 2003).
16.1	Letter from Arthur Andersen LLP, dated April 25, 2002, to the Securities and Exchange Commission (Incorporated by reference to Exhibit 16.1 to the Company's Form 8-K (File No. 000-23999), filed on April 29, 2002).
21.1	List of Subsidiaries.
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
31.1	Certificate of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certificate of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certificate of Chief Executive Officer and Chief Financial Officer.
99.1	Safe Harbor Compliance Statement for Forward-Looking Statements.

BURLINGTON BUSINESS CENTER
BURLINGTON, MASSACHUSETTS
LEASE dated as of August 23, 2004

ARTICLE I

1.1 Reference Data

Each reference in this Lease to any of the following subjects shall be construed to incorporate the data stated for that subject in this Article:

LANDLORD: GATEWAY ROSEWOOD, INC.

LANDLORD'S ORIGINAL ADDRESS: c/o Lincoln Properties Company
101 Arch Street
Boston, Massachusetts 02110

LANDLORD'S CONSTRUCTION REPRESENTATIVE:

TENANT: Manhattan Associates, Inc.
a Georgia corporation

TENANT'S ORIGINAL ADDRESS: 2300 Windy Ridge Parkway
7th Floor
Atlanta, GA 30339
Attn: Director of Real Estate

TENANT'S CONSTRUCTION REPRESENTATIVE: Joe Howard

TENANT'S FINAL PLANS DATE: Not Applicable

SCHEDULED TERM COMMENCEMENT DATE: October 1, 2004

RENT COMMENCEMENT DATE: The date two (2) months after the Term Commencement Date. Tenant's obligation to pay Annual Fixed Rent shall not commence to accrue until the Rent Commencement Date ("Annual Fixed Rent Abatement Period") (i.e., Tenant shall have no obligation to pay Annual Fixed Rent during the first (1st) two (2) months of the Term of the Lease ("Abated Annual Fixed Rent"). Notwithstanding anything to the contrary herein contained, if Tenant defaults at any time during the Term of the Lease and fails to cure such default within any applicable cure period under the Lease,

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all Abated Annual Fixed Rent shall immediately become due and payable. The payment by Tenant of the Abated Annual Fixed Rent in the event of a default shall not limit or affect any of Landlord's other rights, pursuant to this Lease or at law or in equity. During the Annual Fixed Rent Abatement Period, only Annual Fixed Rent shall be abated, and Electricity Charges and all other costs and charges specified in the Lease shall remain as due and payable pursuant to the provisions of the Lease.

TENANT'S SPACE: An area on the second (2nd) floor of Pod B of the Building, containing approximately 16,422 rentable square feet, substantially as shown on Exhibit F attached hereto

TERM: The period commencing as of the Term Commencement Date and subject to Paragraph K of Exhibit B to the Lease, ending as of the date seventy-four (74) months after the Term Commencement Date ("Termination Date")

RENT YEAR: Any twelve month period during the term of the Lease commencing as of the Rent Commencement Date, or as of any anniversary of the Rent Commencement Date

ANNUAL FIXED RENT:	Rent Year -----	Annual Fixed Rent -----	Monthly Payment -----
	Term of Commencement Date through the end of Rent Year 2:		
	3-5:	\$295,596.00	\$24,633.00
	6:	\$303,807.00	\$25,317.25
		\$312,018.00	\$26,001.50

Subject to the definition of Rent Commencement Date above, Tenant has no obligation to pay Annual Fixed Rent prior- to the Rent Commencement Date.

TENANT'S ANNUAL ELECTRICITY CHARGE: \$20,527.50 per annum (i.e., \$1,710.63 per month) (i.e., \$1.25 per square foot of Rentable Floor Area of the Premises per annum.

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TENANT'S TAX BASE: The actual amount of Tax Expenses Allocable to the Premises in respect of fiscal tax year 2005 (i.e., July 1, 2004 - June 30, 2005)

TENANT'S OPERATING EXPENSE BASE: Subject to Section 2.6A(c), the actual amount of Operating Expenses Allocable to the Premises in respect of calendar year 2005

RENTABLE FLOOR AREA OF THE BUILDING: 175,423 Rentable Square Feet

PERMITTED USES: General business, office and administration-related activities

PUBLIC LIABILITY INSURANCE: Bodily Injury - \$2,000,000.00 in the aggregate/\$ 1,000,000.00 per occurrence. Property Damage - \$2,000,000.00 in the aggregate/\$ 1,000,000.00 per occurrence.

SECURITY DEPOSIT: Twenty-Four Thousand Six Hundred Thirty-Three and 001/00 (\$24,633.00) Dollars.

1.2 Exhibits.

There are nine (9) incorporated as a part of this Lease:

- EXHIBIT A - Description of Lot
- EXHIBIT B - Landlord's Work
- EXHIBIT C - Plans and Specifications for Landlord's Work
- EXHIBIT D - Building Standard Tenant Improvements
- EXHIBIT E - Landlord's Services
- EXHIBIT F - Floor Plan
- EXHIBIT G - Required Tenant Work General Conditions
- EXHIBIT H - Building Rules and Regulations
- EXHIBIT I - Building Alterations Rules and Regulations

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ARTICLE II

PREMISES, TERM AND RENT

2.1 The Premises

Landlord hereby leases to Tenant and Tenant hereby hires from Landlord Tenant's Space in the Building. The demise herein excludes exterior faces of exterior walls, the common stairways and stairwells, elevators and elevator shafts, fan rooms, electric and telephone closets, janitor closets, freight elevator vestibules, and pipe, ducts, conduits, wires and appurtenant fixtures

serving exclusively or in common other parts of the Building, and if Tenant's Space includes less than the entire rentable area of any floor, excluding the common corridors, elevator lobbies and toilets located on such floor. Tenant's Space with such exclusions is hereinafter referred to as "the Premises." The term "Building" means the building erected on the Lot by Landlord, and the term "Lot" means all, and also any part of, the land described in Exhibit A in whole or in part and subject to minor adjustments of the lot boundaries. "Property" means the Building and Lot.

2.2 Rights to Use Common Facilities

Tenant shall have, as appurtenant to the Premises, rights to use in common, subject to reasonable rules of general applicability to tenants of the Building from time to time made by Landlord of which Tenant is given notice: (a) the common lobbies, corridors, stairways, elevators and loading platform of the Building, and the pipes, ducts, conduits, wires and appurtenant meters and equipment serving the Premises in common with others, (b) common walkways and driveways necessary for access to the Building, (c) if the Premises included less than the entire rentable area of any floor, the common toilets, corridors and elevator lobbies of such floor and (d) up to sixty-one (61) parking spaces in the common parking facilities adjacent to the Building (Tenant hereby acknowledging that parking is available on a first-come, first-served basis only); and no other appurtenant rights or easements. Landlord shall have no obligation to police the use of such parking spaces. Landlord shall have no obligation to police said common parking areas and Landlord shall not be responsible for money, jewelry, automobiles or other personal property lost in or stolen from the common parking areas. Landlord shall not be liable for any loss, injury or damage to persons using the common parking areas or automobiles or other property therein, it being agreed that, to the fullest extent permitted by law, the use of the common parking areas shall be at the sole risk of Tenant and its employees.

2.3 Landlord's Reservations

Landlord reserves the right from, time to time, without unreasonable interference with Tenant's use: (a) to install, use, maintain, repair, replace and relocate for service to the Premises and other parts of the Building, or either, pipes, ducts, conduits, wires and appurtenant fixtures, wherever located in the Premises or Building, and (b) to alter or relocate any other common

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facility, provided that substitutions are substantially equivalent or better. Installations, replacements and relocations referred to in clause (a) above shall be located so far as practicable in the central core area of the Building, above ceiling surfaces, below floor surfaces or within perimeter walls of the Premises.

2.4 Commencement of Term

Tenant shall have and hold the Premises for a period commencing on the date ("Term Commencement Date") which is the earlier of (a) the later of:

(i) the Substantial Completion Date, as defined in Exhibit B to the Lease,
or

(ii) October 1, 2004, or

(b) that date on which Tenant commences occupancy of any portion of the Premises for the Permitted Uses.

If Landlord shall be unable to give possession of the Premises on the Scheduled Term Commencement Date because the Premises are not completed and ready for occupancy, or due to the holding over or retention of possession of any tenant or occupant, or if repairs, improvements or decorations of the Premises or of the Building are not completed, or for any other reason, Landlord shall not be subject to any liability for failure to give possession on said

date, nor shall such failure affect the continuing validity of this Lease.

2.5 Monthly Fixed Rent Payments

Tenant shall pay, without notice or demand, monthly installments of 1/12 of (a) the Annual Fixed Rent, and (b) a charge ("Annual Electricity Charge") equal to \$1.25 per annum for each square foot of Rentable Floor Area of the Premises for tenant electricity, as described in paragraph VI (A) of Exhibit E, in advance on the first day of each month for each full calendar month of the Term, and the corresponding fraction of said amounts for any fraction of a calendar month at the beginning or end of the Term. Notwithstanding the provisions hereof, Tenant shall pay the first monthly installment of Annual Fixed Rent on the execution of this Lease.

Rental and any other sums due hereunder not paid within ten (10) days after the date due shall bear interest for each month or fraction thereof from the due date until paid computed at the annual rate of two (2) percentage points over the so-called prime rate then currently from time to time charged by Bank of America, or its successor, or at any applicable lesser maximum legally permissible rate for debts of this nature.

In addition, should Tenant fail to pay when due rental and any other sums due hereunder, Tenant acknowledges that Landlord will incur additional administrative expenses which are difficult to determine. Therefore, in such event, Landlord may assess against Tenant, from and after the tenth (10th) day following the date on which any sum shall be due and payable, a late payment fee ("Late Fee") equal to three (3%) percent of the sum due from Tenant to Landlord. Notwithstanding the foregoing, Landlord hereby

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agrees to waive the Late Fee with respect to the first two late payments (i.e., any payment which are not paid within ten (10) days of the due date) in any twelve month period.

2.6 Adjustment for Operating Expenses

A. Terms used herein are defined as follows:

(a) "Operating Year" shall mean any 12 month period elected by Landlord for operating purposes. Landlord's current Operating Year commences on January 1 of each year. If Landlord should elect to change said Operating Year, Landlord shall notify Tenant thereof, and all calculations required to be made at the end of an Operating Year shall be made and proportioned accordingly.

(b) "Operating Expenses for the Property" means the cost of operation of the Property which shall exclude costs of special services rendered to tenants (including Tenant) for which a separate charge is made, and items of expense referred to in Section 2.7 hereof, but shall include, without limitation, the following: Premiums for insurance carried with respect to the Property (including insurance against loss in case of fire or casualty, rent interruption insurance, and any insurance required by Landlord's mortgagee); compensation and all fringe benefits, Workmen's Compensation Insurance premiums and payroll taxes paid to, for or with respect to all persons engaged in the operating, repairing, maintaining, or cleaning of the Building or Lot; steam, water, sewer, gas, oil and telephone charges; electricity provided to the Building and to electricity provided to the tenanted areas ("Premises Electricity") to the extent that the cost of Premises Electricity exceeds \$1.25 per square foot of Rentable Floor Area of the Building per annum); cost of building and cleaning supplies and equipment; related equipment, facilities and appurtenances, elevators, cooling and heating equipment, provided, however, that (i) if, during the term of this Lease, Landlord shall replace any capital items or make any capital expenditures (collectively called "capital expenditures") the total amount of which is not properly includible in Operating Expenses for the Operating Year in which they were made, there shall nevertheless be included in such Operating Expenses and in Operating Expenses for each succeeding Operating Year the amount, if any, by which the annual charge-off (determined as

hereinafter provided) of such capital expenditure (less insurance proceeds, if any, collected by Landlord by reason of damage to, or destruction of the capital item being replaced) exceeds the annual charge-off of the capital expenditure for the item being replaced; and (ii) if a new capital item is acquired which does not replace another capital item which has worn out, has become obsolete, etc., then there shall be included in Operating Expenses for each Operating Year in which and after such capital expenditure is made the annual charge-off of such capital expenditure. (Annual charge-off shall be determined by (i) dividing the original cost of the capital expenditure by the number of years of life thereof [The useful life shall be reasonably determined by Landlord in accordance generally accepted accounting principles and practices in effect at the time of acquisition of the capital item], and (ii) adding to such quotient an interest factor computed

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on the unamortized balance of such capital expenditure at an annual rate of either one percentage point over the AA Bond rate [Standard & Poor's corporate composite or, if unavailable, its equivalent] as reported in the financial press at the time the capital expenditure is made or, if the capital item is acquired through third-party financing, then the actual [including fluctuating] rate paid by Landlord in financing the acquisition of such capital item.) Provided, further, that if Landlord reasonably concludes on the basis of engineering estimates that a particular capital expenditure will effect savings in Operating Expenses for the Property, including, without limitation, energy-related costs, and that such annual projected savings will exceed the annual charge-off of capital expenditure computed as aforesaid, then and in such events, the annual charge-off shall be determined by dividing the amount of such capital expenditure by the number of years over which the projected amount of such savings shall fully amortize the cost of such capital item or the amount of such capital expenditure; and by adding the interest factor, as aforesaid; cost of maintenance, cleaning and repairs, cost of snow removal and care of landscaping; payments under service contracts with independent contractors or subsidiaries or affiliates of Landlord; management fees to the extent the same do not exceed market rate management fees charged with respect to comparable buildings in the Town of Burlington; and all other expenses paid in connection with the operation, repair, cleaning and maintenance of the Building and Lot.

(c) If during all or part of any Operating Year (including, without limitation, the base year of 2005), Landlord is not performing or furnishing any item to any portion of the Building (the cost of which, if performed or furnished by Landlord to such portion of the Property would constitute a part of Operating Expenses for the Property) on account of (a) such portion of the Building not being occupied or leased, (b) such item not being required or desired by a tenant, (c) any tenant itself obtaining or providing such item, or (d) any other reason, whether similar or dissimilar to the foregoing; then, Operating Expenses for the Property shall be deemed to be increased by an amount equal to the additional costs and expenses which would reasonably have been incurred during such period by Landlord if it had performed or furnished such item to 100% of the Building.

(d) "Operating Expenses Allocable to the Premises", as may be adjusted pursuant to Subparagraph (c) hereof, shall mean Operating Expenses for the Property, multiplied by a fraction, which is equal to the greater of: (i) ninety-five (95%) percent of the ratio of the Rentable Floor Area of Tenant's Space to the Rentable Floor Area of the Building, or (ii) the ratio of the Rentable Floor Area of Tenant's Space to the Rentable Floor Area of the Building actually leased on an average annual basis for said Operating Year.

(e) The "Statement" shall mean a statement rendered to Tenant by Landlord within 90 days or as soon thereafter as reasonably possible after the end of each Operating Year. The Statement shall be in reasonable detail, certified by Landlord's representative, and show the Operating Expenses for the Property, the Operating Expenses Allocable to the Premises, amounts already paid by Tenant for Operating Expenses Allocable to the Premises (including Tenant's Operating Expense Base, amounts received on account of

Annual Electricity Charge pursuant to Section 2.5 hereof, and amounts paid pursuant to part C of this Section 2.6), and the amount of Operating Expenses Allocable to the Premises remaining due from or overpaid by Tenant for the Operating Year or fraction thereof covered by the Statement with appropriate prorations for fractional years.

B. If with respect to any Operating Year of the Term, Operating Expenses Allocable to the Premises exceed Tenant's Operating Expense Base, then Tenant shall pay to Landlord as additional rent the amount of such excess ("Operating Expense Excess"). Such payments shall be made at the times and in the manner hereinafter provided in this Section 2.6. Appropriate prorations shall be made for those periods at the beginning or end of the Term which are less than a full Operating Year (Tenant's Operating Expense Base includes the \$1.25 per Rentable Square Foot charge for Annual Electricity Charge to be paid pursuant to Section 2.5 hereof).

Within 30 days after the date of delivery of such Statement, Tenant shall pay to Landlord or Landlord shall pay to Tenant as the case may be, the balance of the amounts, if any, required to be paid pursuant to the above provisions of this Section 2.6, except that Landlord may at its option credit any amounts due from it to Tenant against monthly installments of Annual Fixed Rent next thereafter coming due.

C. Commencing on the first day of the first month following the delivery to Tenant of the Statement referred to above and on the first day of each month thereafter until delivery to Tenant of the next such Statement, Tenant shall pay to Landlord, on account of Tenant's share of increases in Operating Expenses Allocable to the Premises anticipated by Landlord for the then current Operating Year, 1/12th of the difference between Operating Expenses Allocable to the Premises calculated by Landlord on the basis of the most recent Operating Expense data or budget available from time to time, and Tenant's Operating Expense Base.

2.7 Adjustments for Real Estate Taxes

Terms used herein are defined as follows:

(a) "Tax Year" means the twelve-month period beginning July 1 each year during the Term or if the appropriate governmental tax fiscal period shall begin on any date other than July 1, such other date.

(b) In any Tax Year when the Building has an average annual occupancy rate of less than 95% then "Tax Expenses Allocable to the premises" means the same proportion of the Landlord's Tax Expenses as Rentable Floor Area of Tenant's Space bears to 95% of the Rentable Floor Area of the Building.

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(c) In any Tax Year when the Building has an average annual occupancy rate of 95% or more "Tax Expenses Allocable to the Premises" means the same proportion of Landlord's Tax Expenses as Rentable Floor Area of Tenant's Space bears to the Rentable Floor Area of the Building actually leased on an average annual basis for said Tax Year.

(d) "Landlord's Tax Expenses" with respect to any Tax Year means the aggregate Real Estate Taxes on the Property with respect to that Tax Year, reduced by any abatements actually received with respect to that Tax Year.

(e) "Real Estate Taxes" means all taxes, levies, betterments, and special assessments of every kind and nature assessed by National, State, Municipal or by any other governmental authority on the Lot or the Building or the Property which the Landlord shall become obligated to pay because of or in connection with the ownership, leasing, operating, use or occupancy of the Lot, the Building, and the Property or based upon rentals derived therefrom; charges,

fees and assessments for transit, housing, police, fire or other governmental services or purported benefits to the Building; service or user payments in lieu of taxes; and reasonable expenses of any proceedings for abatement of taxes. The amount of special taxes or special assessments to be included shall be limited to the amount of the installment (plus any interest, other than penalty interest, payable therein) of such special tax or special assessment required to be paid during the year in respect of which such taxes are being determined. There shall be excluded from such taxes all income, estate, succession, inheritance and transfer taxes; provided, however, that if at any time during the Term the present system of ad valorem tax of real property shall be changed so that in lieu of or in addition to the whole or any part of the ad valorem tax on real property, there shall be assessed on Landlord a capital levy or other tax on the gross rents received with respect to the Lot or Building or Property, or a federal, state, county, municipal, or other local income, franchise, excise or similar tax, assessment, levy or charge (distinct from any now in effect in the jurisdiction in which the Property is located) measured by or based, in whole or in part, upon any such gross rents, than any and all of such taxes shall be included within the term "Real Estate Taxes" but only to the extent that the same would be payable if the Lot, Building or Property were the only property of Landlord.

If with respect to any Tax Year of the Term, Tax Expenses Allocable to the Premises exceed Tenant's Tax Base, then Tenant shall pay to Landlord as additional rent the amount of such excess ("Tax Excess"). Such payments shall be made at the times and in the manner hereinafter provided in this Section 2.7. Appropriate prorations shall be made for those periods at the beginning or end of the Term which are less than a full Tax Year. Within ninety (90) days or as soon thereafter as reasonably possible after the end of such first Tax Year or fraction thereof at the beginning of the Term, and of each succeeding Tax Year during the Term and within ninety (90) days or as soon thereafter as reasonably possible after lease termination, Landlord shall render to Tenant a statement in reasonable detail certified by a representative of Landlord showing for the preceding Tax Year or fraction thereof, as the case may be, Landlord's Tax Expenses for the Property, and Tax Expenses Allocable to the Premises.

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Commencing on the first day of the first month following the delivery to Tenant of the statement referred to above and on the first day of each month thereafter until delivery to Tenant of the next such statement, Tenant shall pay to Landlord, on account toward Tenant's share of increases in Tax Expenses Allocable to the Premises anticipated for the then current Tax Year, 1/12th of the total amount of Tax Expenses Allocable to the Premises as shown on the most recent such statement delivered to Tenant. The statements to be rendered to Tenant referred to above shall also show for the preceding Tax Year amounts of Real Estate Taxes already paid by Tenant on account for such year and the amount of Tax Expenses Allocable to the Premises remaining due from or overpaid by Tenant for the Tax Year or fraction thereof covered by the statement. Within 30 days after the date of delivery of such statement, Tenant shall pay to Landlord or Landlord shall pay to Tenant as the case may be, the balance of the amounts, if any, required to be paid pursuant to the above provisions of this Section 2.7, except that Landlord may at its option credit any amounts due from it to Tenant against installments of Annual Fixed Rent and other charges due under the Lease next thereafter coming due; provided however, that if such statement is delivered after the termination of the term of the Lease, Landlord shall reimburse Tenant for the amount of any overpayment on account of Tax Expenses Allocable to the Premises to the extent that it exceeds any amount then due from Tenant to Landlord.

To the extent that Real Estate Taxes shall be payable to the taxing authority in installments for periods less than a Tax Year, the foregoing statement shall be rendered and payments made on account of such installments with respect to such periods rather than with respect to such full Tax Year.

2.8 Due Date, Additional Rent, No Offsets

Except as otherwise specifically provided herein, all sums, amounts, items

or charges payable by Tenant to Landlord under this Lease shall be considered as additional rent, and shall be paid by Tenant to Landlord on the first day of the month following the date on which Landlord notifies Tenant of the amount payable or on the tenth day after the giving of such notice, whichever shall be later. Any such notice shall specify in reasonable detail the basis of such additional rent. Annual Fixed Rent and additional rent shall be paid by Tenant to Landlord without offset or deduction.

ARTICLE III

TENANT ALTERATIONS AND CONSTRUCTION

3.1 Alterations and Additions by Tenant

(a) This Section 3.1 shall apply before and during the Term. Tenant shall not make alterations and additions to Tenant's Space except in accordance with plans and

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specifications and a time schedule therefor first approved by Landlord in writing. All alterations and additions to Tenant's Space shall equal or exceed the specifications and quantities provided in Exhibit D. No amendments or additions to Tenant's approved plans shall be made without the prior written consent of Landlord. Landlord shall not be deemed unreasonable for withholding approval of any alterations or additions which (a) involve or might affect any structural or exterior element of the Building, any area or element outside of the Premises, or any facility serving any area of the Building outside the Premises, or (b) will delay completion of the Premises or Building or (c) will require unusual expense to readapt the Premises to normal office use on Lease termination or increase the cost of construction or of insurance or taxes on the Building or of the services called for by Section 4.1 unless Tenant first gives assurance acceptable to Landlord for payment of such increased cost and that such readaption will be made prior to such termination without expense to landlord.

(b) All alterations and additions shall be part of the Building unless and until Landlord shall specify the same for removal pursuant to Section 5.2. Landlord may elect to require Tenant at the expiration or sooner termination of the term of this Lease to restore the Premises to substantially the same condition as existed at the Term Commencement Date.

(c) All of Tenant's alterations and additions and installation of furnishings shall be coordinated with any work being performed by Landlord in such manner as to not damage the Property or interfere with Building construction or operation and, except for installation of furnishings, shall be performed by Landlord's general contractor or by contractors or workmen first approved by Landlord. In the event that Tenant shall engage its own contractors to perform such work, Tenant shall pay to Landlord the cost of services provided by Landlord or Landlord's contractor to Tenant and to Tenant's contractors while performing such work, which services shall include, but not be limited to, cleaning, security, rubbish removal, electricity, toilet facilities, and elevators. Tenant's contract with any such contractors shall include the Required Tenant Work General Conditions attached hereto as Exhibit G, and Landlord shall have the right to enforce such General Conditions directly against any of Tenant's contractors. Tenant shall defend, save harmless, exonerate and indemnify Landlord from all injury, loss or damage to any person or property occasioned by or growing out of such work. Tenant agrees that it will not, either directly or indirectly, use any contractors and/or materials if their use will create any difficulty, whether in the nature of a labor dispute or otherwise, with other contractors and/or labor engaged by Tenant or Landlord or others in the construction, maintenance and/or operation of the Building or any part thereof. Except for work by Landlord's general contractor, Tenant, before its work is started, shall: secure all licenses and permits necessary therefor; deliver to Landlord a statement of the names of all its contractors and subcontractors and the estimated cost of all labor and material to be furnished by them; and cause each contractor to carry Workmen's Compensation

insurance in statutory amounts covering all the contractor's and subcontractor's employees, Automobile Liability Insurance and comprehensive public liability insurance and property damage

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insurance with such limits as Landlord may reasonably require but in no event less than, with respect to public liability insurance, the applicable Minimum Liability Insurance Limit, as hereinafter defined and with respect to property damage insurance, the applicable Minimum Liability Insurance Limit (all insurance to be written in companies approved by Landlord and insuring Landlord and Tenant as well as the contractors, and to deliver to Landlord certificates of all such insurance. With respect to any alteration, addition, or installation made by, or on behalf of Tenant, the cost of which exceeds One Hundred Thousand (\$100,000.00) Dollars (referred to herein as "Bonded Project"), no installations or work shall be undertaken or begun by Tenant until Tenant has either: (i) procured appropriate surety payment and performance bonds which shall name Landlord as an additional obligee and filed lien bonds on behalf of such contractors, laborers and suppliers, or (ii) obtained other appropriate protective measures, approved by Landlord. The "Minimum Liability Insurance Limit" for any general contractor which performs construction work within the Premises shall be \$5,000,000.00, and the Minimum Liability Insurance Limit for all other contractors (e.g. furniture movers, telecommunications installation contractors, etc.) and all subcontractors shall be \$2,000,000.00.

(d) In no event shall any material or equipment be incorporated in or added to the Premises, so as to become a fixture or otherwise a part of the Building, in connection with any such alteration, decoration, installation, addition or improvement which is subject to any lien, charge, mortgage or other encumbrance of any kind whatsoever or is subject to any security interest or any form of title retention agreement. Any mechanic's lien filed against the Premises or the Building for work claimed to have been done for, or materials claimed to have been furnished to, Tenant shall be discharged by Tenant within ten (10) days thereafter, at Tenant's expense, by filing the bond required by law or otherwise. If Tenant fails so to discharge any lien, Landlord may do so at Tenant's expense and Tenant shall reimburse Landlord for or any expense or cost incurred by Landlord in so doing within fifteen (15) days after rendition of a bill therefor.

(e) All installations or work done by Tenant shall be at its own expense and shall at all times comply with (i) laws, rules, orders and regulations of governmental authorities having jurisdiction thereof; (ii) orders, rules and regulations of any Board of Fire Underwriters, or any other body hereafter constituted exercising similar functions, and governing insurance rating bureaus; (iii) Rules and Regulations of Landlord; and (iv) plans and specifications prepared by and at the expense of Tenant theretofore submitted to and approved by Landlord. All construction work required or permitted by this Lease shall be done in a good and workmanlike manner. Tenant agrees to pay promptly when due the entire cost of any work done on the Premises by Tenant, its agents, employees, or independent contractors.

3.2 Real Estate Taxes on Leasehold Improvements

If under Massachusetts law or regulations, the tax assessor is required to include leasehold (real property) improvements in determining the assessed value of the Building, then to the extent that Tenant makes leasehold improvements (including Tenant's original installation and Tenant's subsequent alterations, additions, substitutions and improvements) which are in excess of the Building Standard Tenant Improvements set forth in Exhibit D,

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whether done prior to or after the commencement of the Term of this Lease, Tenant shall pay the real estate taxes attributable to the value of such excess leasehold improvements throughout the Term of this Lease within thirty (30) days after being billed therefor by Landlord.

3.3 Landlord's Right to Make Alterations

Landlord reserves the right, exercisable by itself or its nominee, at any time and from time to time without the same constituting an actual or constructive eviction and without incurring any liability to Tenant therefor or otherwise affecting Tenant's obligations under this Lease, to make such changes, alterations, additions, improvements, repairs or replacements (collectively "Alterations") in or to the Building (including the Premises, provided however, that no Alterations shall be made with the Premises in the volume below the ceiling, outside of the walls, and above the floor without obtaining Tenant's prior written consent, which consent shall not be unreasonably withheld conditioned or delayed) and the fixtures and equipment thereof, as well as in or to the street entrances, halls, passages, elevators, escalators, and stairways thereof, as it may deem necessary or desirable, and to change the arrangement and/or location of entrances or passageways, doors and doorways, and corridors, elevators, stairs, toilets, or other public parts of the Building, provided, however, that there be no unreasonable obstruction of the right to access to, or unreasonable interference with the use of the premises by Tenant. Nothing contained in this Section 3.3 shall be deemed to relieve Tenant of any duty, obligation or liability of Tenant with respect to making any repair, replacement or improvement or complying with any law, order or requirement of any governmental or other authority. Landlord reserves the right to adopt at any time and from time to time to change the name or address of the Building. Neither this Lease nor any use by Tenant shall give Tenant any right or easement for the use of any door or any passage or any concourse connecting with any other building or to any public convenience, and the use of such doors, passes and concourses and of such conveniences may be regulated or discontinued at any time and from time to time by Landlord without notice to Tenant and without affecting the obligation of Tenant hereunder or incurring any liability to Tenant therefor, provided, however, that there be no unreasonable obstruction of the right to access to, or unreasonable interference with the use of the Premises by Tenant.

Landlord shall not be liable to Tenant for any compensation or reduction of rent by reason of inconvenience or annoyance or for loss of business arising from the necessity of Landlord or its agents entering the Premises for any of the purposes in this Lease authorized, or for repairing the Premises or any portion of the Building, however the necessity may occur. Subject to Section 8.18, in case Landlord is prevented or delayed from making any repairs, alterations or improvements, or furnishing any services or performing any other covenant or duty to be performed on Landlord's part, by reason of any cause reasonably beyond Landlord's control, Landlord shall not be liable to Tenant therefor, nor except as expressly otherwise provided in Section 6.1 shall Tenant be entitled to any abatement or reduction of rent by reason thereof, nor shall the same give rise to a claim in Tenant's favor that such failure constitutes actual or constructive, total or partial, eviction from the Premises.

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Landlord reserves the right to stop any service or utility system, when necessary by reason of accident or emergency, or until necessary repairs have been completed; provided, however, that in each instance of stoppage Landlord shall exercise reasonable diligence to eliminate the cause thereof. Except in case of emergency repairs Landlord will give Tenant reasonable advance notice of any contemplated stoppage and will use reasonable efforts to avoid unnecessary inconvenience to Tenant by reason thereof.

ARTICLE IV

LANDLORD'S COVENANTS; INTERRUPTIONS AND DELAYS

Landlord covenants:

4.1 Services Furnished by Landlord

To furnish services, utilities, facilities and supplies ("Landlord's

Services") set forth in Exhibit E, which Landlord's Services Landlord shall have the right to change, from time to time, provided that Landlord's Services (i.e., at the time that Landlord changes such services) shall be equal in quality to those customarily provided by landlords in comparable buildings in the Burlington area.

4.2 Additional Services Available to Tenant

To furnish, at Tenant's expense, reasonable additional Building operation services which are usual and customary in similar office buildings in the Burlington area upon reasonable advance request of Tenant at reasonable and equitable rates from time to time established by Landlord.

4.3 Additional Air Conditioning Equipment

In the event Tenant requires additional air conditioning for business machines, meeting rooms or other special purposes, or because of occupancy or excess electrical loads, any additional air conditioning units, chillers, condensers, compressors, ducts, piping and other equipment, such additional air conditioning equipment will be installed and maintained by Landlord at Tenant's sole cost and expense (provided however, that Landlord's Contribution, as defined in Paragraph C of Exhibit B towards the cost of installing such equipment), but only if Tenant has obtained Landlord's prior written consent, which consent shall not be unreasonably withheld and if the same will not cause damage or injury to the Building or create a dangerous or hazardous condition or entail excessive or unreasonable alterations, repairs or expense or interfere with or disturb other tenants; and Tenant shall reimburse Landlord in such an amounts as will

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compensate it for the cost incurred by it in operating such additional air conditioning equipment.

4.4 Roof, Exterior Wall, Floor Slab, and Common Facility Repair

Except as otherwise provided in Article VI to make such repairs to the roof, exterior walls, floor slabs, and common areas and facilities as may be necessary to keep them in serviceable condition, the expense of which shall be charged in accordance with Section 2.6.

4.5 Door Signs

To provide and install, at Landlord's expense, letters or numerals on doors in the Premises to identify Tenant's name and Building address; all such letters and numerals shall be in the building standard graphics and no others shall be used or permitted on the Premises if the same are visible from anywhere outside of the Premises other than the elevator lobby.

4.6 Quiet Enjoyment

Landlord covenants that if, and so long as, Tenant keeps and performs each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, Tenant shall quietly enjoy the Premises from and against the claims of all persons claiming by, through or under Landlord subject, nevertheless, to the covenants, agreements, terms, provisions and conditions of this Lease and to any instrument to which this Lease is subject and subordinate.

4.7 Indemnification

Landlord, subject to the limitations on Landlord's liability contained elsewhere in this Lease, agrees to hold Tenant harmless and to defend, exonerate and indemnify Tenant from and against any and all claims, liabilities, or penalties asserted by or on behalf of any third party for damage to property or injuries to persons sustained or occurring in the Building to the extent arising from the negligence or willful misconduct of Landlord or Landlord's agents,

employees or contractors.

4.8 Liability Insurance

Landlord shall maintain, in responsible companies qualified to do business, and in good standing, in Massachusetts public liability insurance covering the Premises insuring Landlord with a limit of not less than \$5,000,000.00. Such insurance may be effected with a combination a base policy and umbrella insurance.

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ARTICLE V

TENANT'S COVENANTS

Tenant covenants during the Term and such further time as Tenant occupies any part of the Premises:

5.1 Payments

To pay when due all Annual Fixed Rent and additional rent and all charges for utility services rendered to the Premises (except as otherwise provided in Exhibit E) and, as further additional rent, all charges for additional services rendered pursuant to Section 4.2;

5.2 Repair and Yield Up

Except as otherwise provided in Article VI and Section 4.4, to keep the Premises in good order, repair and condition, reasonable wear and tear only excepted, and all glass in windows (except glass in exterior walls of the Building unless the damage thereto is attributable to Tenant's negligence or misuse) and doors of the Premises whole and in good condition with glass of the same quality as that injured or broken, damage by fire only excepted; and at the expiration or termination of this Lease, peaceably to yield up the Premises and all alterations and additions thereto in good order, repair and condition, reasonable wear and tear excepted, first removing all goods and effects of Tenant and, to the extent specified by Landlord by notice to Tenant given at least ten (10) days before such expiration or termination, all alterations and additions made by Tenant and all partitions, and repairing any damage caused by such removal and restoring the Premises and leaving them clean and neat.

Tenant will remove any personal property from the Building and the Premises upon or prior to the expiration or termination of this Lease and any such property which shall remain in the Building or the Premises thereafter shall be conclusively deemed to have been abandoned, and may either be retained by Landlord as its property or sold or otherwise disposed of in such manner as Landlord may see fit. If any part thereof shall be sold, then Landlord may receive and retain the proceeds of such sale and apply the same at its option, against the expenses of the sale, the cost of moving any storage, any arrears of Annual Fixed Rent, additional or other charges payable hereunder by Tenant to Landlord and any damages to which Landlord may be entitled under Section 7.2 hereof or pursuant to law.

5.3 Use

A. From the commencement of the Term to only use and occupy the Premises for the Permitted uses, and not to injure or deface the Premises, Building or Lot, nor to permit in the Premises any auction sale, or inflammable fluids or chemicals, or nuisance,

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or the emission from the Premises of any objectionable noise or odor, nor to use or devote the Premises or any part thereof for any purpose other than the Permitted Uses, nor any use thereof which is inconsistent with the maintenance

of the Building as an office building of first class quality in maintenance, use and occupancy, or which is improper, offensive, contrary to law or ordinance or liable to invalidate or increase the premiums for any insurance on the Building or its contents or liable to render necessary any alteration or addition to the Building.

B. Notwithstanding anything to the contrary in the Lease contained, if Tenant shall abandon or vacate the Premises for a period of no less than one hundred twenty (120) days, then Landlord shall have the right to terminate this Lease upon written notice to Tenant. Such termination shall not be deemed to be based upon the default of Tenant under this Lease, provided that Tenant is then in compliance with all of its obligations under the Lease.

5.4 Obstructions, Items Visible from Exterior; Rules and Regulations

Not to obstruct in any manner any portion of the Building not hereby leased or any portion thereof or of the Lot used by Tenant in common with others; not without prior consent of Landlord to permit the painting or placing of any signs, curtains, blinds, shades, awnings, aerials or flagpoles, or the like, visible from outside the Premises; and to comply with all reasonable Rules and Regulations now or hereafter made by Landlord, or which Tenant has been given notice, for the care and use of the Building and Lot and their facilities and approaches; Landlord shall not be liable to Tenant for the failure of other occupants of the Building to conform to such Rules and Regulations.

5.5 Safe Appliances

To keep the Premises equipped with all safety appliances required by law or ordinance or any other regulation of any public authority because of any use made by Tenant other than normal office use, and to procure all licenses and permits so required because of such use and, if requested by Landlord, to do any work so required because of such use, it being understood that the foregoing provisions shall be construed to broaden in any way Tenant's Permitted Uses.

5.6 Assignment; Sublease

A. Except as provided in this Section 5.6: (i) Tenant covenants and agrees that neither this Lease nor the term and estate hereby granted, nor any interest herein or therein, will be assigned, mortgaged, pledged, encumbered or otherwise transferred, voluntarily, by operation of law or otherwise, and that neither the Premises, nor any part thereof will be encumbered in any manner by reason of any act or omission on the part of Tenant, or used or occupied, or permitted to be used or occupied, or utilized for desk space for mailing privileges, by anyone other than Tenant, or for any use or purposes other than the Permitted Uses stated in Article 1, and (ii) in no event shall Tenant have the right to sublet the Premises, or any portion thereof, or to offer or advertise the

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Premises, or any portion thereof, for subletting. Notwithstanding the foregoing, it is hereby expressly understood and agreed, however, if Tenant is a corporation, Tenant shall have the right, without obtaining Landlord's consent and without giving Landlord a Recapture Offer to assign its interest in this Lease to any corporation ("Permitted Tenant Successor") into which Tenant is merged or with which Tenant is consolidated which corporation shall have a net worth at least equal to that of Tenant immediately prior to such merger or consolidation upon the express condition that Assignee and Tenant shall promptly execute, acknowledge and deliver to Landlord an agreement ("Assumption Agreement") in form and substance satisfactory to Landlord whereby Assignee shall agree to be independently bound by and upon all the covenants, agreements, terms, provisions and conditions set forth in this Lease on the part of Tenant to be performed, and whereby Assignee shall expressly agree that the provisions of this Section 5.6 shall, notwithstanding such assignment or transfer, continue to be binding upon it with respect to all future assignments and transfers.

B. Notwithstanding anything to the contrary in the Lease contained:

1. Tenant shall, prior to offering or advertising the Premises, or any portion thereof for sublease or assignment, other than to a Permitted Tenant Successor or Affiliated Entity, as defined in this Section 5.6, give Landlord a Recapture Offer, as hereinafter defined.
2. For the purposes hereof a "Recapture Offer" shall be defined as a notice in writing from Tenant to Landlord which:
 - (a) States that Tenant desires to sublet the Premises, or a portion thereof, or to assign its interest in this Lease.
 - (b) Identifies the affected portion of the Premises ("Recapture Premises").
 - (c) Identifies the period of time ("Recapture Period") during which Tenant proposes to sublet the Recapture Premises or to assign its interest in the Lease.
 - (d) Offers to Landlord to terminate the Lease in respect of the Recapture Premises (in the case of a proposed assignment of Tenant's interest in the Lease or a subletting for the remainder of the term of the Lease) or to suspend the term of the Lease pro tanto in respect of the Recapture Period (i.e., the term of the Lease in respect of the Recapture Premises shall be terminated during the Recapture Period and

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Tenant's rental obligations shall be reduced in proportion to the ratio of the Total Rentable Area of the Recapture Premises to the Total Rentable Area of the premises then demised to Tenant).

3. Landlord shall have the applicable Offer Period, as hereinafter defined, to accept a Recapture Offer. If Landlord does not timely give written notice to Tenant accepting a Recapture Offer, then Landlord agrees that it will not unreasonably withhold or delay its consent to a sublease of the Recapture Premises for the Recapture Period, or an assignment of Tenant's interest in the Lease, as the case may be, to a Qualified Transferee, as hereinafter defined. If the Recapture Premises is 10,000 square feet of Total Rentable Area or less, then the Offer Period shall be thirty (30) days after Landlord receives the Recapture Offer in question. If the Recapture Premises exceeds 10,000 square feet of Total Rentable Area, then the Offer Period shall be forty-five (45) days after Landlord receives the Recapture Offer in question.
4. For the purposes hereof, a "Qualified Transferee" shall be defined as a person, firm or corporation which, in Landlord's reasonable opinion:
 - (a) is financially responsible and of good reputation;
 - (b) is engaged in a business, the functional aspects of which, with respect to the premises, are similar to the use of other premises made by other office space tenants in the Building; and

(c) is not a tenant or subtenant of premises in the Building.

5. Notwithstanding anything to the contrary in this Paragraph B contained:

(a) If Tenant is in default of its obligations under the Lease at the time that it makes the aforesaid offer to Landlord, such default shall be deemed to be a "reasonable" reason for Landlord withholding its consent to any proposed subletting or assignment; and

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(b) If Tenant does not enter into a sublease with a subtenant (or an assignment to an assignee, as the case may be) approved by Landlord, as aforesaid, on or before the date which is one hundred eighty (180) days after the earlier of: (x) the expiration of the applicable Offer Period, or (y) the date that Landlord notifies Tenant that Landlord will not accept Tenant's offer to terminate or suspend the Lease, then Landlord shall have the right arbitrarily to withhold its consent to any subletting or assignment proposed to be entered into by Tenant after the expiration of said one hundred eighty (180) day period unless Tenant again offers, in accordance with this Paragraph B, either to terminate or to suspend the Lease in respect of the portion of the premises proposed to be sublet (or in respect of the entirety of the premises in the event of a proposed assignment, as the case may be). If Tenant shall make any subsequent offers to terminate or suspend the Lease pursuant to this Paragraph B, any such subsequent offers shall be treated in all respects as if it is Tenant's first offer to suspend or terminate the Lease pursuant to this Paragraph B, provided that the period of time Landlord shall have in which to accept or reject such subsequent offer shall be fifteen (15) days.

C. Notwithstanding anything to the contrary herein contained, Tenant shall have the right, without obtaining Landlord's consent and without giving Landlord a Recapture Offer to assign its interest in this Lease and to sublease the Premises, or any portion thereof, to an Affiliated Entity, as hereinafter defined, so long as such entity remains in such relationship to Tenant, and provided that prior to or simultaneously with such assignment or sublease, such Affiliated Entity executes and delivers to Landlord an Assumption Agreement. For the purposes hereof, an "Affiliated Entity" shall be defined as any entity which is controlled by, is under common control with, or which controls Tenant. For the purposes hereof, control shall mean the direct or indirect ownership of more than fifty (50%) percent of the beneficial interest of the entity in question.

D. If Tenant is an individual who uses and/or occupies the Premises with partners, or Tenant is a partnership, then:

(i) Each present and future partner shall be personally bound by and upon all of the covenants, agreements, terms, provisions and conditions set forth in this Lease on the part of Tenant to be performed; and

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(ii) In confirmation of the foregoing, Landlord may (but without

being required to do so) request (and Tenant shall duly comply) that Tenant, at the time that Tenant admits any new partner to its partnership, shall require each such new partner to execute an agreement in form and substance satisfactory to Landlord whereby such new partner shall agree to be personally bound by and upon all of the covenants, agreements, terms, provisions and conditions of this Lease on the part of Tenant to be performed, without regard to the time when such new partner is admitted to partnership or when any obligations under any such covenants, etc., accrue.

E. The listing of any name other than that of Tenant, whether on the doors of the premises or on the Building directory, or otherwise, shall not operate to vest in any such other person, firm or corporation any right or interest in this Lease or in the premises or be deemed to effect or evidence any consent of Landlord, it being expressly understood that any such listing is a privilege extended by Landlord revocable at will by written notice to Tenant.

F. If this Lease be assigned, or if the premises or any part thereof be sublet or occupied by anybody other than tenant, Landlord may, at any time and from time to time, collect rent and other charges from the assignee, subtenant or occupant, and apply the net amount collected to the rent and other charges herein reserved, then due and hereafter becoming due, but no assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as a tenant, or a release of Tenant from the further performance by Tenant of covenants on the part of Tenant herein contained. Any consent by Landlord to a particular assignment or subletting shall not in any way diminish the prohibition stated in the first sentence of this Section 5.6 or the continuing liability of the Tenant named in Article I as the party-Tenant under this Lease. No assignment or subletting or use of the premises by an affiliate of Tenant shall affect the Permitted Uses for which the premises may be used as stated in Article 1.

G. In the event of an assignment of this Lease or a sublease of the Premises or any portion thereof to anyone other than a Permitted Tenant Successor or an Affiliated Entity, Tenant shall pay to Landlord fifty (50%) percent of any Net Sublease Profits (as defined below), payable in accordance with the following. In the case of an assignment of this Lease, "Net Sublease Profit": (1) shall be defined as a lump sum in the amount (if any) by which any consideration paid by the assignee in consideration of or as an inducement to Tenant to make said assignment exceeds the reasonable attorneys' fees, construction costs and brokerage fees incurred by Tenant in order to effect such assignment (collectively, "Sublease Expenses"), and (2) be payable concurrently with the payment to be made by the assignee to Tenant. In the case of a sublease, "Net Sublease Profit": (3) shall be defined as a monthly amount equal to the amount by which the sublease rent and other charges payable by the subtenant to Tenant under the sublease exceed the sum of the rent and other charges payable under this Lease for the premises or allocable to the sublet portion thereof, plus a monthly amount equal to the Sublease Expenses divided by the

number of months in the term of the sublease, and (4) shall be payable on a monthly basis concurrently with the subtenant's payment of rent to Tenant under the sublease.

5.7 Indemnity; Insurance

To defend with counsel first approved by Landlord (which approval shall not be unreasonably withheld), save harmless, and indemnify Landlord from any liability for injury, loss, accident or damage to any person or property, and from any claims, actions, proceedings and expenses and costs in connection therewith (including without limitation reasonable counsel fees) arising from (a) the negligence or willful misconduct of Tenant, or of Tenant's employees, agents or contractors, or (b) from any use made or thing done or occurring on the Premises not due to the omission, fault, willful act, negligence or other misconduct of Landlord or of Landlord's employees, agents, or contractors; to maintain in responsible companies qualified to do business, and in good

standing, in Massachusetts public liability insurance covering the Premises insuring Landlord as well as Tenant with limits which shall, at the commencement of the Term, be at least equal to those stated in Article I and from time to time during the Term shall be for such higher limits, if any as are customarily carried in the Burlington area with respect to similar properties, and Workmen's Compensation Insurance with statutory limits covering all of Tenant's employees working in the Premises, and to deposit promptly with Landlord certificates for such insurance, and all renewals thereof bearing the endorsement that the policies will not be cancelled until after ten (10) days' written notice to Landlord.

5.8 Personal Property at Tenant's Risk

That all of the furnishings, fixtures, equipment, effects and property of every kind, nature and description of Tenant, and all persons claiming by, through or under Tenant which, during the continuance of this Lease or any occupancy of the Premises by Tenant or anyone claiming under Tenant, may be on the Premises or elsewhere in the Building or on the Lot, shall be at the sole risk and hazard of Tenant, and if the whole or any part thereof shall be destroyed or damaged by fire, water or otherwise, or by the leakage or bursting of water pipes, steam pipes, or other pipes, by theft or from any other cause, no part of said loss or damage is to be charged to or borne by Landlord, except that Landlord shall in no event be indemnified or held harmless or exonerated from any liability to Tenant or to any person, for any injury, loss, damage or liability to the extent such indemnity, hold harmless or exoneration is prohibited by law or, subject to Section 8.9, to the extent caused by the negligence or willful misconduct of Landlord, or Landlord's agents, employees or contractors.

5.9 Right of Entry

To permit Landlord and its agents: to examine the Premises at reasonable times and, if Landlord shall so elect, to make any repairs or replacements Landlord may deem necessary; to remove, at Tenant's expense, any alterations, additions, signs, curtains, blinds, shades, awnings,

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aerials, flagpoles, or the like not consented to in writing; and to show the Premises to prospective Tenants during the nine months preceding expiration of the Term and to prospective purchasers and mortgagees at all reasonable times.

Without incurring any liability to Tenant, Landlord may permit access to the Premises and open the same, whether or not Tenant shall be present, upon any demand or any receiver, trustee, assignee for the benefit of creditors, sheriff, marshall or court officer entitled to, or reasonably purporting to be entitled to, such access for the purposes of taking possession of, or removing, Tenant's property or for any other lawful purposes (but this provision and any action by Landlord hereunder shall not be deemed a recognition by Landlord that the person or official making such demand has any right or interest in or to this Lease, or in or to the premises), or upon demand of any representation of the fire, police, building, sanitation or other department of the city, state or federal governments.

5.10 Floor Load; Prevention of Vibration and Noise

Not to place a load upon the Premises exceeding an average rate of 70 pounds of live load per square foot of floor area (partitions shall be considered as part of the live load); Landlord reserves the right to prescribe the weight and position of all safes, files and heavy equipment which Tenant desires to place in the Premises so as properly to distribute the weight thereof; Tenant's business machines and mechanical equipment which cause vibration or noise that may be transmitted to the Building structure or to any other space in the Building shall be so installed, maintained and used by Tenant as to eliminate such vibration or noise.

5.11 Personal Property Taxes

To pay promptly when due all taxes which may be imposed upon personal property (including without limitation, fixtures and equipment) in the Premises to whomever assessed.

5.12 Payment of Litigation Expenses

In the event of any litigation between the parties, the losing party will reimburse the prevailing party for its reasonable attorney's fees and court costs incurred in connection with such litigation.

5.13 Compliance with Insurance Regulations

Not to do or permit to be done any act or thing upon the Premises which will invalidate or be in conflict with the terms of the Massachusetts standard form of fire, boiler, sprinkler, water damage or other insurance policies covering the Building and the fixtures and property therein; Tenant shall, at its own expense, comply with all rules, regulations, and requirements of the National Board of Fire Underwriters or any state or other similar body having jurisdiction, and shall not knowingly do or permit anything to be done in or upon the Premises

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in a manner which increases the rate of fire insurance upon the building or on any property or equipment located therein.

ARTICLE VI

CASUALTY AND TAKING

6.1 Termination or Restoration; Rent Adjustment

A. In case during the Term all or any material part of the Premises or the Building or the Lot are damaged materially by fire or other casualty or by action of public or other authority in consequence thereof, or are taken by eminent domain or Landlord receives compensable damage by reason of anything lawfully done in pursuance of public or other authority, this Lease shall terminate at Landlord's election, which may be made notwithstanding Landlord's entire interest may have been divested, by notice given to Tenant within three (3) months after the casualty or taking specifying the effective date of termination. The effective date of termination specified by Landlord shall not be less than 15 nor more than 30 days after the date of notice of such termination. Unless terminated pursuant to the foregoing provisions, this Lease shall remain in full force and effect following any such damage or taking, subject, however, to the following provisions. If in any such case the Premises are rendered unfit for use and occupation and this Lease is not so terminated, Landlord shall use due diligence (following the expiration of the period in which Landlord may terminate this Lease pursuant to the foregoing provisions of this Section 6.1), subject to the then applicable statutes, building codes, zoning ordinances, and regulations of any governmental authority and at the expense of Landlord (but only to the extent of insurance proceeds made available to Landlord) to put the Premises, or in case of taking what may remain thereof (excluding in case of both casualty and taking any items installed or paid for by Tenant which Tenant may be required to remove pursuant to Section 5.2), into proper condition for use and occupation and a just proportion of the Annual Fixed Rent and additional rent according to the nature and extent of the injury shall be abated from the date of such casualty or taking until the Premises or such remainder shall have been put by Landlord in such condition; and in case of taking which permanently reduces the area of the Premises, a just proportion of the Annual Fixed Rent and additional rent shall be abated for the remainder of the Term.

B. In the event that the premises or the Building are damaged by fire or other casualty to such an extent so as to render the premises untenable, and if Landlord shall fail to substantially complete said repairs or restoration within one hundred eighty (180) days after the date of such fire or other

casualty for any reason other than Tenant's fault, Tenant may terminate this Lease by giving Landlord written notice as follows:

(1) Said notice shall be given after said one hundred eighty day period.

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(2) Said notice shall set forth an effective date which is not earlier than thirty (30) days after Landlord receives said notice.

(3) If said repairs or restoration are substantially complete on or before the date thirty (30) days (which thirty-(30)-day period shall be extended by the length of any delays caused by Tenant or Tenant's contractors) after Landlord receives such notice, said notice shall have no further force and effect.

(4) If said repairs or restoration are not substantially complete on or before the date thirty (30) days (which thirty-(30)-day period shall be extended by the length of any delays caused by Tenant or Tenant's contractors) after Landlord receives such notice, the Lease shall terminate as of said effective date.

6.2 Eminent Domain

Except for award to Tenant for moving expenses and lost profits, and except for any separate award which does not reduce Landlord's award (collectively "Tenant Awards"), Landlord reserves to itself any and all rights to receive awards made for damages to the Premises and Building and Lot and the leasehold hereby created, or any one or more of them, accruing by reason of exercise of eminent domain or by reason of anything lawfully done in pursuance of public or other authority. Tenant hereby releases and assigns to Landlord all Tenant's rights to all such awards other than Tenant Awards, and covenants to deliver such further assignments and assurances thereof as Landlord may from to time request. Tenant hereby irrevocably designates and appoints Landlord as its attorney-in-fact to execute and deliver in Tenant's name and behalf all such further assignments thereof if Tenant fails, without cause, to execute such assignments within ten (10) days of written request therefore.

6.3 Temporary Taking

In the event of taking of the Premises or any part thereof for temporary use, (i) this Lease shall be and remain unaffected thereby and rent shall not abate, and (ii) Tenant shall be entitled to receive for itself such portion or portions of any award made for such use with respect to the period of the taking which is within the Term, provided that if such taking shall remain in force at the expiration or earlier termination of this Lease, Tenant shall then pay to Landlord a sum equal to the reasonable cost of performing Tenant's obligations under Section 5.2 with respect to surrender of the Premises and upon such payment shall be excused from such obligations.

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ARTICLE VII

DEFAULT

7.1 Events of Default

If (a) Tenant shall neglect or fail to perform or observe any of Tenant's covenants or agreements herein, including the obligation to pay, when due, Annual Fixed Rent or additional rent, and such failure continues, in the case of Annual Fixed Rent or additional rent, for more than ten (10) days, or in any other case, for more than thirty (30) days and such additional time, if any, as is reasonably necessary to cure the default if the default is of such a nature that it cannot reasonably be cured in thirty (30) days, provided however, that

no such notice need be given and no such default shall be curable if on two (2) prior occasions within the same calendar year there had been a default which had been cured after notice thereof had been given by Landlord to Tenant as herein provided; or if Tenant or any guarantor or any guarantor of any of Tenant's obligations under this Lease, (b) is not paying its debts as such debts become due, becomes insolvent, seeks relief under any chapter of the U.S. Bankruptcy Code (or any insolvency or similar law of any jurisdiction), or (c) proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors; or (d) makes an assignment or trust mortgage for the benefit of creditors or (e) if a receiver, trustee, custodian or similar agent is appointed or takes possession with respect to any property or business of Tenant or such guarantor, or (f) any event shall occur or any contingency shall arise whereby this Lease, or the term and estate thereby created, would (by operation of law or otherwise) devolve upon or pass to any person, firm or corporation other than Tenant, except as expressly permitted under Section 5.6 hereof then, in any such case, whether or not the Term shall have begun, Landlord may immediately, or at any time while such default exists and without further notice, terminate this Lease by entry by Landlord or upon the giving of notice to Tenant, and this Lease shall come to an end as fully and completely as if such date were the date herein originally fixed for the expiration of the Term, and Tenant shall then quit and surrender the Premises to Landlord, but Tenant shall remain liable as hereinafter provided.

7.2 Damages

In the event that this Lease is terminated under any of the provisions contained in Section 7.1 or shall be otherwise terminated for breach of any obligation of Tenant, Tenant covenants to pay forthwith to Landlord, as compensation, the excess of the total rent reserved for the residue of the Term over the rental value of the Premises for said residue of the Term. In calculating the rent reserved there shall be included, in addition to the Annual Fixed Rent and all additional rent, the value of all other considerations agreed to be paid or performed by Tenant for said residue. Tenant further covenants as an additional and cumulative obligation after any such ending to pay punctually to Landlord all the sums and perform all the obligations which Tenant covenants in this Lease to pay and to perform in the same manner and to the same extent and at the same

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time as if this Lease had not been terminated. In calculating the amounts to be paid by Tenant under the next foregoing covenant Tenant shall be credited with any amount paid to Landlord as compensation as in this Section 7.2 provided and also with the net proceeds of any rent obtained by Landlord by reletting the Premises, after deducting all Landlord's expenses in connection with such reletting, including, without limitation, all repossession costs, brokerage commissions, fees for legal services and expenses of preparing the Premises for such reletting, it being agreed by Tenant that Landlord may (i) relet the Premises or any part or parts thereof, for a term or terms which may at Landlord's option be equal to or less than or exceed the period which would otherwise have constituted the balance of the Term and may grant such concessions and free rent as Landlord in its sole judgment considers advisable or necessary to relet the same and (ii) make such alterations, repairs and decorations in the Premises as Landlord in its sole judgment considers advisable or necessary to relet the same, and no action of Landlord in accordance with the foregoing or failure to relet or to collect rent under reletting shall operate or be construed to release or reduce Tenant's liability as aforesaid.

In lieu of any other damages or indemnity and in lieu of full recovery by Landlord of all sums payable under all the foregoing provisions of this Section 7.2, Landlord may by written notice to Tenant, at any time after this Lease is terminated under any of the provisions contained in Section 7.1 or is otherwise terminated for breach of any obligation of Tenant and before such full recovery, elect to recover, and Tenant shall thereupon pay, as liquidated damages, an amount equal to the aggregate of the Annual Fixed Rent and additional rent accrued under Section 2.5, 2.6 and 2.7 in the 12 months ended next following such termination plus the amount of Annual Fixed Rent and additional rent of any

kind accrued and unpaid at the time of termination and less the amount of any recovery by Landlord under the foregoing provisions of this Section 7.2 up to the time of payment of such liquidated damages.

Nothing contained in this Lease shall limit or prejudice the right of Landlord to prove for and obtain in proceedings for bankruptcy or insolvency by reason of the termination of this Lease, an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

7.3 Landlord's Default

A. Landlord shall not be deemed to be in default of its obligations under the Lease unless Tenant has given Landlord written notice of such default, and Landlord has failed to cure said default within thirty (30) days after Landlord receives such notice or such longer period of time as Landlord may reasonably require to cure such default.

B. Except as otherwise expressly provided in the Lease, in no event shall Tenant have the right to terminate the Lease nor shall Tenant's obligation to pay

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Annual Fixed Rent or other charges under the Lease abate based upon any default by Landlord of its obligations under the Lease.

C. Notwithstanding anything to the contrary in this Lease contained, if the Premises shall lack any service which Landlord is required to provide hereunder (thereby rendering the Premises or a portion thereof untenable) so that, for the Landlord Service Interruption Cure Period, as hereinafter defined, the continued operation in the ordinary course of Tenant's business is materially adversely affected and if Tenant ceases to use the affected portion of the Premises during the period of untenability as the direct result of such lack of service, then, provided that Tenant ceases to use the affected portion of the Premises during the entirety of the Landlord Service Interruption Cure Period and that such untenability and Landlord's inability to cure such condition is not caused by the fault or neglect of Tenant or Tenant's agents, employees or contractors, Annual Fixed Rent, Operating Expense Excess and Tax Excess shall thereafter be abated in proportion to such untenability until the day such condition is completely corrected. For the purposes hereof, the "Landlord Service Interruption Cure Period" shall be defined as five (5) consecutive business days after Landlord's receipt of written notice from Tenant of the condition causing untenability in the Premises, provided however, that the Landlord Service Interruption Cure Period shall be ten (10) consecutive business days after Landlord's receipt of written notice from Tenant of such condition causing untenability in the Premises if either the condition was caused by causes beyond Landlord's control or Landlord is unable to cure such condition as the result of causes beyond Landlord's control. The provisions of Paragraph B of this Section 7.3 shall not apply in the event of untenability caused by fire or other casualty, or taking (see Section VI).

ARTICLE VIII

MISCELLANEOUS

8.1 Computation of Rentable Floor Areas

For all purposes of this Lease, (a) the rentable area for single tenant office floors is the gross area of the floor measured from the plane of the inside surface of the exterior glass line deducting therefrom the non rentable areas of the floor and adding a pro-rata share of the building common area, but allowing no deductions for columns or projections within such floor, (b) the rentable area for multi-tenant office floors is the gross area of Tenant's Space measured from the plane of the inside surface of the exterior glass line to the

middle of the demising walls, and adding a pro-rata share of the building common areas and of the floor common area, but allowing no deductions for columns or projections within such floor, (c) non-rentable areas of the floor are: public elevator shafts and elevator machine rooms, machinery shafts and common stairways and stairwells, (d) floor common areas are restrooms, elevator lobby, janitor closets, common corridors, and mechanical rooms, (e) the building common area is the first floor lobby, loading dock, mail room, electrical equipment, mechanical room and health club.

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8.2 Notice of Lease; Consent of Approval; Notices; Bind and Inure

The titles of the Articles are for convenience only and are not to be considered in construing this Lease. Tenant agrees not to record this Lease, but upon request of either party both parties shall execute and deliver a notice of this Lease in form appropriate for recording or registration, and if this Lease is terminated before the term expires, an instrument in such form acknowledging the date of termination. Whenever any notice, approval, consent, request or election is given or made pursuant to this Lease it shall be in writing. Communications and payments shall be addressed if to Landlord at Landlord's Original Address or at such other address as may have been specified by prior notice to Tenant, and if to Tenant, at Tenant's Original Address or at such other place as may have been specified by prior notice to Landlord. Any communication so addressed shall be deemed duly given when mailed by registered or certified mail, return receipt requested or reputable national overnight courier. If Landlord by notice to Tenant at any time designates some other person to receive payments or notices, all payments or notices thereafter by Tenant shall be paid or given to the person designated until notice to the contrary is received by Tenant from Landlord. The obligations of this Lease shall run with the land, and this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that only the original Landlord named herein shall be liable for obligations accruing before the beginning of the Term, and thereafter the original Landlord named herein and each successive owner of the Premises shall be liable only for obligations accruing during the period of ownership.

8.3 Landlord's Failure to Enforce

The failure of Landlord to seek redress for violation of, or to insist upon strict performance of, any covenant or condition of this Lease, or with respect to such failure of Landlord to enforce any of the Rules and Regulations referred to in Section 5.4, whether heretofore or hereafter adopted by Landlord, shall not be deemed a waiver of such violation nor prevent a subsequent act which would have originally constituted a violation, from having all the force and effect of an original violation, nor shall the failure of Landlord to enforce any of said Rules and Regulations against any other tenant of the Building be deemed a waiver of any such Rule or Regulation. The receipt by Landlord of Annual Fixed Rent or additional rent with knowledge of the breach of any covenant of this Lease shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived by Landlord, or by Tenant, unless such waiver be in writing signed by the party to be charged. No consent or waiver, express or implied, by Landlord or Tenant, to or of any breach of any agreement or duty shall be construed as a waiver or consent to or of any other breach of the same or any other agreement or duty.

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8.4 Acceptance of Partial Payments of Rent; Delivery of Keys

No acceptance by Landlord of a lesser sum than the Annual Fixed Rent and additional rent then due shall be deemed to be other than on account of the earliest installment of such rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or

pursue any other remedy in this Lease provided. The delivery of keys to any employee of Landlord or to Landlord's agent or any employee thereof shall not operate as a termination of this Lease or surrender of the Premises.

8.5 Cumulative Remedies

The specific remedies to which Landlord may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any breach or threatened breach by Tenant of any provisions of this Lease. In addition to other remedies provided in this Lease, Landlord shall be entitled to the restraint by injunction of the violation or attempted or threatened violation of any of the covenants, conditions or provisions of this Lease or to a decree compelling specific performance of any such covenants, conditions or provisions.

8.6 Partial Invalidity

If any term of this Lease, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term of this Lease shall be valid and enforceable to the fullest extent permitted by law.

8.7 Self Help

If Tenant shall at any time default in the performance of any obligation under this Lease, Landlord shall have the right, but shall not be obligated, to enter upon the Premises and to perform such obligation notwithstanding the fact that no specific provision for such substituted performance by Landlord is made in this Lease with respect to such default. In performing such obligation, Landlord may make any payment of money or perform any other act. All sums so paid by Landlord (together with interest at the rate of 2 1/2 percentage points over the then prevailing prime rate in Boston as set by The First National Bank in Boston) and all necessary incidental costs and expenses in connection with the performance of any such act by Landlord, shall be deemed to be additional rent under this Lease and shall be payable to Landlord immediately or on demand. Landlord may exercise the foregoing rights without waiving any other of its rights or releasing Tenant from any of its obligations under this Lease.

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8.8 Tenant's Estoppel Certificate

Tenant agrees from time to time, upon not less than fifteen (15) days' prior written request by Landlord, to execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect and that Tenant has no defenses, offsets or counterclaims against its obligations to pay the Annual Fixed Rent and additional rent and to perform its other covenants under this Lease and that there are no uncured defaults of Landlord or Tenant under this lease (or, if there have been any modifications that the same is in full force and effect as modified and stating the modifications and, if there are any defenses, offsets, counterclaims, or defaults, setting them forth in reasonable detail), and the dates to which the Annual Fixed Rent, additional rent and other charges have been paid. Any such statement delivered pursuant to this Section 8.8 may be relied upon by a prospective purchaser or mortgagee of the Premises or any prospective assignee of any mortgagee of the Premises. Time is of the essence in respect of any such requested certificate, Tenant hereby acknowledging the importance of such certificates in mortgage financing arrangements, prospective sale and the like.

8.9 Waiver of Subrogation

In any case in which Tenant shall be obligated to pay to Landlord any loss, cost, damage, liability, or expense suffered or incurred by Landlord, Landlord shall allow to Tenant as an offset against the amount thereof (i) the net proceeds of any insurance collected by Landlord for or on account of such

loss, cost, damage, liability or expense, provided that the allowance of such offset does not invalidate or prejudice the policy or policies under which such proceeds were payable, and (ii) if such loss, cost, damage, liability or expense shall have been caused by a peril against which Landlord has agreed to procure insurance coverage under the terms of this Lease, the amount of' such insurance coverage, whether or not actually procured by Landlord.

In any case in which Landlord or Landlord's agents shall be obligated to pay to Tenant any loss, cost, damage, liability or expense suffered or incurred by Tenant, Tenant shall allow to Landlord and Landlord's agents as an offset against the amount thereof (i) the net proceeds of any insurance collected by Tenant for or on account of such loss, cost, damage, liability, or expense, provided that the allowance of such offset does not invalidate the policy or policies under which such proceeds were payable and (ii) the amount of any loss, cost, damage, liability or expense caused by a peril covered by fire insurance with the broadest form of property insurance generally available on property in buildings of the type of the Building, whether or not actually procured by Tenant.

The parties hereto shall each procure an appropriate clause in, or endorsement on, any property insurance policy covering the premises and the Building and personal property, fixtures and equipment located thereon and therein, pursuant to which the insurance companies waive subrogation or consent to a waiver of right of recovery. Having obtained such clauses and/or endorsements each party hereby agrees that it will not

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make any claim against or seek to recover from the other for any loss or damage to its property or the property of others resulting from fire or other perils covered by such property insurance.

8.10 All Agreements Contained

This Lease contains all of the agreements of the parties with respect to the subject matter thereof and supersedes all prior dealings between them with respect to such subject matter.

8.11 Brokerage

Landlord and Tenant each warrant that they have had no dealings with any broker or agent other than CB Richard Ellis and Meredith & Grew (the "Brokers") in connection with the Lease and covenant to defend, hold harmless and indemnify each other from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent, other than the Brokers, claiming by or through them with respect to dealings in connection with this Lease or the negotiation thereof.

8.12 Submission Not an Option

The submission of this Lease or a summary of some or all of its provisions for examination does not constitute a reservation of or option for the Premises or an offer to lease.

8.13 Applicable Law

This Lease, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts.

8.14 Waiver of Jury Trial

Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other, on or in respect to any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant hereunder. Tenant's use or occupancy of the Premises, and/or claim of injury or damages.

8.15 Holdover

Any holding over by Tenant after the expiration of the term of this Lease shall be treated as a tenancy at sufferance and shall be on the terms and conditions as set forth in this Lease, as far as applicable except that Tenant shall pay as a use and occupancy charge an amount equal to the greater of (x) the Holdover Percentage, as hereinafter defined, of the Annual Fixed Rent and Additional Rent calculated (on a

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daily basis) at the highest rate payable under the terms of this Lease or (y) the fair market value of the Premises, in each case for the period measured from the day on which Tenant's hold-over commences and terminating on the day on which Tenant vacates the Premises. For purposes hereof, the "Holdover Percentage" shall mean one hundred fifty percent (150%). In addition, Tenant shall save Landlord, its agents and employees harmless and will exonerate, defend and indemnify Landlord, its agents and employees from and against any and all damages which Landlord may suffer on account of Tenant's hold-over in the Premises after the expiration or prior termination of the term of this Lease. Nothing in the foregoing nor any other term or provision of this Lease shall be deemed to permit Tenant to retain possession of the Premises or hold over in the Premises after the expiration or earlier termination of the Lease Term. All property which remains in the Building or the Premises after the expiration or termination of this Lease shall be conclusively deemed to be abandoned and may either be retained by Landlord as its property or sold or otherwise disposed of in such manner as Landlord may see fit. If any part thereof shall be sold, then Landlord may receive the proceeds of such sale and apply the same, at its option against the expenses of the sale, the cost of moving and storage, any arrears of rent or other charges payable hereunder by Tenant to Landlord and any damages to which Landlord may be entitled under this Lease and at law and in equity.

8.16 Arbitration

Any disputes relating to provisions or obligations in this Lease as to which a specific provision for a reference to arbitration is made herein shall be submitted to arbitration in accordance with the provisions of applicable state law, as from time to time amended. Arbitration proceedings, including the selection of an arbitrator, shall be conducted pursuant to the rules, regulations and procedures from time to time in effect as promulgated by the American Arbitration Association. Prior written notice of application by either party for arbitration shall be given to the other at least ten (10) days before submission of the application to the said Association's office in the city wherein the Building is situated (or the nearest other city having an Association office). The arbitrator shall hear the parties and their evidence. The decision of the arbitrator shall be binding and conclusive, and judgment upon the award or decision of the arbitrator may be entered in the Superior Court of the Commonwealth of Massachusetts. The parties consent to the jurisdiction of the Superior Court of the Commonwealth of Massachusetts and further agree that any process or notice of motion or other application to the Superior Court or a Judge thereof may be served outside the Commonwealth of Massachusetts by registered mail or by personal service, provided a reasonable time for appearance is allowed. The costs and expenses of each arbitration hereunder and their apportionment between the parties shall be determined by the arbitrator in his award or decision. No arbitrable dispute shall be deemed to have arisen under this Lease prior to (i) the expiration of the period of twenty (20) days after the date of the giving of written notice by the party asserting the existence of the dispute together with a description thereof sufficient for an understanding thereof; and (ii) where a Tenant payment is in issue, the amount

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billed by Landlord having been paid by Tenant.

8.17 Requirements of Law - Fines and Penalties

Tenant at its sole expense shall comply with all laws, rules, orders and regulations, including, without limitation, all energy-related requirements, of Federal, State, County and Municipal Authorities and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to or arising out of Tenant's use or occupancy of the Premises. Tenant shall reimburse and compensate Landlord for all expenditures made by, or damages or fines sustained or incurred by, Landlord due to nonperformance or noncompliance with or breach or failure to observe any item, covenant, or condition of this Lease upon Tenant's part to be kept, observed, performed or complied with. If Tenant receives notice of any violation of law, ordinance, order or regulation applicable to the Premises, it shall give prompt notice thereof to Landlord.

8.18 Inability to Perform - Exculpatory Clause

This Lease and the obligations of Tenant to pay rent hereunder and perform all the other covenants, agreements, terms, provisions and conditions hereunder on the part of Tenant to be performed shall in no way be affected, impaired or excused because Landlord is unable to fulfill any of its obligations under this Lease or is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make or is delayed in making any repairs, replacement, additions, alterations, improvements or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from so doing by reason of strikes or labor troubles or any other similar or dissimilar cause whatsoever beyond Landlord's reasonable control, including but not limited to, governmental preemption in connection with a national emergency or by reason of any rule, order or regulation of any department thereof of any governmental agency or by reason of the conditions of supply and demand which have been or are affected by war, hostilities or other similar or dissimilar emergency. In each such instance or inability of Landlord to perform, Landlord shall exercise reasonable diligence to eliminate the cause of such inability to perform.

Tenant shall neither assert nor seek to enforce any claim or breach of this Lease against any of Landlord's assets other than Landlord's equity interest in the Building and in the uncollected rents, issues and profits thereof, and Tenant agrees to look solely to such interest for the satisfaction of any liability of Landlord or Landlord's agents under this Lease or otherwise, it being specifically agreed that in no event shall Landlord (or any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals, agents or representatives, and the like, disclosed or undisclosed, thereof) ever be personally liable for any such liability. This paragraph shall not limit any right that Tenant might otherwise have to obtain injunctive relief against Landlord or to take any other action which shall not involve the personal liability of Landlord to respond in monetary damages from Landlord's assets other than the Landlord's

interest in the Building, as aforesaid. In no event shall Landlord (or any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or representatives and the like, disclosed or undisclosed, thereof) ever be liable for consequential damages. If by reason of Landlord's failure to complete construction of the Premises, Landlord shall be held to be in breach of this Lease, Tenant's sole and exclusive remedy shall be a right to terminate this Lease.

In no event shall Tenant (or any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals, agents or representatives, and the like, disclosed or undisclosed, thereof) ever be personally liable for any liability of Tenant under this Lease. In no event shall Tenant (or any of the officers, trustees, directors, partners, beneficiaries, joint venturers, members, stockholders or other principals or representatives and the like, disclosed or undisclosed, thereof) ever be liable for consequential damages; provided however, that nothing herein shall relieve

Tenant from any liability in the event that Tenant breaches its obligations under Section 8.15 of this Lease.

8.19 Parties Bound - Seizin of Title

The covenants, agreements, terms, provisions and conditions of this Lease shall bind and benefit the successors and assigns of the parties hereto with the same effect as if mentioned in each instance where a party hereto is named or referred to, except that no violation of the provisions of Section 5.6 hereof shall operate to vest any rights in any successor or assignee of Tenant and that the provisions of this Section 8.19 shall not be construed as modifying the default provisions contained in Article VII hereof.

If, in connection with or as a consequence of the sale, transfer or other disposition of Landlord's interest in the Building, any party who is Landlord ceases to be the owner of the reversionary interest in the Premises, Landlord, upon written notice to Tenant, shall be entirely freed and relieved from the performance and observance thereafter of all covenants and obligations hereunder on the part of Landlord to be performed and observed, it being understood and agreed in such event (and it shall be deemed and construed as a covenant running with the land) that the person succeeding to Landlord's ownership of said reversionary interest shall thereupon and thereafter assume, and perform and observe, any and all of such covenants and obligations of Landlord.

8.20 Security Deposit

The Security Deposit shall be delivered to Landlord upon the execution of this Lease by Tenant and shall be held by Landlord without liability for interest as security for the performance of Tenant's obligations. The Security Deposit is not an advance payment of Rent or a measure of Tenant's liability for damages. Landlord may, from time to time, without prejudice to any other remedy, use all or a portion of the Security Deposit to satisfy past due Annual Fixed Rent or to cure any uncured default by

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Tenant. If Landlord uses the Security Deposit, Tenant shall on demand restore the Security Deposit to its original amount. Landlord shall return any unapplied portion of the Security Deposit to Tenant within 45 days after the later to occur of: (1) the determination of Tenant's Share of any Tax Expenses Allocable to the Premises or Operating Expenses Allocable to the Premises in accordance with Article II hereof for the final year of the Term; (2) the date Tenant surrenders possession of the Premises to Landlord in accordance with this Lease; or (3) the expiration of the Term hereof. If Landlord transfers its interest in the Premises, Landlord shall assign the Security Deposit to the transferee and, following the assignment, Landlord shall have no further liability for the return of the Security Deposit. Landlord shall not be required to keep the Security Deposit separate from its other accounts.

ARTICLE IX

RIGHTS OF PARTIES HOLDING PRIOR INTERESTS

9.1 Lease Subordinate

This Lease shall be subject and subordinate to any mortgage now or hereafter on the Lot or Building, or both, which are separately and together hereinafter in this Article IX referred to as "the mortgaged premises", and to each advance made or hereafter to be made under any mortgage, and to all renewals, modifications, consolidation, replacements and extensions thereof and all substitutions therefor, provided that the holder thereof enters into an agreement with Tenant by the terms of which such holder will agree to recognize the rights of tenant under this Lease and to accept Tenant as tenant of the Premises under the terms and conditions of this Lease in the event of acquisition of title by such holder through foreclosure proceedings or otherwise and Tenant will agree to recognize the holder of such mortgage as Landlord in such event, which agreement shall be made expressly to bind and inure to the

benefit of the successors and assigns of Tenant and of the holder and upon anyone purchasing the Premises at any foreclosure sale, provided however, that such holder shall not: (i) be liable for any previous act or omission of Landlord under this Lease; (ii) be subject to any offset, defense or counterclaim which shall theretofore have accrued to Tenant against Landlord; (iii) have any obligation with respect to any security deposit unless it shall have been paid over or physically delivered to such successor; or (iv) be bound by any previous modification of this Lease or by any previous payment of Annual Fixed Rent for a period greater than one (1) month, made without the consent of such holder where such consent is required by the applicable instrument. Notwithstanding the foregoing any such holder may at its election subordinate its mortgage to this Lease without the consent or approval of Tenant. Tenant and Landlord agree to execute and deliver any appropriate instruments necessary to carry out the agreements contained in this Section 9.1. Tenant acknowledges that, where applicable, any consent or approval hereafter given by Landlord may be subject to the further consent or approval of the holder; and the failure or refusal of such holder to give such consent or approval shall, notwithstanding anything to the contrary in this Lease contained, constitute reasonable justification for Landlord's

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withholding its consent or approval. Tenant hereby irrevocably constitutes and appoints Landlord or any holder, and their respective successors in interest, acting singly, Tenant's attorney-in-fact to execute and deliver any such certificate or instrument for, on behalf and in the name of Tenant, but only if Tenant fails to execute, acknowledge and deliver any such certificate or instrument within ten (10) days after Landlord or such holder has made written request therefor.

Landlord represents to Tenant that, as of the date of this Lease, there are no mortgages affecting the Building. Landlord agrees that, as to any future mortgages affecting the Building, Landlord shall use reasonable efforts to obtain from the holder of such mortgage a written instrument in recordable form and in the customary form of such mortgagee that, as long as Tenant shall not be in terminable default of the obligations on its part to be kept and performed under the terms of this Lease, this Lease will not be affected and Tenant's possession hereunder will not be disturbed by any default in and/or foreclosure of, such mortgage.

9.2 Rights of Holder of Mortgage to Notice of Defaults by Landlord and to Cure Same

No act or failure to act on the part of Landlord which would entitle Tenant under the terms of this Lease, or by law, to be relieved of Tenant's obligations hereunder or to terminate this Lease, shall result in a release or termination of such obligations or a termination of this Lease unless (i) Tenant shall have first given written notice of Landlord's act or failure to act to Landlord's mortgagees of record, if any, specifying the act or failure to act on the part of Landlord which could or would give basis to Tenant's rights; and (ii) such mortgagees after receipt of such notice, have failed or refused to correct or cure the condition complained of within a reasonable time thereafter; but nothing contained in this Section 9.3 shall be deemed to impose any obligation on any such mortgagees to correct or cure any condition. "Reasonable time" as used above means and includes a reasonable time to obtain possession of the mortgaged premises if the mortgagee elects to do so and a reasonable time to correct or cure the condition if such condition is determined to exist.

ARTICLE X

TENANT'S OPTION TO EXTEND THE TERM OF THE LEASE

A. On the conditions, which conditions Landlord may waive, at its election, by written notice to Tenant at any time, that Tenant is not in default of any of its monetary obligations under the Lease or in any other material covenants and obligations under the Lease beyond any applicable period of notice and cure, and that only Manhattan Associates, Inc., itself, and/or a Permitted

Tenant Successor and/or Affiliated Entity, each as defined in Section 5.6 are occupying the entirety of the Premises then demised to Tenant, both as of the time of option exercise and as of the commencement of the hereinafter described additional term, Tenant shall have the option to extend the term of this Lease for one (1) additional three (3) year term, such

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additional term commencing as of the expiration of the initial term of the Lease. Tenant may exercise such option to extend by giving Landlord written notice on or before the date nine (9) months prior to the expiration date of the initial term of the Lease. Upon the timely giving of such notice, the term of this Lease shall be deemed extended upon all of the terms and conditions of this Lease (including, without limitation, Tenant's Operating Expense Base and Tenant's Tax Base), except that Landlord shall have no obligation to construct or renovate the Premises and that the Annual Fixed Rent and the Annual Electricity Charge during such additional term shall be as hereinafter set forth. If Tenant fails to give timely notice, as aforesaid, Tenant shall have no further right to extend the term of this Lease, time being of the essence of this Article X.

B. Annual Fixed Rent

The Annual Fixed Rent during the additional term shall be as follows:

Rent Year -----	Annual Fixed Rent -----	Monthly Payment -----
8:	\$336,651.00	\$28,054.25
9:	\$344,862.00	\$28,738.50
10:	\$361,284.00	\$30,107.00

C. Tenant shall have no further option to extend the term of the Lease other than the one (1) additional three (3) year term herein provided.

D. Notwithstanding the fact that upon Tenant's exercise of the herein option to extend the term of the Lease such extension shall be self-executing, as aforesaid, the parties shall promptly execute a lease amendment reflecting such additional term after Tenant exercises the herein option. The execution of such lease amendment shall not be deemed to waive any of the conditions to Tenant's exercise of its rights under this Article X, unless otherwise specifically provided in such lease amendment.

ARTICLE XI

TENANT'S EXPANSION RIGHTS

On the conditions (which conditions Landlord may waive, at its election, by written notice to Tenant at any time) that Tenant is not in default of its covenants and obligations under the Lease and that Manhattan Associates, Inc., itself, and/or a Permitted Tenant Successor and/or Affiliated Entity, each as defined in Section 5.6 are occupying the entirety of the Premises then demised to Tenant, both at the time that Tenant gives a Tenant Request, as hereinafter defined, and as of the Term Commencement Date in respect of the Expansion Premises, Tenant shall have the following right to lease the Expansion Premises, as hereinafter defined.

A. Definition of Expansion Premises

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"Expansion Premises" shall be defined as any separately demised area located on the second (2nd) floor of Pod B of the Building which is contiguous to the Premises initially demised to Tenant. The Expansion Premises are currently vacant.

B. Exercise of Tenant's Right to Lease the Expansion Premises

Tenant has the right to give Landlord a written request ("Tenant's Request") on or before the date two (2) years prior to the expiration of the then current Term of the Lease to ask Landlord whether the Expansion Premises are available for lease to Tenant, as hereinafter defined. The Expansion Premises shall be deemed to be available to Tenant if, at the time that Landlord receives such Tenant's Request, Landlord has not entered into a lease for the Expansion Premises with a third party and Landlord is not then presently negotiating in good faith to enter into a lease of the Expansion Premises with a third party at the time Landlord receives such Tenant's Request. Landlord shall, on or before the date five (5) business days of Tenant's Request, give written notice ("Landlord's Response") to Tenant advising Tenant as to whether the Expansion Premises are then available for lease to Tenant. If the Expansion Premises are then available for lease to Tenant, Tenant shall have the right, which right shall be exercisable by written notice ("Tenant's Exercise Notice") given by Tenant to Landlord on or before the date five (5) days after receipt of Landlord's Response, to lease the Expansion Premises. If Landlord advises Tenant that the Expansion Premises are not then available for lease to Tenant, or if Tenant does not timely give Tenant's Exercise Notice, Tenant shall have no right to lease the Expansion Premises in response to Tenant's Request, but Tenant shall have the right to give subsequent Tenant's Requests pursuant to the provisions of this Article XI.

C. Lease Provisions Applying to Expansion Premises

The leasing to Tenant of the Expansion Premises shall be upon all of the same terms and conditions of the Lease applicable to the Premises initially demised to Tenant, except as follows:

(1) Term Commencement Date

The Term Commencement Date in respect of the Expansion Premises shall be the date Landlord receives Tenant's Exercise Notice.

(2) Rent Commencement Date

The Rent Commencement Date in respect of the Expansion Premises shall be the Term Commencement Date in respect of the Expansion Premises.

(3) Annual Fixed Rent

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The Annual Fixed Rent rental rate in respect of the Expansion Premises shall be the same Annual Fixed Rent rental rate as is then in effect in respect of the Premises initially demised to Tenant under this Lease, from time to time, and rental rate applicable to Tenant's Annual Electricity Charge in respect of the Expansion Premises shall be the same Tenant's Annual Electricity Charge rental rate as is then in effect in respect of the Premises initially demised to Tenant under this Lease, from time to time.

(4) Operating Expense Base

The Operating Expense Base in respect of the Expansion Premises shall be, subject to Section 2.6A(c) of the Lease, the actual amount of Operating Expenses Allocable to the Premises in respect of calendar year 2005.

(5) Tax Base

The Tax Base in respect of the Expansion Premises shall be the actual amount of Tax Expenses Allocable to the Premises in respect of fiscal tax year

2005 (i.e., July 1, 2004 - June 30, 2005).

(6) Condition of Expansion Premises

Tenant shall take the Expansion Premises "as-is" in its then (i.e., as of the date of premises delivery) state of construction, finish, and decoration, without any obligation on the part of Landlord to construct or prepare the Expansion Premises for Tenant's occupancy and with no obligation on the part of Landlord to provide any allowance to Tenant on account of Tenant's demise of the Expansion Premises. Without limiting the foregoing, Exhibit B of the Lease shall have no applicability to the Expansion Premises.

D. Execution of Lease Amendments

Notwithstanding the fact that Tenant's exercise of the above-described option to lease the Expansion Premises shall be self-executing, as aforesaid, the parties hereby agree promptly to execute a lease amendment reflecting the addition of the Expansion Premises. The execution of' such lease amendment shall not be deemed to waive any of the conditions to Tenant's exercise of the herein option to lease the Expansion Premises, unless otherwise specifically provided in such lease amendment.

ARTICLE XII

ANTENNA AREA

Tenant shall have the right to use the Antenna Area, as hereinafter defined, to install a satellite dish antenna ("Antenna") for a period commencing as of the date that

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Tenant installs the Antenna, as hereinafter defined, in the Antenna Area ("Term Commencement Date in respect of the Antenna Area") and terminating as of the termination date of the Lease. The "Antenna Area" shall be an area on the roof of the Building designated by Landlord. Tenant shall be permitted to use the Antenna Area solely for one (1) Antenna installed in accordance with specifications approved by Landlord in advance utilizing a frequency or frequencies and transmission power identified in such approved specifications which Tenant will be installing in the Antenna Area and no other frequencies or transmission power shall be used by Tenant without Landlord's prior written consent. Such installation shall be designed in such manner as to be easily removable and so as not to damage the roof of the Building. The Antenna and any replacement shall be subject to Landlord's approval. Tenant's use of the Antenna Area shall be upon all of the conditions of the Lease except as follows:

A. Tenant shall have no obligation to pay Annual Fixed Rent in respect of the Antenna Area;

B. Tenant shall have no obligation to pay Annual Electricity Charge, Operating Expenses or Real Estate Taxes in respect of the Antenna Area.

C. Landlord shall have no obligation to provide any services to the Antenna Area.

D. Tenant shall have no right to make any changes, alterations, signs, decoration, or other improvements (which changes, alterations, signs, decoration or other improvements, together with the Antenna, are hereby collectively referred to as "Rooftop Installations") to the Antenna Area or to the Antenna without Landlord's prior written consent, which consent Landlord may hold it its sole discretion.

E. Tenant shall have no right of access to the roof of the Building unless Tenant has given Landlord reasonable advance notice and unless Tenant's representatives are accompanied by a representative of Landlord. Landlord shall provide Tenant with 24-hour access to the Antenna Area, subject to Landlord's reasonable security procedures and restrictions based on emergency conditions

and to other causes beyond Landlord's reasonable control. Tenant shall give Landlord reasonable advance written notice of the need for access to the Antenna Area (except that such notice may be oral in an emergency), and Landlord must be present during any entry by Tenant onto the Antenna Area. Each notice for access shall be in the form of a work order referencing the lease and describing, as applicable, the date access is needed, the name of the contractor or other personnel requiring access, the name of the supervisor authorizing the access/work, the areas to which access is required, the Building common elements to be impacted (risers, electrical rooms, etc.) and the description of new equipment or other Rooftop Installations to be installed and evidence of Landlord's approval thereof. In the event of an emergency, such notice shall follow within five (5) days after access to the Antenna Area.

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F. At the expiration or prior termination of Tenant's right to use the Antenna Area, Tenant shall remove all Installations (including, without limitation, the Antenna) from the Antenna Area.

G. Tenant shall be responsible for the cost of repairing any damage to the roof of the Building caused by she installation or removal of any Rooftop Installations.

H. Tenant shall have no right to sublet the Antenna Area.

I. No other person, firm or entity (including, without limitation, other tenants, licensees or occupants of the Building) shall have the right to benefit from the services provided by the Antenna other than Tenant.

J. In the event that Landlord performs repairs to or replacement of the roof, Tenant shall, at Tenant's cost, remove the Antenna until such time as Landlord has completed such repairs or replacements. Tenant recognizes that there may be an interference with Tenant's use of the Antenna in connection with such work. Landlord shall use reasonable efforts to complete such work as promptly as possible and to perform such work in a manner which will minimize or, if reasonably possible, eliminate any interruption in Tenant's use of the Antenna.

K. Any services required by Tenant in connection with Tenant's use of the Antenna Area or the Antenna shall be installed by Tenant, at Tenant's expense, subject to Landlord's prior approval.

L. To the maximum extent permitted by law, all Rooftop Installations in the Antenna Area shall be at the sole risk of Tenant, and Landlord shall have no liability to Tenant in the event that any Rooftop Installations are damaged for any reason.

M. Tenant shall take the Antenna Area "as-is" in the condition in which the Antenna Area is in as of the Term Commencement Date in respect of the Antenna Area.

N. Tenant shall comply with all applicable laws, ordinances and regulations in Tenant's use of the Antenna Area and the Antenna.

O. Landlord shall have the right, upon thirty (30) days notice to Tenant, to require Tenant to relocate the Antenna Area to another area ("Relocated Rooftop Area") on the roof of the Building suitable for the use of Rooftop Installations. In such event, Tenant shall, at Landlord's cost and expense, on or before the thirtieth (30th) day after Landlord gives such notice, relocate all of its Rooftop Installations from the Antenna Area to the Relocation Rooftop Area.

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P. In addition to complying with the applicable construction provisions of the Lease, Tenant shall not install or operate Rooftop Installations in any

portion of the Antenna Area until (x) Tenant shall have obtained Landlord's prior written approval, which approval will not be unreasonably withheld or delayed, of Tenant's plans and specifications for the placement and installation of the Rooftop Installations in the Premises, and (y) Tenant shall have obtained and delivered to Landlord copies of all required governmental and quasi-governmental permits, approvals, licenses and authorizations necessary for the lawful installation, operation and maintenance of the Rooftop Installations. The parties hereby acknowledge and agree, by way of illustration and not limitation, that Landlord shall have the right to withhold its approval of Tenant's plans and specifications hereunder, and shall not be deemed to be unreasonable in doing so, if Tenant's intended placement or method of installation or operation of the Rooftop Installations (i) may subject other licensees, tenants or occupants of the Building, or other surrounding or neighboring landowners or their occupants, to signal interference, Tenant hereby acknowledging that a shield may be required in order to prevent such interference, (ii) does not minimize to the fullest extent practicable the obstruction of the views from the windows of the Building that are adjacent to the Rooftop Installations, if any, (iii) does not complement (in Landlord's sole judgment, which shall not, however, require Tenant to incur unreasonable expense) the design and finish of the Building, (iv) may damage the structural integrity of the Building or the roof thereof, or (v) may constitute a violation of any consent, approval, permit or authorization necessary for the lawful installation of the Rooftop Installations.

Q. In addition to the indemnification provisions set forth in the Lease which shall be applicable to the Antenna Area, Tenant shall, to the maximum extent permitted by law, indemnify, defend, and hold Landlord, its agents, contractors and employees harmless from any and all claims, losses, demands, actions or causes of actions suffered by any person, firm, corporation, or other entity arising from Tenant's use of the Antenna Area.

R. Landlord shall have the right to designate or identify the Rooftop Installations with or by a lease or license number (or other marking) and to place such number (or marking) on or near such Rooftop Installations.

S. (i) Tenant recognizes that Landlord may wish to (and Landlord hereby reserves the right to) install a central Building system (the "Central Building System") capable of, among other things, providing Tenant with the type of service (to be) provided by Tenant's Rooftop Installations. If Landlord elects to install the Central Building System, (i) Tenant shall, upon Landlord's request and at Tenant's expense, remove its Rooftop Installations and other Alterations (including any existing cabling) from the Building and repair any damage caused their installation or removal, (ii) Tenant may, at Tenant's expense and subject to the provisions of this Agreement (including, without limitation, subparagraph P hereof), have access to and use (and tie into) the Central Building System for the uses permitted hereunder, and (ii) commencing upon Tenant's use of the Central Building System and continuing thereafter throughout the term, the Yearly Rent payable hereunder shall be adjusted to be that which is reasonably designated by

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Landlord from time to time based upon Landlord's determination of the fair market value of the access rights to the Central Building System granted herein.

(ii) Landlord shall maintain, repair or replace the Central Building System, in accordance with the standards for the repair and maintenance of such systems generally prevailing in the industry from time to time, so as to eliminate any material interruption or other adverse effects caused by malfunction, damage or destruction of the Central Building System, the cost of which shall be borne by Tenant if the problem was caused by the act or omission of Tenant or its agents, contractors or employees. Notwithstanding the foregoing, Landlord's obligation to maintain, repair or replace the Central Building System shall apply only to the extent necessary to reach premises in the Building that are then used by tenants after the malfunction, damage or destruction or that, if damaged or destroyed, will be again used by tenants upon the completion of restoration or repair thereof. In no event shall Tenant have

any claim or right to make any claim against Landlord whatsoever for any damages, including, without limitation, consequential or incidental damages, or lost profits, in any such circumstance.

ARTICLE XIII

CONDITION OF LANDLORD'S EXECUTION

The parties hereby acknowledge that Landlord is only willing to execute this Lease in the event that the current tenant (the "Current Tenant") of the Premises agrees to terminate the term of its lease with Landlord. Therefore, Landlord shall have the right, exercisable upon written notice to Tenant, to render the foregoing Lease void and without further force or effect, unless both of the following events occur:

- A. Tenant executes and delivers to Landlord the foregoing Lease; and
- B. The Current Tenant executes and delivers to Landlord an agreement, in form and substance acceptable to Landlord, whereby the Current Tenant agrees to terminate the term of its lease with Landlord.

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EXECUTED as a sealed instrument in two or more counterparts on the day and year first above written.

LANDLORD:
GATEWAY ROSEWOOD, INC.,
a California corporation

By: INVESCO Institutional (N.A.), Inc.
(formerly known as INVESCO Realty
Advisors, Inc.), Advisor

By: INVESCO Real Estate Division

By: /s/ Michael Kirby

Name: Michael Kirby
Title: Vice President

TENANT:
MANHATTAN ASSOCIATES, INC.

By: /s/ Edward K. Quibell

(Name) (Title)
Hereto Duly Authorized
Edward K. Quibell - CFO

[APPROVED BY LEGAL
MANHATTAN ASSOCIATES (R)]

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EXHIBIT A

DESCRIPTION OF LOT

The land in Burlington, Middlesex County, Massachusetts being shown as Lot 75 on a plan by Raymond C. Pressey, Inc. dated December 16, 1980 filed with the Land Court Engineer's office as Plan No. 26172R and bounded and described according to said plan as follows:

by the southwesterly line of South Bedford Street, one hundred fifty (150) feet;

SOUTHWESTERLY, SOUTHEASTERLY AND NORTHEASTERLY by Lot 74 on said plan, thirty-five (35) feet, ninety-seven and 70/100 (97.70) feet, five hundred seventy-one and 80/100 (571.80) feet and four hundred forty-eight (448), respectively;

by the northwesterly line of Northern Circumferential Highway (Route 128 non access), eight hundred seventy-nine and 81/100 (879.81) feet;

by Lot 27 as shown on said plan, five hundred eight and 19/100 (508.19) feet; and

by Lots 73 and 68 shown on said plan, one thousand four hundred sixty-three and 37/100 (1463.37) feet.

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EXHIBIT B

LANDLORD'S WORK

A. For the purposes of Article II of the Lease, the "Substantial Completion Date" shall be the date that (i) Landlord's Work, as defined in Paragraph B hereof, has been completed except for items of work and adjustment of equipment and fixtures which can be completed after occupancy has been taken without causing substantial interference with Tenant's use of the Premises (i.e., so-called "punch list" items) and (ii) Tenant has received Landlord's certificate of substantial completion of the Premises in accordance with clause (i) of this Paragraph A. Notwithstanding the foregoing, if Landlord is delayed in the performance of Landlord's Work by reason of any Tenant Delay, as hereinafter defined, then the Substantial Completion Date shall be deemed to be the date as of which Landlord would have achieved the Substantial Complete Date but for such Tenant Delays.

B. Notwithstanding anything to the contrary in this Lease contained, Tenant shall take the Premises "as-is", without any obligation on the part of Landlord to prepare the Premises for Tenant's occupancy, except for the work ("Landlord's Work") shown on the plans and specifications referenced on Exhibit C attached to the Lease.

C. Tenant shall pay to Landlord, as additional rent, the cost of any changes to Landlord's Work within thirty (30) days of billing therefore.

D. Landlord agrees to use due diligence to complete Landlord's Work on or before the Scheduled Term Commencement Date as set forth in Article I to the Lease. However, except as set forth in Paragraph K of this Exhibit B, the failure to have the premises ready for Tenant's occupancy on the Scheduled Term Commencement Date shall in no way affect the validity of the Lease or the obligations of Tenant hereunder nor shall the same be construed in any way to extend the term of the Lease. Except as set forth in Paragraph K of this Exhibit B, if the Substantial Completion Date does not occur on the Scheduled Term Commencement Date, Tenant shall not have any claim against Landlord, and Landlord shall have no liability to Tenant, by reason thereof.

D. Tenant shall, within three (3) business days of request therefor, respond to any request from Landlord or Landlord's architect for approvals, authorizations to proceed or information in connection with Landlord's Work.

E. Tenant shall promptly pay to Landlord any additional costs to Landlord in connection with the completion of the Premises in accordance with the terms of the Lease and of this Exhibit B if such additional cost is in whole or in part the result of any Tenant Delay. Such additional rent shall be paid by Tenant to Landlord within thirty (30) days after receipt by Tenant of Landlord's invoice therefor. For the purposes of hereof:

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- "Tenant Delays" shall defined as any delays in the performance of Landlord's Work to the extent caused by: (i) changes in Landlord's Work, (ii) long leadtime items, (iii) Tenant's failure or omits to timely supply information, approve plans, specifications or estimates, or give authorizations, (iv) Tenant's failure to honor or perform its obligations under this Lease, or (v) the acts or omissions of Tenant, or Tenant's agents, employees or contractors; and
- "Additional costs to Landlord" shall mean the costs over and above such costs as would have been the aggregate costs to Landlord of completing the Premises in accordance with the terms of the Lease and this Exhibit B had there been no such failure, omission or delay.

Nothing contained in this Paragraph E shall limit or qualify or prejudice any other covenants, agreements, terms, provisions and conditions contained in the Lease.

F. Landlord's architect's certificate of substantial completion, given in good faith, or of any other facts pertinent to this Exhibit B shall be deemed conclusive of the statements therein contained and binding upon Tenant, unless, within seven (7) days of Tenant's receipt of such certificate, Tenant gives Landlord written notice setting forth, with specificity, Tenant's objections thereto.

G. In the event that Tenant engages any separate contractors in the initial construction of the Premises, Tenant and Tenant's contractors shall comply with the provisions of Paragraph 3.1(c) and Exhibit G to the Lease, and Tenant's contractors shall cooperate in all ways with Landlord's contractors to avoid any delay to the work being performed by Landlord's contractors or conflict in any other way with the performance of such work, or any damages which might occur to any work or materials to be installed by Landlord's Contractors in the Premises.

H. Tenant shall be conclusively deemed to have agreed that Landlord has performed all of its obligations under this Exhibit B unless not later than the end of the second calendar month next beginning after the Term Commencement Date Tenant shall give Landlord written notice specifying the respects in which Landlord has not performed any such obligation; provided however, that with respect to latent defects in any portion of Landlord's Work, Tenant shall be conclusively deemed to have agreed that Landlord has performed all of its obligations under this Article 4 unless, not later than the date eleven months and two weeks after the date Landlord substantially completes Landlord's Work, Tenant shall give written notice to Landlord specifying the respects in which Landlord has not performed any such obligation.

I. Landlord shall have the same rights and remedies which Landlord has upon the nonpayment of Annual Fixed Rent and other charges due under this Lease for nonpayment of any amounts which Tenant is required to pay to Landlord or Landlord's contractor in connection with the construction and initial preparation of the Premises (including, without limitation, any amounts which Tenant is required to pay in

accordance with Paragraph C and F hereof) or in connection with any construction in the Premises performed for Tenant by Landlord, Landlord's contractor or any other person, firm or entity after the Term Commencement Date.

J. Landlord will give Tenant reasonable advance notice of the date on which the Premises will be ready for any contractors engaged by Tenant in the preparation of the Premises for Tenant's occupancy and a reasonable time will be allowed from such date for doing the work to be performed by such other contractors. Such access by Tenant's contractors shall be with Landlord's prior written consent, which shall not be unreasonably withheld, during normal business hours and without payment of rent and shall otherwise be in compliance

with the terms of this Lease. Such right of entry shall be deemed a license from Landlord to Tenant, and any entry thereunder shall be at the risk of Tenant.

K. If the Term Commencement Date shall not have occurred on or before October 8, 2004, then, and as Tenant's sole remedy, (i) the Rent Commencement Date shall be delayed one (1) day for each day ("Day of Delay") between the date as of which the Term Commencement Date occurs and October 8, 2004. For example, if the Term Commencement Date occurs on October 18, 2004 (a delay of ten (10) days), then the Rent Commencement Date shall occur on December 28, 2004; and (ii) The Termination Date of the Lease shall be extended by the same number of days as the number of Days of Delay. For example, if the Term Commencement Date occurs on October 18, 2004 (a delay of ten (10) days), then the Termination Date shall occur on December 28, 2010.

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EXHIBIT C

PLANS AND SPECIFICATIONS FOR LANDLORD'S WORK

[Architectural Design of Floor Space]

[Manhattan Associates
2nd Floor
67 South Bedford Street
Burlington MA 01803]

Construction Drawings Completed By:
The McKenna Group Limited

Date:

August 16, 2004

- DM: Demolition Plan
- CN: Construction Plan
- E: Electrical Plan
- RC: Reflected Ceiling Plan
- EL/DL: Interior Elevations and Door Schedule

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EXHIBIT D

Building Standard Tenant Improvements

Attached to and made part of Lease dated as of

Between

Gateway Rosewood, Inc.

and

Manhattan Associates, Inc.

A. Partitions

Partitions shall extend six inches beyond the ceiling height and be comprised of 2 1/2" metal studs and one (1) layer of 5/8" gypsum board on each side of the studs. All partitions shall have a vinyl base 4" high, color selections from building standard.

B. Tenant Entries

1. Where possible, Tenants will have double-leaf, full height mahogany doors set in a wood frame with glass sidelights on each side.
2. Alternatively, a single-leaf full-height mahogany door set in a wood frame with a glass sidelight.
3. First Floor - all Tenant Entries visible to the first floor lobby areas will consist of double glass doors with butt-glazed glass on each side.

C. Interior Doors

Solid core with sealed or stained mahogany face, set in aluminum frames. Hardware shall include 1 1/2 pairs of paint grade butts, a lever handled chrome finished lockset and one floor stop.

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D. Paint

All building standard interior partitioning shall receive two (2) coats of eggshell latex paint, one (1) color per room.

E. Ceiling

Acoustical ceiling shall consist of 3/4", foil backed, revealed edge, 2' x 2' U.S.G. Glacier textured ceiling tiles.

F. Flooring

J&J Industries "Echelon" 30 oz. plush nylon pile carpet, or a carpet of equivalent cost and quality should appropriate color be available.

G. Electrical Outlets

15 amp. 120 volt duplex wall-type electrical outlet.

H. Telephone Outlets

Wall-type telephone pull string prepared to receive a telephone outlet, installation by Tenant's telephone company.

I. Lighting

One (1) 2' x 4' fluorescent light fixture with parabolic reflector and (1) 18 cell cover shall be provided for each 80 square feet of Useable Area.

J. Switching

One (1) single pole light switch with brushed chrome cover shall be provided for each 314 square feet of Useable Area.

K. Sprinklers

One (1) recessed chrome pendant sprinkler head shall be provided to meet all applicable code requirements.

L. Sun Control

All exterior windows shall receive Louver Drape Model E1 Elite Vertical Blinds with solid vinyl traversing and rotating louvers. Track will be finished in bronze baked enamel to match window frames.

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M. Drinking Fountain

All floors will have a drinking fountain accessible to all Tenants on the floor.

N. Wet Stacks

Wet Stacks containing cold water, waste and vents will be available on each floor.

O. Heating, Ventilating and Air Conditioning

A variable air volume (VAV) system will be employed for both heating and air conditioning.

P. Exit Sign

One (1) exit sign shall be provided for every 1,000 square feet of Useable Area or an appropriate amount to meet local and national codes and regulations.

Q. Emergency Light

One (1) emergency light shall be provided for every 1,000 square feet of Useable Area or an appropriate amount to meet local and national codes and regulations.

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EXHIBIT E

Landlord Services

Attached to and made part of Lease dated

Between

Gateway Rosewood, Inc.

and

Manhattan Associates, Inc.

1. CLEANING

A. Office Area

Daily: (Monday through Friday, inclusive. Holidays excepted.)

Empty and clean all waste receptacles and ash trays and remove waste material from Premises; wash receptacles as necessary.

Sweep and dust mop all uncarpeted areas using a dust-treated mop.

Vacuum all rugs and carpeted areas.

Hand dust and wipe clean with treated cloths all horizontal surfaces including furniture, office equipment, window sills, door ledges, chair rails, and convactor tops, within normal reach.

Wash clean all water fountains.

Remove and dust under all desk equipment and telephones and replace same.

Wipe clean all brass and other bright work.

Hand dust all grill work within normal reach.

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Upon completion of cleaning, all lights will be turned off and doors locked, leaving the Premises in an orderly condition.

Weekly:

Dust coat racks, and the like.

Remove all finger marks from private entrance doors, light switches and doorways.

Quarterly:

Render high dusting not reached in daily cleaning to include:

Dusting all pictures, frames, charts, graphs, and similar wall hangings.

Dusting all vertical surfaces, such as walls, partitions, doors and bucks.

Dusting of all pipes, ducts and high moldings.

Dusting of all venetian blinds.

B. Lavatories

Daily: (Monday through Friday, inclusive, holidays excepted.)

Sweep and damp mop floors.

Clean all mirrors, powder shelves, dispensers and receptacles, bright work, flushometers, piping, and toilet seat hinges.

Wash both sides of all toilet seats.

Wash all basins, bowls and urinals.

Dust and clean all powder room fixtures.

Empty and clean paper towel and sanitary disposal receptacles.

Remove waste paper and refuse.

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Refill tissue holders, soap dispensers, towel dispensers, vending sanitary dispensers; materials to be furnished by Landlord.

A sanitizing solution will be used in all lavatory cleaning.

Monthly:

Machine scrub lavatory floors.

Wash all partitions and tile walls in lavatories.

C. Main Lobby, Elevators, Building Exterior and Corridors

Daily: (Monday through Friday, inclusive, holidays excepted.)

Sweep and wash all floors. (Buff both main public lobby floors.)

Wash all rubber mats.

Clean elevators, wash or vacuum floors, wipe down walls and doors.

Spot clean any metal work inside lobby.

Spot clean any metal work surrounding Building Entrance doors.

Weekly:

All resilient tile floors in public areas to be treated equivalent to spray buffing.

D. Window Cleaning

Windows of exterior walls will be washed semiannually.

E. Tenant requiring services in excess of those described above shall request same through Landlord, at Tenant's expense.

II. HEATING, VENTILATING, AIR CONDITIONING

A. Landlord shall furnish space heating and cooling as normal seasonal changes may require to provide reasonably comfortable space temperature and ventilation for occupants of the Premises under normal business operation, daily from 8:00 a.m. to 6:00 p.m. (Saturdays to 1:00 p.m.), Sundays and holidays excepted.

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After hours heating, venting and air conditioning to be billed to tenant at cost, including reasonable cost and management expense.

B. The air conditioning system is based upon an occupancy of not more than one person per 150 square feet of floor area, and upon a combined lighting and standard electrical load not to exceed 2.5 watts per square foot of usable area. In the event Tenant exceeds this condition or introduces onto the Premises equipment which overloads the system, and/or in any other way causes the system not adequately to perform their proper functions, supplementary systems may at Landlord's option be provided by Landlord at Tenant's expense, and Tenant shall reimburse Landlord in such an amount as will compensate it for the cost incurred by it in operating such supplementary systems.

III. WATER

A. Cold water at temperatures supplied by the local utility water mains for drinking, lavatory, kitchen, restaurant and toilet purposes and hot water for lavatory purposes only from regular building supply at prevailing temperatures; provided however, that Landlord may, at its expense, install a meter or meters to measure the water supplied to any kitchen (including dishwashing) and restaurant areas in the Premises, in which case Tenant shall upon Landlord's request reimburse Landlord for the cost of the water (including heating thereof) consumed in such areas and the sewer use charge resulting therefrom.

Notwithstanding anything to the contrary in the Lease contained, Landlord shall, at Tenant's request and at Tenant's cost, perform any maintenance, repairs and replacements necessary for any hot water heaters serving the Premises and Landlord shall arrange for the unclogging of drains within the Premises.

IV. ELEVATORS

A. The passenger elevator system shall be in automatic operation and available to Tenant at all times. Use of the elevators for service purposes will have to be scheduled with the Landlord and coordinated with the needs of the

other tenants.

V. ELECTRICAL SERVICE

A. Landlord shall provide electric power for up to 1.8 watts per square foot of usable area for lighting plus 1.0 watts per square foot of usable area for office machines through standard receptacles for the typical office space.

B. Landlord, at his option, may require separate metering and billing to Tenant for the electric power required for any special equipment (such as computers and reproduction equipment) that require either 3-phase electrical power or any

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voltage other than 120. Landlord will furnish and install at Tenant's expense all replacement lighting tubes, lamps, and ballasts required by Tenant. Landlord will clean lighting fixtures on a regularly scheduled basis at Tenant's expense.

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EXHIBIT F

FLOOR PLAN

[Architectural Schematic of Second Floor, Center Space]

[16,422 RSF]

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EXHIBIT G, SHEET 1

(Required Tenant Work General Conditions)

The following General Conditions are promulgated pursuant to Section 3.1 of the Lease ("Lease").

1. DEFINITIONS

- 1.1 Building: Burlington Business Center
- 1.2 Consultant: Any architectural, engineering, or design consultant engaged by a Tenant in connection with Tenant Work.
- 1.3 Contractor: Any Contractor engaged by a Tenant of the Building for the performance of any Tenant Work, and any Subcontractor employed by any such Contractor.
- 1.4 Plans: All architectural, electrical and mechanical construction drawings and specifications required for the proper construction of the Tenant Work.
- 1.5 Regular Business Hours: Monday through Friday, 9:00 a.m. through 5:00 p.m., holidays excluded.
- 1.6 Construction Coordinator: Such individual or organization as Landlord may designate from time to time.
- 1.7 Senior Tenant Design Coordinator: Such individual as Landlord may designate from time to time.

- 1.8 Tenant: Any occupant of the Building.
- 1.9 Tenant Work: Any alterations, improvements, additions, repairs or installations in the Building performed by or on behalf of any Tenant.

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- 1.10 Tradesperson: Any employee (including, without limitation, any mechanic, laborer, or Tradesperson) employed by a Contractor performing Tenant Work.

2. GENERAL

- 2.1 All Tenant Work shall be performed in accordance with these General Conditions and the applicable provisions of the Lease.
- 2.2 The provisions of these General Conditions shall be incorporated in all agreements governing the performance of all Tenant Work, including, without limitation, any agreements governing services to be rendered by each Contractor and Consultant.

3. PRECONSTRUCTION NOTIFICATION AND APPROVALS

3.1 Approval to Commence Work

- a. Tenant shall submit to Construction Coordinator, for the approval of Retail Construction Coordinator, the names of all prospective Contractors prior to issuing any bid packages to such Contractors.

- b. No Tenant Work shall be undertaken by any Contractor or Tradesperson unless and until all the matters set forth in Article 3.2 below have been received for the Tenant Work in question and unless Construction Coordinator has approved the matters set forth in Article 3.2 below.

- 3.2 No Tenant Work shall be performed unless, at least one (1) business day before any Tenant Work is to begin, all of the following has been provided to the Construction Coordinator and approved. In the event that Tenant proposes to change any of the following, the Construction Coordinator shall be immediately notified of such change and such change shall be subject to the approval of the Construction Coordinator.

- a. Schedule for the work, indicating start and completion dates, any phasing and special working hours, and also a list of anticipated shutdown of building systems.

- b. List of all Contractors and Subcontractors, including addresses, telephone numbers, trades employed, and the union affiliation of each Contractor and Subcontractor.

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- c. Names and telephone numbers of the supervisors of the work.

- d. Copies of all necessary governmental permits, licenses and approvals.

- e. Proof of current insurance, to the limits set out in Exhibit A to these General Conditions, naming Landlord and Construction Coordinator as an additional insured party.

- f. Notice of the involvement of any Contractor in any ongoing or

threatened labor dispute.

- g. With respect to Bonded Projects, as defined in Section 3.1(c) of the Lease, Payment, Performance and Lien Bonds from sureties acceptable to Landlord, in form acceptable to Landlord, naming Landlord as an additional obligee.
- h. Evidence that Tenant has made provision for either written waivers of lien from all Contractors and suppliers of material, or other appropriate protective measures approved by Landlord, which approval shall not be unreasonably withheld.

3.3 Reporting Incidents

All accidents, disturbances, labor disputes or threats thereof, and other noteworthy events pertaining to the Building or the Tenant's property shall be reported immediately to the Construction Coordinator. A written report must follow within 24 hours.

4. CONSTRUCTION SCHEDULE

4.1 Coordination

- a. All Tenant Work shall be carried out expeditiously and with minimum disturbance and disruption to the operation of the Building and without causing discomfort, inconvenience, or annoyance to any of the other tenants or occupants of the Building or the public at large.
- b. All schedules for the performance of construction, including materials deliveries, must be coordinated through the Construction Coordinator. The Construction Coordinator shall have the right, without incurring any liability to any Tenant, to stop activities and/or to require rescheduling of Tenant Work based upon adverse impact on the tenants or occupants of the Building or on the maintenance or operation of the Building.

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- c. If any Tenant Work requires the shutdown of risers and mains for electrical, mechanical, sprinklers and plumbing work, such work shall be supervised by a representative of Landlord. No Tenant Work will be performed in the Building's mechanical or electrical equipment rooms without both Landlord's prior approval and the supervision of a representative of Landlord, the cost of which shall be reimbursed by the Tenant.

4.2 Time Restrictions

- a. Subject to Paragraph 4.1 of these General Conditions, general construction work will generally be permitted during Regular Business Hours.
- b. Tenant shall provide the Construction Coordinator with at least twenty-four (24) hours notice before proceeding with Special Work, as hereinafter defined, and such Special Work will be permitted only at times agreed to by the Building Manager during periods outside of Regular Business Hours. Tenant shall pay for all additional supervisory and other premium costs incurred by Landlord as the result of any such Special Work. "Special Work" shall be defined as the following operations:
 - (1) All utility disruptions, shutoffs and turnovers;
 - (2) Activities involving high levels of noise, including demolition, coring, drilling and ramsetting;

(3) Activities resulting in excessive dust or odors, including demolition and spray painting; and

(4) Any other work which Tenant proposes to perform outside of Regular Business Hours.

- c. If coordination, labor disputes or other circumstances require, the Construction Coordinator may change the hours during which regular construction work can be scheduled and/or restrict or refuse entry to and exit from the Building by any Contractor.

5. CONTRACTOR PERSONNEL

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5.1 Work in Harmony

a. All Contractors shall be responsible for employing skilled and competent personnel and suppliers who shall abide by the Supplemental Conditions herein set forth as amended from time to time by Landlord.

b. No Tenant shall at any time, either directly or indirectly, employ, permit the employment, or continue the employment of any Contractor if such employment or continued employment will or does interfere or cause any labor disharmony, coordination difficulty, delay or conflict with any other contractors engaged in construction work in or about the Building.

c. Should a work stoppage or other action occur anywhere in or about the Building as a result of the presence, anywhere in the Building, of a Contractor engaged directly or indirectly by a Tenant, or should such Contractor be deemed by Landlord to have violated by applicable rules or regulations, then upon twelve hours written notice, Landlord may, without incurring any liability to Tenant or said contractor, require any such Contractor to vacate the premises demised by such Tenant and the Building, and to cease all further construction work therein.

d. Tenant agrees that all Tenant Work shall be performed by any Contractors which shall work in harmony with all other labor and contractors working in or about the Property.

e. Tenant shall use, and Tenant shall require the Contractor to use his best efforts to prevent work stoppages on the Premises, or elsewhere in the Building, to the extent attributable to work being performed on the Premises, irrespective of the reason for any such stoppage, in recognition of the fact that it is of the utmost importance to Landlord and all those occupying space in the Building that there be no interruption in the progress of the work.

5.2 Conduct

a. Tradespersons shall wear clothing suitable for their work and shall remain fully attired at all times. All Contractors will be responsible for their Tradespersons' proper behavior and conduct.

b. The Construction Coordinator reserves the right to remove anyone who, or any Contractor which is causing a disturbance to any Tenant or Occupant of the Building or any other person using or servicing the Building; is interfering with the work of others; or is in any other way displaying conduct or performance not compatible with the Landlord's standards. Tenant shall exonerate, indemnify and hold Landlord and the Construction Coordinator harmless from any loss, cost, damages, or liability incurred by reason of compliance with any such demand.

5.3 Access

a. All Contractors and Tradespersons shall contact the Construction Coordinator prior to commencing work, to confirm work location and Building access, including elevator usage and times of operation. Access to the Building before and after Regular Business Hours or any other hours designated from time to time by the Building Manager and all day on weekends and holidays will only be provided when twenty-four (24) hours advance notice is given to the Construction Coordinator.

b. No Contractor or Tradesperson will be permitted to enter any private or public space in the Building except through entrances designated by the Construction Coordinator.

5.4 Parking

Parking is not allowed in or near truck docks, in handicapped or fire access lanes, or any private ways in or surrounding the property. Vehicles so parked will be towed at the expense of the Tenant who has engaged the Contractor for whom the Owner of such vehicle is employed.

6. BUILDING MATERIALS

6.1 Delivery

a. All deliveries of construction materials shall be made at the predetermined times approved by the Construction Coordinator and shall be effected safely and expeditiously only at the location determined by the Construction Coordinator.

b. Tenant shall give the Construction Coordinator at least twenty-four (24) hours notice of deliveries of any materials in the Building.

6.2 Transportation in Building

a. Distribution of materials from delivery point to the work area in the Building shall be accomplished with the least disruption to the operation of the Building possible. Elevators will be assigned for material delivery and will be controlled by the Construction Coordinator.

b. Contractors shall provide adequate protection to all carpets, wall surfaces, doors and trim in all public areas through which materials are transported. Contractors shall continuously clean all such areas. Protective measures shall

include runners over carpet, padding in elevators and any other measures determined by the Construction Coordinator.

c. Any damage caused to the Building through the movement of construction materials by any Contractor or otherwise caused by a Contractor shall be the responsibility of the tenant who has engaged the Contractor involved. Charges for such damage will be submitted by the Landlord directly to such tenant.

6.3 Storage and Placement

a. All construction materials shall be stored only in the premises

where they are to be installed. No storage of materials will be permitted in any public areas, loading docks or corridors leading to the premises.

b. No flammable, toxic, or otherwise hazardous materials may be brought in or about the Building unless: (1) authorized by the Construction Coordinator, (ii) all applicable laws, ordinances, rules and regulations are complied with, and (iii) all necessary permits have been obtained. All necessary precautions shall be taken by the Contractor handling such materials against damage or injury caused by such materials.

c. All materials required for the construction of the premises must conform with the plans and specifications approved by Landlord, and must be installed in the locations shown on the drawings approved by the Landlord.

d. All work shall be subject to reasonable supervision and inspection by a representative of Landlord.

e. No alterations to approved plans will be made without prior knowledge and approval of the Senior Tenant Design Coordinator. Such changes shall be documented on the as-built drawings required to be delivered to Landlord pursuant to Paragraph 10 of these General Conditions. At the time that such changes are prepared by the Tenant and approved by Landlord, Tenant shall submit such approved changes to the Construction Coordinator. At the time that any shop drawing is approved by the Senior Tenant Design Coordinator, Tenant shall submit such approved shop drawings to the Construction Coordinator.

f. All protective devices (e.g., temporary enclosures and partitions) and materials, as well as their placement, must be approved by the Construction Coordinator.

g. It is the responsibility of Contractors to ensure that the temporary placement of materials does not impose a hazard to the Building or its occupants, either through overloading, or interference with Building systems, access, egress or in any other manner whatsoever.

h. All existing and/or new openings made through the floor slab for piping,

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cabling, etc. must be firestopped in accordance with applicable codes. All holes in the floor slab at abandoned floor outlets, etc. will be filled with solid concrete.

6.4 Salvage and Waste Removal

a. All rubbish, waste and debris shall be neatly and cleanly removed from the Building by Contractors daily and placed in a trash container designated by the Construction Coordinator, unless otherwise approved by the Construction Coordinator. For any demolition and debris, each Contractor must make arrangements with the Construction Coordinator for the scheduling and location of an additional dumpster to be supplied at the cost of the Tenant engaging such Contractor. Where, in the opinion of the Construction Coordinator, such arrangements are not practical, such Contractors will make alternative arrangements for removal at the cost of the Tenants engaging such Contractors.

b. Toxic or flammable waste is to be properly removed daily and disposed of in full accordance with all applicable laws, ordinances, rules and regulations,

c. Contractors shall, prior to removing any item from the Building, notify the Construction Coordinator that it intends to remove such item. At the election of Construction Coordinator, Contractors shall deliver any such items to the Construction Coordinator. Such items will be delivered, without cost, to an area designated by the Construction Coordinator which area shall be within the Building or the complex in which the Building is located.

7. PAYMENT OF CONTRACTORS

Tenant shall promptly pay the cost of all Tenant Work so that Tenant's premises and the Building shall be free of liens for labor or materials. If any mechanic's lien is filed against the Building or any part thereof which is claimed to be attributable to the Tenant, its agents, employees or contractors, Tenant shall give immediate notice of such lien to the Landlord and shall promptly discharge the same by payment or filing any necessary bond within ten (10) days after Tenant has first notice of such mechanic's lien.

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8. CONTRACTOR'S INSURANCE

Prior to commencing any Tenant Work, and throughout the performance of the Tenant Work, each Contractor shall obtain and maintain insurance in accordance with Exhibit A attached hereto. Each Contractor shall, prior to making entry into the Building, provide Landlord with certificates that such insurance is in full force and effect.

9. SUBMISSIONS UPON COMPLETION

a. Upon completion of any Tenant Work and prior to taking occupancy. Tenant shall submit to Landlord a permanent Certificate of Occupancy and final approval of any other governmental agencies having jurisdiction.

b. Tenant shall submit to the Senior Tenant Design Coordinator a final "as-built" set of drawings showing all items of the work in full detail as required in the Tenant Design Criteria Manual. Tenant shall have no obligation to submit "as-built" drawings with respect to Landlord's Work.

10. ADJUSTMENTS OF REGULATIONS

In accordance with Section 5.4 of the Lease, Landlord has the right to cancel or amend these General Conditions.

11. CONFLICT BETWEEN RULES AND REGULATIONS AND LEASE

In the event of any conflict between the Lease and these General Conditions, the term of the Lease shall control.

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EXHIBIT A
TO
REQUIRED TENANT WORK GENERAL CONDITIONS
INSURANCE REQUIREMENTS FOR CONTRACTORS

When Tenant Work is to be done by Contractors in the Building, the Tenant authorizing such work shall be responsible for including in the contract for such work the following insurance and indemnity requirements to the extent that they are applicable. Insurance certificates must be received prior to construction. Landlord and the Construction Coordinator shall be name as an additional insured party on all certificates.

INSURANCE

Each Contractor and each Subcontractor shall, until the completion of the Tenant Work in question, procure and maintain at its expense, the following insurance coverages with companies acceptable to Landlord in the following minimum limits:

Worker's Compensation
(including coverage for Occupational Disease)

Limit of Liability

Worker's Compensation
Employer's Liability

As required by law

Comprehensive General Liability
(including Broad Form Comprehensive Liability Endorsement, Contractual Liability assumed by the Contractor and the Tenant under Article 15.3 of the Lease and Completed Operations coverage)

Limit of Liability

Bodily Injury & Property Damage

The applicable Minimum Liability Insurance Limit, as defined in Section 3.1(c)

Comprehensive Automobile Liability
(including coverage for Hired and Non-owned Automobiles)

Limit of Liability

Bodily Injury & Property Damage

The applicable Minimum Liability Insurance Limit, as defined in Section 3.1(c)

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INDEMNITY

Each Contractor shall indemnify, defend with counsel acceptable to Landlord, and hold Landlord and Landlord's agents from and against any claims, losses, and damages arising out of the work performed by such Contractor, unless such claim, loss or damage arises from the negligence or willful misconduct of Landlord or its agents.

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EXHIBIT H

BUILDING RULES AND REGULATIONS

1. BUILDING ACCESS RESTRICTIONS

Employee access to the building is through the main lobby.

2. OBSTRUCTION OF SIDEWALKS, DOORWAY, VESTIBULE, HALLS, ETC.

Sidewalks, doorways, vestibules, halls, stairways, and similar areas shall not be obstructed nor shall refuse, furniture, umbrellas, boxes or other items to be placed therein by Tenant or its officers, agents, servants or employees, or used for any purpose other than ingress and egress to and from the Premises, or for going from one part of the Building to another part of the Building. Canvassing, soliciting and peddling in the Building are prohibited.

3. PERMISSION REQUIRED FOR POSTING OR DISTRIBUTION OF PRINTED MATTER, ETC.

No person shall post, distribute, exhibit, inscribe, paint or affix (or shall any person cause, direct or order the posting, distributing, exhibiting, inscribing, painting or affixing of) signs, advertisements, circulars, notices, posters, or printed or written or pictorial matter of articles or objects of any kind at, in, on or to any part of the common areas and facilities of One Burlington Business Center, In the event of the violation of the foregoing, the Building Management may remove the same without any liability, and may charge the expense and cost incurred for such removal to the person or persons violating this rule.

4. SOLICITATION

Solicitation of any kind is strictly forbidden unless approved in advance by the Building Management office.

5. BUILDING STANDARD SIGNAGE

No signs, directories, posters, advertisements, or notices shall be painted or affixed on or to any of the windows or doors, or in corridors or other parts of the Building, except in such color, size and style, and in such places, as shall be first approved in writing by the Property Manager in its discretion. Building standard suite identification signs will be prepared by the Property Manager at Landlord's expense, however, Tenant may install its own sign identification within the Premises, subject to Property Manager's approval thereof. Property Manager shall have the right to remove all unapproved signs without

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notice to the Tenant, at the expense of the Tenant. It is also further understood that furnishings in Tenant's area which are viewed from the common area shall be subject to Property Management's approval.

6. LOST ARTICLES

Person finding lost articles at the Building shall turn them over to the Building Management Office. Articles not claimed by the owner within ninety days may be turned over to the finders thereof.

7. LOST OR STOLEN PROPERTY

Building Management shall not be responsible for lost or stolen personal property, money or jewelry from Tenant's leased area or public areas regardless of whether such loss occurs when area is locked against entry or not.

8. REQUESTS TO PERFORM WORK OR SERVICES

Additional services requested by tenants will be backcharged by Lincoln Property Company to the tenant. This charge will include an hourly rate and material cost.

All expenditures must be approved before any work begins through the Tenant Alteration process.

No person shall request any building services employees to do any work or perform any service, but shall make all such request(s) directly to the Building Management Office (781) 238-4488.

Each office Tenant of One Burlington Business Center shall submit a list of two authorized individuals to request service and approve expenditures to the Building Manager.

9. INSTALLATIONS IN OFFICE AREAS

No nails, hooks, or screws shall be driven into or inserted in any part of the Building except as approved by the Building Manager, which approval shall not be unreasonably withheld. Subject to obtaining Landlord's approval, as aforesaid, Landlord shall, at Tenant's request, without charge to Tenant, hang any whiteboards, cork boards, pictures and other typical corporate wall hangings on the walls in the Premises.

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10. ANIMALS AND PETS BARRED; EXCEPTION

No animals shall be brought into or kept in or about the Building, with the exception of seeing-eye dogs.

11. CLEANLINESS OF PREMISES

Tenant shall cooperate with Lincoln Property Company's employees in keeping premises neat and clean.

12. NOISE AND ODORS

Tenant shall not cause or permit any improper noises in the Building, or allow any unpleasant odors to emanate from the premises, or otherwise interfere, injure or annoy in any way other Tenants, or persons having business with them.

13. FOOD AND BEVERAGES

No food and/or beverages shall be distributed from the premises, except in connection with the operation of vending machines installed for the exclusive use of Tenants employees or the operation of cafeteria for Tenants' employees.

14. NO SMOKING POLICY

The Building is a non-smoking facility. Smoking in any form, including but not limited to the smoking of cigarettes, cigars and pipes, is strictly prohibited anywhere in or on the Premises. Notwithstanding the foregoing policy, smoking may be permitted only in the areas of the exterior grounds designated by the Property Manager.

15. STORAGE, ETC. OF CERTAIN MATERIALS AND SUBSTANCES PROHIBITED

No person shall store, keep, handle, use, dispense, or transport at, in, or upon the Building, or bring into the Building for any purpose: (a) any firearms or any other weapons, except persons carrying firearms pursuant to and in compliance with the law and all licenses, permits, etc. including but not limited to authorized peace officers, customs, or express carrier employees or members of the armed forces of the United States; (b) any flammable, combustible, explosive, corrosive, oxidizing, poisonous, compressed or otherwise offensive fluid, gas, chemical, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property; or (c) any radioactive materials.

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16. TAMPERING WITH CONTROLS, EQUIPMENT, ETC. PROHIBITED

No person shall tamper with any One Burlington Business Center building controls, machinery, or equipment including without limitation thermostats, heater valves, sprinkler valves and devices, or blower motors.

17. OVERLOADING OF UTILITY, MECHANICAL, ETC. SYSTEMS PROHIBITED

No person shall keep, maintain, place or install, use or connect at the Building any equipment or engage in any activity or operation at the Building which will cause or tend to cause an overloading of the capacity or any electrical circuit or system or portion of any other utility, mechanical, electrical communication or other systems servicing the Building. No person shall do or permit to be done anything which may interfere with the effectiveness or accessibility of existing and future utility, mechanical, electrical, communication or other systems or portions thereof at the Building.

18. OVERTIME HEATING AND AIR CONDITIONING

All requests for overtime air conditioning and/or heat must be submitted in writing to the Building Management office using the Maintenance Request Form. A fee is charged for overtime HVAC.

19. ACCESS TO MECHANICAL AREAS

Tenant will not relocate furnishings or cabinets adjacent to mechanical or electrical access panels or over air conditioning outlets so as to prevent operating personnel from servicing such units as routine or emergency access may require. Cost of moving such furnishings for Building Manager's access will be at Tenant's expense. The lighting and air conditioning equipment of the Building will remain the exclusive charge of the Building designated personnel.

20. LOCATION OF HEAVY OBJECTS

Lincoln Property Company shall have the right to prescribe the weight and position of heavy equipment or objects which may overstress any portion of the floors of the Premises. All damage done to the Building by the improper placing of such heavy items will be repaired at the sole expense of Tenant.

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21. MOVEMENT OF FURNITURE AND EQUIPMENT

Movement in or out of the Building of furniture or office equipment, or dispatch or receipt by Tenant of any bulky material, merchandise or materials which requires use of elevators or stairways or movement through the Building entrances or lobby shall be restricted to such hours as Building Manager shall designate. All such movement shall be under the supervision of Building Manager by prearrangement before performance. Such prearrangement initiated by a Tenant shall include determination by Building Manager, and subject to this decision and control, as to the time, method, and routing of movement and as to limitations for safety or other concern which may prohibit any article, equipment, or any item from being brought into the Building. The Tenant assumes all risks as to the damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property, and personnel of Lincoln Property Company if damaged or injured as a result of an act in connection with carrying out this service for an Tenant from time of entering property to completion of work; and Lincoln Property Company shall not be liable for acts of any persons engaged in or any damage or loss of any said property or persons resulting from any act in connection with such service performed for an Tenant.

22. INSTALLATION AND REMOVAL OF HEAVY EQUIPMENT

Tenants shall notify the Building Manager when safes or other heavy equipment are to be taken in or out of the Building, and such moving shall only be done after written permission is obtained from Lincoln Property Company on such conditions as Lincoln Property Company shall require. Additional costs related to the installation of such equipment, such as for elevator use of window removal, will be borne by Tenant.

23. CORRIDOR AND STAIRWELL DOORS

Corridor doors, when not in use, shall be kept closed. Tenant shall lock all office doors leading to corridors and turn out all lights at the close of the working day.

24. RIGHT RESERVED TO INSPECT FREIGHT, ARTICLES, PACKAGES, ETC. BROUGHT IN AND OUT

The Building Management reserves the right to inspect all freight and other articles including hand-carried packages brought into or out of the Building.

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25. BICYCLE AND MOTORCYCLE PARKING

No bicycles, motorcycles or similar vehicles will be allowed in the Building. Parking for such vehicles will be allowed only in areas designated by the building manager.

26. PARKING RULES AND REGULATIONS

Tenant personnel shall comply with reasonable parking rules and regulations as may be posted and distributed from time to time. Refer to the parking policies section of this manual for standard parking procedures.

27. KEYS AND LOCKS

No additional locks shall be placed upon any door without the prior written consent of the Building Manager. All necessary keys shall be furnished by the Building Manager, and the same shall be surrendered upon termination of Tenant's Use. Tenant shall then give Building Manager or his Tenant an explanation of the combination of all locks on the doors or vaults.

28. FIRE SAFETY RULES AND REGULATIONS

All Fire Safety Rules and Regulations are set forth by the Town of Burlington Fire Department Code, and the Massachusetts State Building Code.

A. No occupants of One Burlington Business Center shall use or allow the use of any of the following:

1. Multi-plug adapter at convenience outlets, except those approved by Building Management (Landlord hereby agreeing that it will not unreasonably withhold its consent to power strips).
2. Any extension cord other than heavy duty cord authorized in writing by Building Management and listed and approved by Underwrites Laboratories, Inc.
3. Any temporary wiring except as provided for in the Boston Edison Code and approved by Building management.
4. Any electrical appliance or equipment not listed and approved by underwriters.

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All occupants of One Burlington Business Center shall at all times maintain such space as to permit all persons within to expeditiously leave in the event of an emergency through any door opening on to any public

corridor.

29. BUILDING EVACUATIONS

Building Management has the right to evacuate the Building in the event of an emergency or catastrophe.

30. SECURITY PROCEDURES

Tenant will comply with all requirements necessary for the security of the premises, including the use of security control cards for after hours entry.

31. USE OF PREMISES FOR LODGING OF SLEEPING

No portion of the Building shall be used for the purpose of sleeping or lodging rooms.

32. INSTALLATION OF WINDOW TREATMENTS

Prior written approval, which shall be at Building Manager's sole discretion, must be obtained for installation of window shades, blinds, drapes, or any other window treatment of any kind whatsoever. Building Manager will control all internal lighting that may be visible from the exterior of the Building and shall have the right to change any unapproved lighting, without notice to Tenant, at Tenant's expense.

33. AMENDMENTS TO RULES AND REGULATIONS

Lincoln Property Company reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its judgment shall, from time to time, be needed for the safety, protection, care and cleanliness of the Building, the operation thereof, the preservation of good order therein and the protection and comfort of the Tenant and their agents, employees and invitees, which rules and regulations, when made and written notice thereof is given to Tenant, shall be binding upon it in like manner as if originally herein prescribed. Landlord agrees that it shall not discriminate between Tenant and other similarly situated tenants in the enforcement or implementation of any rules or regulations.

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The Building Rules and Regulations Booklet was developed by Lincoln Property Company, One Burlington Business Center Property Manager, to insure the safety of tenants and their employees. If you have questions or require further information on any of the policies set forth in the Building Rules and Regulations Booklet, please contact Lincoln Property Company at (781) 238-4488.

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EXHIBIT I

BUILDING ALTERATIONS RULES AND REGULATIONS

The following rules and regulations shall be followed by all contractors performing work for Tenant:

1. HOURS OF WORK

No construction personnel are allowed in Building common areas on occupied floors during the hours of 9:00 a.m. to 5:00 p.m. unless approved by building management. Exception: Entry and exit from Tenant's area under construction via the elevator.

2. ELEVATOR ACCESS

Elevator access should be coordinated with Building Management.

3. MUSIC

No loud music is allowed in construction areas. Doors to spaces on occupied floors shall be closed at all times.

4. CLEANLINESS OF PREMISES

Areas under construction as well as storage areas, and all unoccupied space are to be kept clean and in an orderly fashion.

5. LOADING & UNLOADING

Contractor is to use only designated areas for working, loading and unloading, and trash containment and removal. The Building shall not be responsible for the removal of construction debris or clean-up. The contractor shall be responsible for providing adequate dump truck service at its sole expense.

6. REMOVAL OF DEBRIS

The contractor shall be held responsible for leaving the construction area completely cleaned and broom swept, and free of all rubbish and debris. Additionally, the contractor shall be held responsible for the protection and cleaning of interior glass, venetian blinds, and drapes. Areas adjacent to the work area are to be kept clean and free of stored materials.

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7. DUST BARRIERS

Contractor shall be responsible for providing construction walk-off mats to be utilized and maintained where deemed necessary by common sense and Building Management. This will include spare carpet to scuff dust and dirt off work footwear. The contractor must also supply and install polyethylene dust barriers when and where deemed necessary by Management.

8. DAILY CLEAN UP

Occupied floors with area under construction are to have all construction debris (vacuumed if necessary) removed from Building common areas (corridors, restrooms, elevator lobbies, service elevator lobby, stairwells, electrical and mechanical rooms, etc.) on a daily basis. No staging of materials will be permitted in hallways, lobbies, sidewalks or other areas that can be seen by the public.

9. NO LOITERING

Construction personnel are confined to those areas in which they are working. They will not be allowed to congregate on grounds.

10. DUMPSTERS

Area around trash dumpsters and parking areas are to be kept clean by contractor.

11. ALCOHOLIC BEVERAGES

Contractors are not allowed to consume or bring to the property alcoholic beverages.

12. LANDSCAPING

Construction personnel are prohibited to travel on landscaped areas.

13. REMOVAL OF MATERIALS

No owner-supplied material is to leave the job site.

14. BACK CHARGING FOR CLEAN UP

Contractor's failure to remove material or clean up work area, will result in Lincoln Property Company performing the work, and holding all costs for the Contractor's account.

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15. WELDING AND CORE DRILLING

All/any burning or welding, core drilling and other extremely noisy or messy jobs must be prearranged through the Building Management Office prior to doing the work. Burning and welding requires prior notification to Management and shall be performed only with an assistant who will hold an ABC fire extinguisher or firewatch provided by the Burlington Fire Department and observe said procedure at all times. Welding and burn permits must be submitted to the building management office prior to work commencing from the Burlington Fire Department.

16. LIFE SAFETY SYSTEMS

Under no circumstances will any work be performed on the base building MEP systems or life support systems without prior approval of the Building Management Office (i.e., fire sprinkler system, smoke detector system, water supply system, sanitary/storm system, and main electrical distribution system, etc.) All equipment rooms must be attended to at all times during work. If the area is left unattended, it is to be secured.

17. FIRE ALARM SYSTEM

Fire Protection/Life Safety Systems shall not be disconnected or otherwise rendered unserviceable without first notifying the Building Management Office in writing. This must be done at least 48 hours in advance. Restoration of protective systems shall be diligently pursued.

18. FIRE SAFETY

Any perforation and/or penetration through any fire rated wall or partition, telephone closet and/or electrical closet must be completely fire safe.

19. FIRE SYSTEM SHUTDOWNS

Contractor will be responsible for any charges pertinent to fire alarm system and sprinkler supervisory shutdowns as they relate to contractor's work.

20. STAIRWELLS

Stairwell doors are not be wedged open under any circumstances.

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21. CONTRACTING REPRESENTATIVE

The General Contractor will provide a qualified representative for the full duration of his or any of his subcontractor's daily activities within the Building. The representative will be equipped with a voice page.

22. CONTRACTOR EMPLOYEE IDENTIFICATION

Identification will be required for all construction personnel and said personnel must comply with any and all check-in/check-out procedures as required by Tenant and Management.

23. DELIVERY OF MATERIALS

All work, material delivery and access to Building before 7:30 a.m. or after 5:00 p.m. and on weekends and holidays, must be coordinated with Building Management in advance. Any access to Tenant's space must be arranged by the Tenant.

24. PROFANITY

Any contractor acting in a less than professional manner will be removed from the project and prohibited future access (i.e., use of profanity, lewd remarks to tenants, etc.)

25. SECURITY OF TOOLS

Contractor is responsible for securing all materials and tools as well as that of his subcontractors.

26. PUNCHLIST INSPECTION

No work will be accepted as complete or final without a final punchlist and inspection approval by Lincoln Property Management.

27. CONTRACTOR EMPLOYEE TRAINING

Contractor and all employees, as well as subcontractors and their employees must be properly trained and certified for work they perform.

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28. PLAN SUBMITTAL

It is a requirement that three (3) complete sets of construction drawings and specifications be submitted to the Building Management Office prior to the commencement of any construction activity. There will be no exceptions to this requirement.

29. HVAC REQUIREMENTS

Contractor and/or Tenant shall provide heat load calculations and utility load calculations based on total square foot of buildout per floor; provided however, that Tenant shall have no obligation to provide such calculations with respect to Landlord's Work. Anything that exceeds normal building consumption or HVAC capacities for that area will be the responsibility of the Tenant. This is so that other Tenants do not absorb additional costs and the building operating costs are not elevated.

Calculations should include:

- A. Electrical consumption of all devices, equipment fixtures or specialty items that require electricity.
- B. Heat load should include computer and copy equipment, lighting or persons working in the area, and all other heat-producing items.
- C. Consumption and requirements for domestic, condenser/cooling tower, and chilled water. Sewage charges may be included and added depending on usage.

30. FEES AND ADDITIONAL COSTS

The Tenant shall pay the full cost of all Tenant initiated alterations,

additions, and improvements, including construction management fees and other costs in connection with such work (including without limitation, all costs incurred by the building, along with the cost of any additional building services consumed by the Tenant as a result of such work. This includes fees incurred by the building to update and modify all as-built CAD drawings.

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31. AMENDMENTS TO BUILDING ALTERATIONS RULES AND REGULATIONS

Lincoln Property Company reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its judgment shall, from time to time, be needed for the safety, protection, care and cleanliness of One Burlington Business Center building, the operation thereof, the preservation of good order therein and the protection and comfort of the Tenant and their agents, employees and invitees, which rules and regulations, when made and written notice thereof is given to Tenant, shall be binding upon it in like manner as if originally herein prescribed.

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AGREEMENT TO BUILD AND LEASE

BETWEEN

ORCHID APARTMENTS PRIVATE LIMITED
(An Indian company)

AND

MANHATTAN ASSOCIATES INDIA DEVELOPMENT CENTRE PRIVATE LIMITED
(An Indian company)

DATED: NOVEMBER 19, 2004

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SCHEDULES

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AGREEMENT TO BUILD AND LEASE

This Agreement to Build and Lease (this "AGREEMENT") is made and executed on this the 19th day of November, 2004 (the "SIGNATURE DATE") at Bangalore.

BETWEEN

I. M/s. Orchid Apartments Private Limited, a company incorporated in accordance with the provisions of the [Indian] Companies Act, 1956, with its registered office at No. 10, Vittal Mallya Road, Bangalore 560 001 (hereinafter referred to as the "LESSOR" which expression shall mean and include its successors and permitted assigns) and represented herein by its authorised signatory Shri. B M Jayeshankar of the One Part

AND

II. M/s. Manhattan Associates India Development Centre Private Limited, a company incorporated in accordance with the provisions of the [Indian] Companies Act 1956, with its registered office at Unit No.2, Level 2, Explorer Building, ITPL, Whitefield Road, Bangalore 560 066 (hereinafter, referred to as the "LESSEE" which expression shall mean and include its successors and permitted assigns) and represented by its authorised signatory Shri. Srinivasan Raghavan of the Other Part.

The Lessor and the Lessee are also referred to as the "PARTY" in the singular and as the "PARTIES" in the collective.

WHEREAS:

- A. The Lessor represents that it is in sole and absolute possession of land measuring approximately one hundred and eight thousand nine hundred (108,900) square feet in Plot Nos. 170, 171 and 172, EPIP Zone, Whitefield, Bangalore 560 066 (hereinafter referred to as the "LAND", more fully described in Schedule I of this Agreement and by this reference made a part hereof) and enjoys right, title and interest over the Land by virtue of a Lease cum Sale Agreement executed between the Lessor and the Karnataka Industrial Areas Development Board ("KIADB");
- B. The Lessor will construct a building measuring approximately eighty

thousand (80,000) square feet of Built Up Area (defined below in Section 1.2), consisting of a ground floor plus three (3) floors, on the Land (the "BUILDING", more fully described in Schedule II of this Agreement, and by this reference made a part hereof);

- C. The Lessor has agreed to lease the ground, first and second floors of the Building admeasuring approximately sixty thousand (60,000) square feet of Built Up Area along with cafeteria space and provision for training rooms and gymnasiums admeasuring

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approximately seven thousand two hundred (7,200) square feet on the terrace of the Building (the "PREMISES", more fully described in Schedule III of this Agreement and by this reference made a part hereof) to the Lessee, in accordance with the terms and conditions of this Agreement;

- D. The Lessor represents that the Building shall be built in accordance with the specifications contained in Schedule IV (the "SPECIFICATIONS") to this Agreement, and by this reference made a part hereof; and
- E. The Parties agree and undertake that they shall abide by the terms, conditions and stipulations contained in this Agreement and therefore agree to sign this Agreement confirming their commitment and intention.

NOW THEREFORE in consideration of the promises and covenants herein set forth and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. CONSTRUCTION OF THE BUILDING.

- 1.1 Description. The Lessor agrees that the Premises will be constructed in adherence to the Specifications and the Drawings (as defined in Schedule IV). The common areas of the Land and Building (which include the basement areas, staircases, elevators, open spaces in the Land and Building) shall also be constructed in accordance with the Specifications and the Drawings. Any variation in the construction of the Building from the Specifications and the Drawings shall only be effective if mutually agreed to by the Parties.
- 1.2 Built Up Area. The term "Built Up Area" shall mean the total area of the Building including the main entrance lobby, lift lobby, shafts, staircase, D.G. room, electrical room, lift machine room, and passenger and service lift cores, excluding external atriums, basement parking areas, all unenclosed areas, and the terrace area.
- 1.3 Advance. The Lessee agrees to pay the Lessor a cumulative sum of Rupees Two Crore Nineteen Lakhs Sixty Thousand Only (Rs. 2,19,60,000/-) (the "ADVANCE") as an Advance under this Agreement. The Parties further agree that on the execution and registration of the lease deed (the "LEASE DEED") for the Premises, the Advance shall be treated as the interest free refundable security deposit payable by the Lessee under the Lease Deed.
- 1.4 Payment of Advance. The Parties agree that the Advance shall be paid by the Lessee to the Lessor in the following manner and as defined in Schedule V of this Agreement:
- (a) The Lessee shall pay a sum of Rupees Eighteen Lakhs Thirty Thousand Only (Rs. 18,30,000/-) by demand draft to the Lessor on the date of execution of this Agreement; and

- (b) The balance of the Advance shall be paid by the Lessee to the Lessor in installments (the "INSTALLMENTS") on:
- (i) the achievement of mutually agreed benchmarks as described in Schedule V; and
 - (ii) the issuance of the Acceptance Certificates (as defined in Clause 1.4).

It is hereby clarified that the Parties agree that the Installments shall be paid by the Lessee to the Lessor as follows:

- (a) Upon completion of the basement roof slab and ground floor roof slab of the Building: Rupees Fifty Lakhs Thirty Two Thousand Five Hundred Only (Rs. 50,32,500/-);
- (b) Upon completion of the first floor roof slab, the second floor roof slab and the third floor roof slab of the Building: Rupees Fifty Lakhs Thirty Two Thousand Five Hundred Only (Rs. 50,32,500/-);
- (c) Upon completion of the construction of the Building, production of the occupancy certificate and issuance of the Acceptance Certificate: Rupees Fifty Lakhs Sixty Five Thousand Only (Rs. 50,65,000); and
- (d) On the execution and registration of the Lease Deed: Rupees Fifty Lakhs Only (Rs. 50,00,000/-).

1.5 Acceptance Certificate. The Lessor shall issue a written notice of completion (the "NOTICE") to the Lessee on the achievement of each mutually agreed benchmark as described in Schedule V, supported by the certificate of M/s Thomas Associates, Bangalore (the "PROJECT ARCHITECT"). The Lessee shall within seven (7) days from the receipt of the Notice, inspect the completed benchmark and issue either (i) a certificate of acceptance, accepting the achievement of the particular benchmark (the "ACCEPTANCE CERTIFICATE"); or (ii) a certificate of rejection, rejecting the achievement of the particular benchmark and recording its reasons which shall be reasonably sufficient to prove the grounds for such rejection (the "REJECTION CERTIFICATE"). Failure to inspect and issue an Acceptance Certificate or a Rejection Certificate within fourteen (14) days from the date of receipt of the Notice shall be construed as a deemed acceptance of the Notice and the Lessee shall be liable to pay the Lessor the applicable Installment. In the event the Lessee issues a Rejection Certificate, the Lessor shall have fourteen (14) days from its receipt to cure the defects detailed in the Rejection Certificate (the "CURE PERIOD"). In the event the defects detailed by the Lessee in the Rejection Certificate are not cured to the sole satisfaction of the Lessee and the Project Architect within the Cure Period, the Parties and the Project Architect shall meet to discuss whether the Cure Period for rectifying the defect should be extended. Within one (1) day from the date of such meeting, the Lessee shall at its sole option, notify the Lessor as to whether the Lessee will extend the Cure Period or will exercise its right to terminate this Agreement in accordance with the provisions of this Agreement. The Lessee shall pay the Installments within seven (7) days from the date on which the relevant Acceptance Certificate has been issued.

1.6 Disputes. Notwithstanding the provisions of Clause 11 of this Agreement, if any dispute arises between the Parties under Clause 1.5 above, the dispute shall be adjudicated by one (1) neutral third party

architect (the "ADJUDICATOR") mutually agreed upon by the Parties, whose decision would be final and binding on the Parties. The Lessor undertakes that during the pendency of any dispute under this Clause 1.6 it shall not suspend constructing the Building in accordance with the Specifications and the mutually agreed benchmarks.

1.7 Inspection. Subject to complying with applicable security and safety requirements and at its own risk, commencing from the Effective Date, the Lessee shall have the right to inspect the Land and the construction of the Building at all times without requiring to provide any notice to the Lessor.

2. CONDITIONS PRECEDENT TO THIS AGREEMENT.

2.1 Effective Date. The Parties agree that this Agreement shall come into force within seven (7) days from the date (the "EFFECTIVE DATE") on which the Lessee issues a written Certificate of Consent (the "CONSENT CERTIFICATE") certifying that the conditions described in Clause 2.2 (the "CONDITIONS") of this Agreement have been satisfied to the complete and sole satisfaction of the Lessee.

2.2 Conditions. The Parties agree that the execution of this Agreement is conditional on the satisfaction (as provided for in Clause 2.3 of this Agreement), or the waiver (such waiver to be expressed on a written instrument signed by the authorised representative of the Lessee) of the following Conditions:

(a) The completion of a property due diligence that shall be carried out by the Lessee to ascertain the title and status of the Land. The property due diligence shall be based on the documents and the title certificate provided to the Lessee by the Lessor; and

(b) The Lessor shall submit the Drawings of the Building to the Lessee and the Lessee shall approve or reject the Drawings in writing, within seven (7) days from the date of receipt of the Drawings from the Lessor. In the event the Lessee rejects the Drawings it shall state the reasons for rejecting the Drawings and the Lessor shall submit revised and corrected Drawings to the Lessee. The Lessee shall approve or reject the revised Drawings in writing, within seven (7) days from the date of receipt of the revised Drawings from the Lessor.

The Conditions described in Clause 2.2 above shall be satisfied on the date when the Lessee issues a duly executed Consent Certificate to the Lessor stating that the Conditions have been satisfied. The Consent Certificate shall be in the form and substance as provided for in Schedule VIII to this Agreement.

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2.3 Satisfaction of Conditions. The Parties agree that the Conditions described in Clause 2.2 above shall be satisfied by the Lessor within thirty (30) days from the Signature Date, unless otherwise agreed by the Lessee in writing. It is hereby clarified that the Parties agree that subject to any delays attributable to the Lessee, if the Conditions described in Clause 2.2 above are not satisfied within thirty (30) days from the Signature Date, this Agreement shall expire with immediate effect and the Lessor shall forthwith and without demur refund all the amounts paid by the Lessee towards the Advance.

2.4 Absolute Ingress and Egress Rights. The Lessor hereby agrees that the Lessee shall have absolute ingress and egress rights to the ground and first floors of the Building for the purpose of planning and conducting its fit-outs, commencing on or before January 8, 2005. The Parties hereby agree that consequent to such rights being granted to the

Lessee, the Lessor shall make reasonable attempts not to impede the Lessee in the carrying out of its fit-outs on the ground and first floor of the Building and the Lessee shall make reasonable attempts not to impede the Lessor in its construction of the Building.

3. CONDITIONS PRECEDENT TO THE LEASE DEED.

3.1 Lease Commencement Date. The Parties hereby agree that the lease commencement date for the purposes of this Agreement and the Lease Deed (the "LEASE COMMENCEMENT DATE") shall be May 15, 2005.

3.2 Execution of the Lease Deed. The Parties agree that within fifteen (15) days of the Lessee issuing the Satisfaction Certificate (as defined in Clause 3.4 of the Agreement), the Parties shall execute and duly register the Lease Deed recording the terms of the lease of the Premises by the Lessor to the Lessee. The Parties agree that the terms and conditions of the Lease Deed shall be in the same material form and substance as the terms and conditions of the lease deed contained in Schedule VI to this Agreement. It is hereby clarified that under no circumstances would the Lease Deed be amended or modified in such a manner as would derogate, prejudicially affect, or in any way dilute the rights provided to the Parties in Schedule VI except through an instrument executed by both Parties in writing. The Parties further agree that on the execution of the Lease Deed, the Advance paid by the Lessee under this Agreement shall be treated as the interest free refundable security deposit under the Lease Deed. It is hereby specifically clarified that the terms and conditions contained in Schedule VI of this Agreement form a part of this Agreement and are binding on the Parties.

3.3 Conditions Precedent. The Parties agree that the execution of the Lease Deed is conditional on the satisfaction (as provided for in Clause 3.3 of this Agreement), or the waiver (such waiver to be expressed on a written instrument signed by the authorised representative of the Lessee) of the following conditions (the "CONDITIONS PRECEDENT"):

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- (a) The Lessor obtains applicable statutory approvals for the use of the Building by the Lessee including the Occupancy Certificate for the Building;
- (b) The Building and the Premises are constructed in adherence to the Drawings and the Specifications;
- (c) The common areas of the Building and the Land should be in accordance with the Specifications;
- (d) The Lessor obtains absolute, sole, registered and beneficial title to the Land and Building;
- (e) The Lessor obtains applicable approvals and permission from the Karnataka State Pollution Control Board ("KSPCB") to use and operate the diesel generators and the sewerage treatment plant that are installed/constructed on the Land;
- (f) On the Fit Out Commencement Date the Premises should be handed over to the Lessee in a water tight, clean and clear condition with tapping points for all major service installations, including the provision of tapping points for power, water and HVAC facilities for the entire Building (provided that the Lessor shall not be required to provide for the connection of chillers in working condition to the HVAC infrastructure), broadband infrastructure terminating in a central mechanical room in the Building (provided that the Lessor shall not be required to provide actual broadband connectivity) and such

other cabling as the Lessee requires for its business purposes;

- (g) The final and exact Built Up Area of the Premises that will be leased by the Lessee is identified and agreed upon by the Parties. It is further clarified that the Advance shall be adjusted in accordance with the exact Built Up Area of the Premises that is identified and agreed upon by both the Parties. Any increase or decrease in the Advance shall be adjusted against the last Installment payable by the Lessee to the Lessor on the issuance of the final Acceptance Certificate;
- (h) By January 7, 2005 or such other date as is agreed upon by the Lessee in writing, the Lessor shall provide the Lessee with a certificate or such other document (the "CERTIFICATE") issued by the KIADB granting the Lessor the permission to lease the Building to the Lessee; and
- (i) The Lessee issues the final Acceptance Certificate corresponding to the final benchmark contained in Schedule V to this Agreement.

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3.4 Satisfaction Certificate. The Conditions Precedent shall be satisfied on the date, when the Lessee issues a duly executed certificate to the Lessor stating that the Conditions Precedent have been satisfied (the "SATISFACTION CERTIFICATE"). The Satisfaction Certificate shall be in the form and substance as provided for in Schedule IX to this Agreement.

3.5 Failure to satisfy Conditions Precedent. In the event the Conditions Precedent are not fulfilled within the time period specified in this Clause, the Lessor agrees that the Lessee shall enjoy the following rights:

- (a) If the Premises, including the completed warm shell and the entire base building with glass curtain, is not handed over to the Lessee for commencement of fit outs by March 15, 2005 (the "FIT-OUT COMMENCEMENT DATE"), the Lessor shall provide the Lessee with (i) three (3) days' rent free period for every day's delay between March 16, 2005 and March 31, 2005; and (ii) six (6) days' rent free period for every day's delay is beyond April 1, 2005. If the delay in the Fit Out Commencement Date extends to a date beyond April 15, 2005, the Lessee shall have the right to terminate this Agreement with immediate effect;
- (b) If all the Conditions Precedent are not satisfied by April 15, 2005, the Lessor shall provide the Lessee with (i) three (3) days' rent free period for every day's delay between May 1, 2005 and May 15, 2005; and (ii) six (6) days' rent free period for every day's delay beyond May 16, 2005. If the delay in fulfilling all the Conditions Precedent extends to a date beyond May 30, 2005, the Lessee shall have the right to terminate this Agreement with immediate effect. In the event the Lessee exercises its right to terminate this Agreement as provided for in this Clause 3.5, the Lessor shall within seven (7) days from the date of termination of this Agreement repay all Installments or any part of the Advance paid till such date; and
- (c) Notwithstanding any of the provisions of this Agreement, in the event the Lessor fails to provide the Lessee with the Certificate by January 7, 2005 or such date as may be agreed

upon and extended by the Lessee in writing, the Lessor shall:

- (i) Pay the Lessee a sum of Rupees One Crore Only (Rs.1,00,00,000/-) as liquidated damages to compensate the business and other losses suffered by the Lessee. The Parties acknowledge that the sum of Rupees One Crore Only (Rs.1,00,00,000/-) payable as liquidated damages has been quantified after reasonably estimating the business and other losses that the Lessee would suffer on account of the breach of the condition set out in Clause 3.3(h) above; and

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- (ii) At no cost whatsoever, obtain for the Lessee the lease of an international standard office premises suitable for an IT/ITES operation and measuring approximately sixty thousand (60,000) square feet of Built Up Area in the Whitefield EPIP area by February 15, 2005. The terms and conditions governing the lease of such property shall be similar to the terms and conditions contained in this Agreement and the Lease Deed; or
- (iii) In the event the Lessor is not able to obtain office space to lease to the Lessee in the Whitefield EPIP Area by March 15, 2005, at no cost whatsoever, obtain for the Lessee the lease of an international standard office premises suitable for an IT/ITES operation and measuring sixty thousand (60,000) square feet of Built Up Area in any other area in Bangalore by March 15, 2005. The terms and conditions governing the lease of such property shall be similar to the terms and conditions contained in this Agreement and the Lease Deed, except as regards the rent payable to the Lessor.

It is hereby clarified that the rent-free periods provided in Clauses (a) and (b) above shall take effect after the completion of the two (2) month Rent Free Period provided in the Lease Deed.

3.6 Other Grounds for Termination. The Lessee may terminate this Agreement by providing the Lessor with thirty (30) days' prior written notice of termination on the occurrence of any of the following events:

- (a) Any of the representations, warranties and assurances provided by the Lessor in Clause 4 of this Agreement are false and untrue or are found to be false and untrue during the term of this Agreement;
- (b) The Lessor fails to cure any breach of the provisions of this Agreement;
- (c) The Lessor transfers, sells or alienates the Land and/or the Building and the Premises, without reserving the rights of the Lessee in terms of this Agreement; or
- (d) The Lessor is dissolved in accordance with applicable bankruptcy law, or a petition for dissolution of the Lessor is admitted by a court of competent jurisdiction.

3.7 Consequences of Termination. The Lessor shall within seven (7) days from the date of termination of this Agreement repay all Installments or any part of the Advance hereunder paid to the Lessor prior to such date of termination along with all capital expenditure, attorney and project management fees, and other expenditure incurred by

the Lessee in pursuance of the transaction (the "LOSS") contemplated herein. For the purposes of determining the Loss, the Lessee shall along with the termination notice, provide the Lessor with an audited statement of account. The Lessor shall pay the Lessee the Loss as depicted in the audited statement of account or as per Clause 3.5(c) (i) whichever is lower.

3.8 Lessee's failure to execute the Lease Deed. The Parties agree that if the Lessee issues the Satisfaction Certificate but fails to execute the Lease Deed otherwise than for the reasons of termination as provided in Clauses 3.5 and 3.6 above the Lessee shall become liable to pay the Lessor an amount equal to the Rent payable for the first thirty six (36) months of the Term being the lock in period under the Lease Deed. On receipt of the said amount, the Lessor shall have no other claims whatsoever against the Lessee.

3.9 Delay due to Force Majeure. In the event (i) the Fit Out Commencement Date or the satisfaction of the other Conditions Precedent is delayed on account of any act of god, governmental action including any action of the federal or state Governments of the United States of America or any other force majeure event beyond the control of either Party, for every day's delay caused in this regard, the Lessor shall be provided with an additional day to achieve the Fit Out Commencement Date and/or the other Conditions Precedent, as the case may be. The penalties described in Clause 3.5 shall apply on the expiry of the additional days provided to the Lessor to adhere to the Benchmarks and Payment Schedule contained in Schedule V of this Agreement. It is hereby clarified that in the event the period of delay on account of a force majeure event beyond the control of either Party, is in excess of one hundred and twenty (120) days from the date of occurrence, the Lessee shall be entitled to terminate this Agreement, without any liability whatsoever. In the event the Lessee chooses to terminate this Agreement under this Clause 3.9, the Lessor shall within thirty (30) days from the date of receipt of a notice of termination, refund to the Lessee all amounts paid to the Lessor under this Agreement, as of the date of termination.

4. REPRESENTATIONS AND WARRANTIES.

A. Representations of the Lessor.

4.1 The Lessor represents and warrants to the Lessee that it (i) enjoys right, title and interest in the Land by virtue of a Lease cum Sale Agreement executed between the Lessor and the KIADB; (ii) is the sole, absolute, registered and beneficial owner of the Land, Building and the Premises; (iii) shall have valid effective title to the Land, Building and Premises; (iv) enjoys the uninterrupted, quiet, peaceful, physical, vacant and legal possession of the Land; and (v) shall enjoy the uninterrupted, quiet, peaceful, physical, vacant and legal possession of the Building and the Premises without any interference whatsoever from any third party;

4.2 The Lessor represents and warrants to the Lessee that it shall obtain all permissions necessary for the occupation and use of the Building and the Premises by the Lessee and

the Building and the Premises may be legally used and occupied by the Lessee on or before the Lease Commencement Date;

- 4.3 The Lessor represents and warrants to the Lessee that the Building and the Premises will be constructed in accordance with the Specifications, the Drawings and the plan sanctioned by the concerned municipal and governmental authorities;
- 4.4 The Lessor represents and warrants to the Lessee that there are no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Land or the transactions contemplated hereunder;
- 4.5 The Lessor represents and warrants to the Lessee that it does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature that may become a lien against the Land. The Lessor agrees to indemnify the Lessee and save, defend and hold the Lessee harmless from and in respect of any Loss resulting from or related to the non-payment of any such taxes and applicable governmental levies, provided that nothing in this clause shall prevent the Lessor from securing project finance by mortgaging the Land and the Building to any financial institution. The Lessor shall ensure that the rights of the Lessee shall not be derogated from or prejudiced in any manner whatsoever by the securing of such project finance;
- 4.6 The Lessor represents and warrants to the Lessee that it has authorised Mr. B. M. Jayeshankar vide a resolution of its Board of Directors dated November 15, 2004, to enter into this Agreement and has obtained all applicable approvals and permissions to execute this Agreement; and
- 4.7 The Lessor agrees to indemnify and keep indemnified the Lessee against any Loss arising out of (i) any breach of the terms and conditions of this Agreement by the Lessor; or (ii) any of the representations and assurances provided in this Clause 4 being false and untrue.
- B. Representations of the Lessee.
- 4.8 The Lessee represents to the Lessor that it has authorised Mr. Srinivasan Raghavan vide a resolution of its Board of Directors dated October 13, 2004 to enter into this Agreement; and
- 4.9 The Lessee shall always observe and perform all the terms and conditions, covenants and provisions of this Agreement and shall not do, omit or suffer to be done any thing whereby the right of the Lessor to the Land, the Building or the Premises is violated, forfeited, jeopardised or extinguished or the Lessor is prevented from carrying out its obligations under this Agreement.

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5. TERM.

- 5.1 Term. This Agreement shall be valid and in force from the Signature Date till the date on which the Lessee's right to exercise its option for the Expansion Premises, as provided in Clause 9.2 below, expires or the date on which the Lessee's right to exercise its option for the Expansion Plot, as provided in Clause 9.3 below, expires, whichever is later; or until the prior termination of this Agreement. It is hereby clarified that the Lease Deed shall be valid and in force for a period of five (5) years commencing from the Lease Commencement Date. At the sole option of the Lessee, the Parties may renew the Lease Deed for a further term of four (4) years by executing a fresh lease deed that shall be duly registered.

6. NOTICES.

- 6.1 Notices. All notices, documents and other forms of communication under

this Agreement shall be in writing and shall be sent through registered post acknowledgement due to the applicable Party at the addresses mentioned below:

If to the Lessor:

Orchid Apartments Private Limited,
No. 10, Vittal Mallya Road,
Bangalore 560 001

Attn: Mr. B M Jayeshankar

If to the Lessee:

Manhattan Associates India Development Centre Private Limited,
Unit No. 2, Level 2,
Explorer Building, ITPL,
Whitefield Road, Bangalore 560 066

Attn: Mr. Srinivasan Raghavan

7. ASSIGNMENTS AND SALE.

7.1 Assignment. The Parties agree that the Lessor may assign its rights or obligations under this Agreement to any third party upon provision to the Lessee of prior notice in writing. The Lessor hereby agrees that any agreement or other instrument governing the assignment of rights or obligations to such third party shall expressly provide that such third party assignee will be bound by the terms and conditions of this Agreement. The Lessor further agrees that in the event of the assignment of any rights or obligations under this Agreement or on the sale, transfer or alienation of the Land, Building or the Premises (subject to the provisions of this Agreement) by the Lessor, the Lessor shall

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ensure that the rights of the Lessee under this Agreement remain protected and are not derogated from or diluted in any manner whatsoever.

7.2 Sale to a Competitor. Notwithstanding any of the other provisions contained in this Agreement, the Parties agree that the Lessor shall not sell or lease the Premises to any competitor of the Lessee as listed in Schedule X of this Agreement.

7.3 Right of First Refusal. Notwithstanding any of the provisions contained in this Agreement, in the event the Lessor decides to sell to any third party all or any portion of the Land, Building or the Premises, then before concluding such sale, the Lessor shall provide written notice of such intended sale to the Lessee specifying in detail the terms of such intended sale and shall irrevocably offer to sell to the Lessee the Land, Building or the Premises or any portion thereof at the same price and on the same terms as the Lessor intends to sell the Land, Building or the Premises or any portion thereof to a third party (the "OFFER"). The Lessee may accept the Offer on the same terms and conditions as set forth in the notice, by serving on the Lessor a written notice accepting or rejecting the Offer, in that respect within forty five (45) days of the receipt of the Offer from the Lessor, and shall set forth the portion of the Land, Building or Premises or any portion thereof as to which the Offer is accepted.

8. PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

8.1 Intellectual Property Rights. This Agreement shall not be construed or sought to be interpreted to authorise either of the Parties to use any

of the intellectual property rights of the other. None of the terms of this Agreement shall be understood to, nor shall this Agreement be interpreted to permit either of the Parties to use the logo, trade names or trade marks of the other Party in any manner whatsoever save for the purpose of marketing and business communication, except with such other Party's prior written consent, such consent not to be unreasonably withheld or delayed.

9. ADDITIONAL SPACE.

9.1 Additional Space. In consideration of the Lessee having agreed to take the Premises on lease, the Lessor has agreed to reserve for the Lessee certain additional areas in the Land and the Building, which the Lessee proposes to take for its proposed expansion in accordance with this Clause 9.

9.2 Expansion Premises. The Lessor shall make available to the Lessee an additional twenty thousand (20,000) square feet of space in the Building (the "EXPANSION PREMISES") on an exclusive basis during the Term (as defined in the Lease Deed). Further, the Lessee shall have the right to exercise this option in installments and lease such portion or portions of the Expansion Premises as it deems fit at any time. In the event the Lessee exercises its option(s) under this Clause 9.2, the Lessee shall pay Lease Rentals (as defined in the Lease Deed) at the then applicable rate. Further, the Parties shall execute a fresh lease deed on identical terms and conditions as contained in the Lease Deed, on each occasion that the Lessee exercises its option(s) under this Clause 9.2.

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9.3 Expansion Plot. The Lessee shall have the exclusive right to exercise the option for an additional eighty thousand (80,000) square feet of Built Up Area on the Land (the "EXPANSION PLOT"), which option shall be exercised by the Lessee within twenty four (24) months from the Lease Commencement Date. It is hereby clarified that this option shall be exercised by the Lessee by the provision of three (3) months' notice in writing to the Lessor and the twenty four (24) month option period mentioned above shall be deemed to include such three (3) month notice period. In the event of the Lessee exercising its option under this Clause 9.3, the Lessor will construct the facility to be constructed on such premises in accordance with the specifications of the Lessee and make the same available to the Lessee within twelve (12) months of the Lessee exercising the option. Further, the Parties shall execute a fresh lease in identical terms and conditions as contained in the Lease Deed, in the event that the Lessee exercises its option under this Clause 9.3.

10. INSURANCE.

10.1 "All Risks" Coverage. During the Term of this Agreement, the Lessor will keep its personal property, the Premises, the Building, and leasehold improvements for which it retains ownership (including the Premises), insured against loss or damage by fire and all other risks of direct physical loss, only excepting the customary exclusions that are contained in a standard "all risks" policy, for not less than one hundred percent (100%) of the replacement value thereof. For purposes of this Clause, "replacement value" will be deemed to be the cost of replacing the property less the cost of excavation, foundations and footings. Damages that are not insured and/or amounts for which the Lessor becomes a co-insurer under its policy, including any related costs, which occur due to the Lessor's failure to maintain property insurance at the most recent replacement value, will be borne by the Lessor. It is hereby clarified that the Lessor shall not be required to insure any of the fit-outs or equipment installed in the Premises or

the Building by the Lessee. The Lessor hereby agrees that it will seek reimbursement for any losses from its insurance provider and not from the Lessee.

- 10.2 Evidence of Insurance. The Lessor shall furnish to the Lessee a true, correct and validly certified True Copy of the certificates of such insurance policies as are referenced in any and all Clauses contained in this Agreement, within fifteen (15) days of the Lease Commencement Date and shall provide evidence of the renewal of such insurance prior to the expiration of the policies. The Lessor hereby undertakes that any such insurance policies will not be cancelled without the provision of at least thirty (30) days' prior written notice to the Lessee. The Lessor agrees to notify the Lessee in writing thirty (30) days prior to the date any material adverse change in, or any non-renewal of, such policies is to become effective.
- 10.3 Lessor's Indemnification. The Lessor will indemnify, defend, and hold the Lessee, and its employees and agents, harmless from any and all loss or damage which the Lessee may sustain by reason of claims brought against the Lessee alleging bodily injury or death to any person or damage to property to the extent that such loss or damage is caused by

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(a) the negligence or willful misconduct of the Lessor, or its employees or agents, in connection with the Premises or the Building, including Common Areas; or (b) the Lessor's default under the terms of this Lease. Nothing contained herein will require the Lessor to defend, indemnify or hold harmless the Lessee, or its employees and agents, for losses or damages related to claims of bodily injury or death to any person or damage to property to the extent caused by the negligence or willful misconduct of the Lessee, or its employees or agents.

11. GOVERNING LAW AND ARBITRATION.

- 11.1 Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the Republic of India.
- 11.2 Dispute Resolution. Subject to Clause 1.5, the Parties shall attempt to amicably settle any dispute arising out of this Agreement and the obligations hereunder (the "DISPUTE"). Either Party may give written notice of the Dispute to the other Party within ten (10) days of the day of the occurrence of the event which gives rise to such Dispute or the day such event comes to the notice of the applicable Party. Both Parties shall nominate one (1) person to attempt amicable settlement of the Dispute within fifteen (15) days of notice under this Clause 11.2 and such attempt shall commence immediately.
- 11.3 Arbitration. If any Dispute arising between the Parties is not amicably settled within thirty (30) days of commencement of attempts to settle the same, the Dispute shall be referred to and be finally settled by arbitration. The Parties agree that the arbitration proceedings will be conducted at Bangalore in the English language in accordance with the provisions of the [Indian] Arbitration and Conciliation Act, 1996 as it then would be prevalent by a sole arbitrator mutually appointed by the Parties. The decision of the sole arbitrator shall be final and binding on the Parties.
- 11.4 Jurisdiction. Subject to the foregoing the courts at Bangalore only shall have exclusive jurisdiction in all matters arising out of this Agreement or any arbitration hereunder.

12. REAL ESTATE COMMISSION.

- 12.1 The Lessee hereby acknowledges and agrees that the Lessor has appointed

CB Richard Ellis South Asia Private Limited, ("CBRE") with its offices at The Hulkul, 3rd Floor, 81/37, Lavelle Road, Bangalore 560 001, to act as its exclusive real estate representative. The Lessor will compensate CBRE with a one time payment on the basis of real estate commission equal to one (1) months' gross rentals as payable during the first year of the Term, net of any applicable governmental levies and service tax as payable, with fifty percent (50%) of such amount payable upon execution of this Agreement and the remaining fifty percent (50%) payable upon the execution of the Lease deed. It is hereby clarified that the Lessee shall have no obligation towards CBRE whatsoever.

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13. GENERAL.

13.1 This Agreement may be executed in one original and one counterpart. The Lessee shall retain the original of this Agreement and the Lessor shall retain the counterpart thereof.

13.2 The rights of each Party under this Agreement:

- (a) may be exercised as often as necessary;
- (b) are cumulative and not exclusive of rights and remedies provided by law;
- (c) may be waived only in writing and specifically; and
- (d) shall not be construed as waived in the event of a delay in exercising or non-exercise of any such right.

13.3 This Agreement may only be enforced by the Parties to this Agreement.

13.4 The Parties agree that if any of the provisions of this Agreement are illegal or are declared to be invalid or illegal, the remaining provisions of this Agreement shall continue to be in force and this Agreement shall be interpreted accordingly.

13.5 Unless otherwise agreed to between the Parties, this Agreement and the documents referred to in it contain the whole and definitive agreement between the Parties relating to the transactions contemplated by this Agreement and supercede all previous agreements, negotiations, proposals and documents between the Parties relating to these transactions.

13.6 The Lessee shall bear the stamp duty, registration and notarisation charges payable on this Agreement and the stamp duty and registration charges payable on the Lease Deed, and the Lessor shall bear the costs of procuring the approval of all applicable authorities contemplated under this Agreement and the Lease Deed, if required. All expenses related to the execution and registration of this Agreement and the Lease Deed shall be to the account of the Lessee.

13.7 The Parties hereby agree that time is the essence of this Agreement.

13.8 Each Party shall bear its own attorney's fees and other fees.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed

as of the date written below by their duly authorised representatives.

ORCHID APARTMENTS PRIVATE LIMITED

WITNESS:

Signature:/s/ B.M. Jayeshanker

Signature:

Name: B.M. Jayeshanker

Name:

Title:

Date:

Date:

Address:

MANHATTAN ASSOCIATES INDIA
DEVELOPMENT CENTRE PRIVATE LIMITED

WITNESS:

Signature:/s/ Srinivasan Raghavan

Signature:

Name: Srinivasan Raghavan

Name:

Title:

Date:

Date:

Address:

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SCHEDULE I
DESCRIPTION OF THE LAND

Land bearing Survey Numbers 170, 171 and 172, situated at EPIP II-Phase, Whitefield Industrial Area, K. R. Puram, Bangalore East Taluk, admeasuring to the East by seventy four point five (74.5) metres, West by seventy two point five (72.5) metres, North by one hundred and twenty nine point two (129.2) metres, South by one hundred and fifty three point nine eight (153.98) metres, totally admeasuring a total area of ten thousand two hundred and eleven (10,211.00) square metres and bounded on the:

EAST BY : Road No.1-B;
WEST BY : Private Land;
NORTH BY : KIADB Storm Water Drain;
SOUTH BY : Road No.1-C;

And as further described in the map attached.

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SCHEDULE II
DESCRIPTION OF THE BUILDING

The Building admeasuring approximately eighty thousand (80,000) square feet of Built Up Area, consisting of a basement, a ground floor and three (3) upper floors, on the portion of the Land described under Schedule I to this Agreement, and as further described in the drawings attached.

SCHEDULE III
DESCRIPTION OF THE PREMISES

The premises situated at the basement, ground, first and second floors of the Building approximately admeasuring sixty thousand (60,000) square feet of Built Up Area, and terrace area consisting of cafeteria, gymnasium, training rooms approximately admeasuring seven thousand two hundred (7200) square feet of Built Up Area, in the Building, and as further described in the drawings attached.

SCHEDULE IV
SPECIFICATIONS

SCHEDULE OF FINISHES FOR MANHATTAN ASSOCIATES FACILITY AT EPIP, WHITEFIELD, BANGALORE

A	OFFICE BLOCK	
	1 External Walls	
	1.1 Front	Curtain wall / Structural Glazing / ACP
	1.2 Other three sides	Recessed Punch windows and block work plastered with 2 coats sponge plaster 25mm thick with water proof compound / painted with texture paint
	2 MASONRY	
	2.1 Peripheral walls and main walls	Solid concrete block 200mm thick
	2.2 Internal partitions - toilet walls / shaft walls	Solid concrete block 100mm thick
	3 FLOOR FINISHES	
	3.1 Office Space	IPS Flooring 50mm thick
	3.2 Main Entrance Lobby	Polished Granite
	3.3 Passenger Lift Lobby - All Floors	Polished Granite and vitrified tiles combination.
	3.4 Service Lift Lobbies	Polished Granite and vitrified tiles combination.
	3.5 Toilets	Combination of Polished Granite and vitrified ceramic tile flooring.

3.6	Staircase treads / risers / skirting & landings	Kota stone
3.7	AHU / Service Rooms	IPS Flooring 50mm thick
3.8	Pantry / Janitor's Closet	Vitrified tiles
3.9	Terrace	Cement rendered finish
3.10	Basement ramp	IPS Flooring 50mm thick
4	INTERNAL WALLS	
4.1	Office Areas	C.M. 1:4 lime plaster 15mm thick and painted with Oil Bound Distemper.
4.2	Main Entrance Lobby	Polished Granite Cladding
4.3	Passenger Lift Lobby - All Floors	Polished Granite and vitrified tiles combination
4.4	Service Lift Lobbies	Polished Granite and vitrified tiles combination.
4.5	Toilets	Cladding (7' high) in vitrified ceramic tiles with granite border, Washbasin platforms & counter and Urinal Partitions in polished marble / granite
4.6	Service Shafts(inside)	15mm thick sponge plaster
4.7	Staircase well	C.M. 1:4 lime plaster 12mm thick and painted with Oil Bound Distemper.
4.8	Ducts	15mm thick sponge plaster with white lime wash finish
5	CEILING	

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5.1	Office Area	Modular Acoustic tile ceiling with Aluminium 'T' suspension system, 600 X 600 tiles, Make Armstrong / USG / Celltox / equivalent
5.2	Lift Lobby	Gypsum Plaster Board with Cornice and cove lighting
5.3	Entrance Lobby	Combination of modular Acoustic & Gypsum Plaster Board with cove lighting
5.4	Toilets	Modular GRG Board Tiles or Aluminium 'T' suspension system
5.5	Service room and staircase core	C.M. 1:4 lime plaster 12mm thick and painted with oil bound distemper
5.6	Basement	C.M. 1:4 lime plaster 12mm thick and painted with cement paint
6	DOORS	

6.1	Service Shaft / Staircase / AHU / Elec. Rooms	Painted wooden Fire doors, with 2 hr fire rating / as per code requirements, with Brush steel finish Ironmongery. All staircase fire escape doors fitted with panic bars.
6.2	Lift lobby doors	Veneer Finished 2 hrs. Fire rated wooden Flush doors with Brush steel finish Ironmongery & Vision panels
6.3	Main Entrance Doors	12mm thick frame less Double swing glass doors with heavy duty floor springs
6.4	Toilet Doors	Flush doors, with sal wood frames & finished with lamination on both sides, with Brush steel finish Ironmongery.
6.5	Fire Escape door in Ground Floor	Painted wooden Fire doors, with 2 hr fire rating / as per code requirements, with Brush steel finish Ironmongery.
7	RAILING	
7.1	Staircase	MS railing
7.2	Handicapped ramp	SS / Brush steel railing
B	EXTERNAL DEVELOPMENT	
	Driveways and Parking slots	Combination of Interlocking Paver blocks & Asphalted Surface
	Parking Slots	Interlocking Paver Blocks / Asphalted Surface
	Landscape	Soft & hard landscape to design

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SCHEDULE V
BENCHMARKS AND PAYMENT SCHEDULE

BENCHMARK -----	AGREED DATE OF COMPLETION -----	DATE OF NOTICE OF COMPLETION -----	DATE OF CERTIFICATE OF ACCEPTANCE -----	INSTALLMENT PAYABLE -----
Basement Roof Slab, Ground Floor Roof Slab	20.11.2004	20.11.2004	27.11.2004	Rs. 50,32,500/-
First Floor Roof Slab, Second Floor Roof Slab and Third Floor Roof Slab	20.02.2005	20.02.2005	27.02.2005	Rs. 50,32,500/-
Fit Out				

Commencement Date	15.03.2005	15.03.2005	22.03.2005	Nil
Completion of Building and Occupation Certificate and issuance of the final Acceptance Certificate	30.03.2005	30.03.2005	07.04.2005	Rs. 50,65,000/-
Lease Commencement Date	15.05.2005	--	--	--
Registration of Lease Deed	20.05.2005	--	--	Rs. 50,00,000/-

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SCHEDULE VI
LEASE DEED

1. TERMS OF THE LEASE DEED.

1.1 The Parties agree that the following terms contained in this Schedule VI shall form a part of the Lease Deed and shall be binding on the Parties.

2. REPRESENTATIONS AND WARRANTIES.

2.1 Lessor's Representations. As on the Lease Commencement Date, the Lessor will represent and warrant to the Lessee the following covenants:

- (a) That the Lessor (i) is the sole and absolute owner of the Land, Building and the Premises; (ii) has valid title and registered ownership rights to the Premises; and (iii) enjoys the uninterrupted, quiet, peaceful, physical, vacant and legal possession of the Premises without any interference whatsoever;
- (b) That the Premises are free from any and all encumbrances;
- (c) That all necessary and applicable statutory approvals and permission with respect to the construction of the Building and for the occupation of the Premises have been obtained by the Lessor;
- (d) That all necessary and applicable sanctions and approvals for twenty four (24) hours a day/seven (7) days a week water and power supply to the Premises have been obtained;
- (e) That there are no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Land, the Building or the Premises or the transactions contemplated under the Lease Deed. The Lessor shall give the Lessee immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Initial Term (as defined below) or the Renewal Term (as defined below);
- (f) That the Lessor does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature that may become a lien against the Land, the Building or the Premises. The Lessor agrees to indemnify the Lessee and save, defend and hold the Lessee harmless from any and all Losses resulting from or related to the non-payment of any such taxes

and applicable governmental levies;

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- (g) That the Lessee may use the Premises on a twenty four (24) hours a day/seven (7) days a week basis and enjoy unhindered possession of the Premises; and
- (h) That the Lessor (i) is authorised to enter into the Lease Deed; and (ii) has obtained all applicable approvals and permissions to execute the Lease Deed.

3. RENT.

3.1 Rent. The rent payable by the Lessee to the Lessor for the Premises shall be calculated at the rate of Rupees Thirty and Fifty Paise Only (Rs. 30.50/-) per square foot of Built Up Area per month (the "RENT"). The Rent is inclusive of power and power backup infrastructure and centralised air conditioning infrastructure, false ceiling, ducting, ceiling lighting and ceiling light fixtures and smoke detectors for the Premises. The exact Built Up Area of the Premises will be confirmed by the Parties at the time of execution of the Lease Deed. It is hereby clarified that notwithstanding the area confirmed by the Parties as provided above, the Lessee shall not be liable to pay Rent on a Built Up Area of more than sixty one thousand (61,000) square feet.

3.2 Terrace Rent. The Lessee agrees to pay the Lessor rent towards the use of the terrace area, for a cafeteria, gymnasium, and training rooms in total admeasuring approximately seven thousand two hundred (7,200) square feet (described in Schedule III) at the rate of Rupees Twenty One Only (Rs. 21/-) per square foot, per month (the "TERRACE RENT"). The exact leasable terrace area will be confirmed by the Parties at the time of execution of the Lease Deed. The Terrace Rent is inclusive of power and power backup infrastructure and centralised air conditioning infrastructure, false ceiling, ducting, ceiling lighting and light fixtures and smoke detectors.

3.3 Car Parking. The Lessee agrees to pay the Lessor a car parking charge at the rate of Rupees One Thousand Five Hundred Only (Rs. 1,500/-) per covered car parking space, per month (the "CAR PARK RENT"). The Car Park Rent shall be paid on the basis of the actual number of car parking spaces used by the Lessee.

4. PAYMENT OF RENT.

4.1 Rent Free Period. For a period of two (2) months from the Fit-Out Commencement Date the Lessee shall enjoy a rent free period of occupation of the Premises (the "RENT FREE PERIOD") for the purpose of establishing fit-outs in the Premises.

4.2 Payment of Lease Rentals. Commencing from the date of expiry of the Rent Free Period (the "RENT COMMENCEMENT DATE") the Lessee shall regularly pay the Rent, the Terrace Rent and the Car Park Rent (hereinafter collectively also referred to as the "LEASE RENTALS") to the Lessor on or before the seventh (7th) day of each month subject to tax deduction at source, in advance for the month for which it is due. In the event of

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there being any delay in payment of the Lease Rentals, the Lessee shall be liable to pay interest at the rate of twelve percent (12%) per annum

from the due date of the Lease Rentals till the date of realisation of the amount by the Lessor.

4.3 Increase in Rent. The Lessee shall pay enhanced Rent at the rate of fifteen percent (15%) over and above the last Rent paid at the end of every three (3) years of the Term commencing from the Rent Commencement Date.

5. SECURITY DEPOSIT.

5.1 Deposit. The Parties agree that on the Lease Commencement Date, the Advance paid by the Lessee under the Agreement to Lease shall be treated as the refundable interest free security deposit equivalent to twelve (12) months' Rent (the "DEPOSIT").

5.2 Refund of Deposit. The Lessor shall on the expiry or earlier termination of this Lease Deed, refund the Deposit against the delivery of the vacant physical possession of the Premises, subject to Clause 5.3 and deduction of any arrears of Lease Rentals, electricity and water charges and Maintenance Charges including charges towards restoring structural damages, if any, caused by the Lessee. The Deposit shall be refunded by the Lessor to the Lessee by demand draft payable at Bangalore.

5.3 Failure to Refund Deposit. If, within thirty (30) days of the expiry or early termination of the Lease Deed or the New Deed (as defined below), the Lessor fails to refund the Security Deposit to the Lessee, without prejudice to the rights of the Lessee under this Agreement and in law, (i) the Lessor shall, in addition to returning the Deposit, pay interest calculated at twelve percent (12%) per annum on the Deposit, from the date of expiry of the Term or the early termination of the Lease Deed or the New Deed, to the date of actual payment; and (ii) the Lessee shall enjoy the right to use the Premises without the payment of any Lease Rentals or Maintenance Charges from the date of expiry of the Term or the earlier termination of the Lease Deed or the New Deed to the date of actual repayment of the Security Deposit. It is hereby clarified that in such event, the Lessee shall remain liable to pay consumption charges for electricity, power back-up and water.

6. TERM.

6.1 Initial Term. The Lease Deed shall be valid and in force for a period of five (5) years commencing from the Lease Commencement Date (the "INITIAL TERM").

6.2 Renewal Term. At the sole option of the Lessee, the Parties may renew the Lease Deed for a further term of four (4) years (the "RENEWAL TERM"; the Initial Term and the Renewal Term are collectively referred to as the "TERM") by executing a fresh lease deed that shall be duly registered (the "NEW DEED"). The Parties hereby agree that in the event the Lessee exercises its option to renew the term of the Lease Deed, the New Deed shall (i) be executed and registered prior to the expiration of the Lease Deed; and

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(ii) the terms of the New Deed shall be identical to the terms of the Lease Deed, subject to revision of the lease term and the lease rentals as already defined in this lease. It is hereby clarified that the New Deed shall not be subject to any lock-in period.

6.3 Lock-in Period. There being no breach on the part of the Lessor, the Lessee shall not be entitled to terminate this Lease Deed for a minimum period of three (3) years from the Lease Commencement Date (the

"LOCK-IN PERIOD"). In the event the Lessee intends to terminate this Lease Deed during the Lock-in Period for reasons other than a breach on the part of the Lessor, the Lessee will become liable to pay the Lease Rent and the Terrace Rent for the remainder of the Lock-in Period. On the expiry of the Lock-in Period the Lessee shall have the right to terminate this Lease Deed in accordance with the provisions contained in Clause 19.2 of this Lease Deed.

7. TAXES AND APPLICABLE LEVIES.

7.1 Taxes. The Lessor shall promptly pay when due all applicable taxes and levies against the Land, the Building and the Premises, and any fixtures or equipment attached thereto or appurtenant thereon, including any taxes that may be levied on the lease transaction. The Lessor shall promptly deliver to Lessee copies of (i) notices demanding the payment of applicable taxes and levies; and (ii) receipts depicting payment of all taxes and applicable levies against the Land, the Building and the Premises, and any fixtures or equipment attached thereto or appurtenant thereon.

8. STRUCTURAL WORKS.

8.1 Structural Maintenance. The Parties agree that the Lessee shall at its own cost and expense ensure the day to day maintenance of the interior of the Premises and effect necessary minor repairs to the interior of the Premises. All other exterior, structural and major repairs shall be provided for by the Lessor at its own cost and expense. If there are any structural repairs to be carried out to the Premises, the Lessee shall issue a written notice to the Lessor reporting the structural defect and describing the details of the structural defect (the "STRUCTURAL DEFECT NOTICE"). The Lessor shall repair the structural defect within thirty (30) days from the date of receipt of the Structural Defect Notice. If the Lessor fails to repair the structural defect within thirty (30) days of the receipt of the Structural Defect Notice to the sole satisfaction of the Lessee, the Lessee shall repair the structural defect. The Lessee shall notify the Lessor with respect to the details of the invoice raised for such repairs and deduct all amounts paid with respect to the repair of the structural defect from the next month(s) Lease Rentals.

9. INTERIOR WORKS.

9.1 Conduct of Interior Works. The Lessee shall enjoy the right to carry out such interior works (not being in the nature of any material / permanent / structural works) as the Lessee may find necessary for the conduct of the Lessee's business, using such contractors as selected by the Lessee. The Lessee shall have the right to install its machinery, trade fixtures, furnishings and equipment in the Premises. The Lessee shall

also have the right to install any electrical wiring within the Premises with the prior written consent of Lessor, subject to the Lessee obtaining all necessary building permits as are required for such alterations. The Parties agree that all proprietary rights over the interior alterations in the Premises shall at all times vest with the Lessee.

9.2 Removal of Interior Works. Ownership of all alterations made by the Lessee in accordance with Clause 9.1 above shall always be retained by the Lessee, and the Lessee shall have the right to remove any and all of the Lessee's machinery, trade fixtures, furnishings and equipment at any time including at the expiry or earlier termination of the Lease Deed, whether or not the same are, or are deemed to be, affixed to the Premises. It is hereby clarified that the Lessee shall be under no

obligation to remove any of the alterations made by it any time including at the termination or expiry of the Lease Deed. The Lessee will be responsible to repair only structural damage done to the Premises during such affixing and/or removal of its machinery, trade fixtures, furnishings and equipment, provided always that such obligation of the Lessee shall not extend to reinstating the Premises to its original condition as on the Lease Commencement Date.

10. ASSIGNMENT AND SUB-LETTING.

10.1 Assignment. The Parties agree that the Lessor enjoys the right to assign its rights or obligations under this Lease Deed to any third party, after providing the Lessee with thirty (30) days' prior written notice of such assignment, provided that the Lessor shall not assign its rights or obligations under the Lease Deed to any third party listed in Schedule X of the Agreement to Lease. The Lessor hereby agrees that any agreement or other instrument governing the assignment of rights or obligations to such third party shall expressly provide that such third party assignee will be bound by the terms and conditions of this Lease Deed. The Lessor further agrees that on the assignment of any rights or obligations under the Lease Deed or on the sale, transfer or alienation of the Premises to any third party not being any person listed in Schedule X of the Agreement to Lease, the Lessor shall ensure that the rights of the Lessee under this Lease Deed remain protected and are not derogated from or diluted in any manner whatsoever. On such assignment, sale, transfer or alienation being affected by the Lessor, the Lessee shall, on being intimated by the Lessor of such assignment, sale, transfer, or alienation to any third party, attorn this Lease Deed in favour of such purchaser, transferee, assignee or alienee as the case may be.

10.2 Sub-Letting. The Parties further agree that the Lessee may, upon prior written notice to the Lessor, assign the Lease Deed or sublet all or any portion of the Premises to: (i) any affiliate of the Lessee; (ii) any entity controlling, controlled by, or under common control with the Lessee; (iii) any person or entity which acquires all or substantially all of the Lessee's assets or stock; or (iv) any organisation resulting from a merger or consolidation with the Lessee. The Lessee shall not assign the Lease Deed or sublet all or any portion of the Premises to any other party without the prior written consent of the Lessor which consent the Lessor shall not unreasonably delay or withhold. It is hereby

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clarified that in any such case of sublease of the Premises, the Lessee shall continue to be liable and responsible for all obligations under this Lease Deed.

10.3 Rental Discounting. The Lessor shall be entitled to seek rental discounting facility or create a mortgage of the Premises or any part thereof, provided such mortgage shall not in any manner affect the rights of the Lessee to use and occupy the Premises during the Term, provided that the Lessor shall: (i) provide the Lessee with details as regards the entity to whom the Lease Rentals are payable; and (ii) undertake to discharge the Lessee from all claims under this Lease Deed on payment of the Lease Rentals to the identified entity.

10.4 Right of First Refusal. Notwithstanding any other provisions of the Lease Deed, if the Lessor decides to sell to any third party (except those Parties listed in Schedule X of the Agreement to Lease) all or any portion of the Land, the Building or the Premises (the "SALE PREMISES"), then before concluding such sale, the Lessor shall provide written notice of such intended sale to the Lessee specifying in detail the terms of such intended sale and shall irrevocably offer to sell to the Lessee the Sale Premises at the same price and on the same terms as

the Lessor intends to sell the Sale Premises to the third party (the "OFFER"). The Lessee may accept the Offer on the same terms and conditions as set forth in the notice, by serving on the Lessor a written notice accepting or rejecting the Offer in that respect within thirty (30) Days of the receipt of the Offer from the Lessor, and shall set forth the portion of the Sale Premises as to which the Offer is accepted. In the event that the Lessee does not accept the Offer within the thirty (30) day period, above mentioned, then the Lessor is at liberty to alienate the property to any third party.

11. SUBORDINATION; INSURANCE.

11.1 Encumbrance. The Lessor represents and warrants to the Lessee that as of the Lease Commencement Date, the only encumbrance on the Premises is an equitable mortgage by deposit of title deeds for the value of Rupees Six Crore Forty Lakhs Only (INR 6,40,00,000/-) in favour of Corporation Bank, SC Road Branch, Bangalore. The Parties may agree, upon thirty (30) days' advance written notice, to execute an attornment agreement as is reasonably requested by the Lessor's lender subordinating its interest and/or attorning to such lender provided that: (a) such lender attorns in writing, agreeing to recognise the Lessee's possession and rights under the Lease Deed and agreeing not to disturb or impair the Lessee's rights to quiet enjoyment of the Premises and (b) any default by the Lessor under such encumbrance shall not affect the Lessee's rights under the Lease Deed. Notwithstanding any of the provisions of the Lease Deed, on the registration of the Lease Deed the Lessee shall enjoy indefeasible rights under the Lease Deed against any third party, mortgagee or other holder of security over the Premises.

11.2 "All Risks" Coverage. During the Term of this Deed, the Lessor will keep its personal property, the Premises, the Building, and leasehold improvements for which it retains ownership (including the Premises), insured against loss or damage by fire and all other risks of direct physical loss, only excepting the customary exclusions that are contained in

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a standard "all risks" policy, for not less than one hundred percent (100%) of the replacement value thereof. For purposes of this Clause, "replacement value" will be deemed to be the cost of replacing the property less the cost of excavation, foundations and footings. Damages that are not insured and/or amounts for which the Lessor becomes a co-insurer under its policy, including any related costs, which occur due to the Lessor's failure to maintain property insurance at the most recent replacement value, will be borne by the Lessor. It is hereby clarified that the Lessor shall not be required to insure any of the fit-outs or equipment installed in the Premises or the Building by the Lessee.

11.3 Evidence of Insurance. The Lessor shall furnish to the Lessee a true, correct and validly certified True Copy of the certificates of such insurance policies as are referenced in any and all Clauses contained in this Deed, within fifteen (15) days of the Lease Commencement Date and shall provide evidence of the renewal of such insurance prior to the expiration of the policies. The Lessor hereby undertakes that any such insurance policies will not be cancelled without the provision of at least thirty (30) days' prior written notice to the Lessee. The Lessor agrees to notify the Lessee in writing thirty (30) days prior to the date any material adverse change in, or any non-renewal of, such policies is to become effective.

12. FORCE MAJEURE.

12.1 Force Majeure. In the event of the Premises or any part thereof being destroyed or damaged by earth quake, flood or any other natural

calamity or any governmental action, including any action or directive of the United States Federal or State Governments, to such an extent or degree that the Lessee is unable to continue its normal business therein, or if the Premises is rendered unfit for occupation for reasons otherwise than any act of omission or commission of the Lessee, then the Lessee shall have the option to terminate the Lease Deed as from the date on which such event occurs. In the event the Lessee exercises its option to terminate the Lease Deed, the Lessee shall not be liable to pay any Rent from the date of occurrence of such event, and the Deposit and all other amounts paid in advance, if any, by the Lessee, shall fall due immediately and be repaid by the Lessor to the Lessee without demur. In the event the Lessee does not exercise the option of terminating the Lease Deed within thirty (30) days of the date of such damage or destruction or in case the damage is minor and the Premises remains fit for normal occupation, the Lease Deed shall be deemed to continue and shall remain in force and the Lessor shall at its own expenses, as speedily as circumstances permit, perform such rebuilding and repair as may be necessary to restore the Premises to its original condition. There shall, however, be a pro-rata abatement of Lease Rentals and Maintenance Charges payable from the date of such event for a period of thirty (30) days from the date of the Force Majeure event or till the Premises is restored to its former condition, whichever is earlier. In case the Lessor fails to repair the Premises, the Lessee shall have an option to carry out such repairs and adjust the cost thereof from the Lease Rentals payable to the Lessor.

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13. ELECTRICITY.

13.1 Electricity. The Lessor shall provide the Building and the Premises with nine hundred and fifty (950) KVA of raw power along with one hundred percent (100%) back up power provided by way of automatic generators for the Building and the Premises. The Lessor shall install calibrated meters, at its own cost, to measure the power consumed by the Lessee within the Premises. The Lessor further agrees that the Building shall be equipped with a transformer capacity of one thousand five hundred (1,500) KVA. The Lessee shall pay charges for consumption of power directly to the concerned authority. It is hereby clarified that the Lessee shall not be liable to pay consumption charges for any power usage in any area outside the Premises, including on the facade of the Premises, except for signage installed by Lessee.

14. MAINTENANCE.

14.1 Maintenance Services. The Lessor will ensure that the Premises, the Land and the Building are maintained to the standard which is expected by a multi-national company and the Lessor will appoint an external Property Management Services Company to achieve such standards. The maintenance services (the "MAINTENANCE SERVICES") that the Lessor shall provide are contained in Schedule VII to the Agreement to Lease.

14.2 Maintenance Charge. The Lessee has agreed to pay maintenance charges towards the provision of the Maintenance Services at the rate of Rupees Five Only (Rs. 5/-) per square foot of Built Up Area, per month (the "MAINTENANCE CHARGES"). This amount is to be paid in addition to the Lease Rentals commencing as of the Lease Commencement Date.

14.3 National Building Codes. The Lessor hereby represents and warrants that the Premises have been constructed in accordance with the relevant National Building Codes. The Lessor agrees that it shall conduct the requisite fire drills in the Building as mandated by the National Building Codes.

15. INSTALLATION OF TELECOMMUNICATION EQUIPMENT AND OTHER DEVICES.

15.1 Terrace Area. The Lessor has agreed that the Lessee will be entitled to install its antenna/s dish or tower or any other kind of communication devices which are desirable for the Lessee's efficient use of the Premises, free of charge, on the terrace of the Building. The Lessee will be entitled, along with such devices, to install ancillary equipment for its operations in the said terrace area. The Lessee, at its own cost, shall obtain all the licences and statutory permissions, if required, for installation of such telecommunication devices and ancillary equipment. The Lessor undertakes to provide any "no-objection" letters or certificates required, or any affidavit, endorsement or other document required for the Lessee to obtain such permissions as are referred to in this Clause 15.1.

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15.2 Telephone Lines. The Lessor shall ensure that the telecom service provider of the Lessee's choice lays broadband or such other cable as the Lessee requires, so as to enable the Lessee to obtain telecommunication connectivity for its business purposes. The cables shall be laid up to the Building, and shall terminate in a central mechanical room in the Building.

15.3 Consultation with the Lessee. The Lessor hereby agrees that it shall carry out the procurement of diesel generator sets, HVAC units and elevators for the Building and enter into maintenance agreements for the same only in consultation with the Lessee and agrees to be bound by any viable preferences expressed in writing by the Lessee in this regard.

16. ADDITIONAL SPACE.

16.1 Additional Space. In consideration of the Lessee having agreed to take the Premises on lease, the Lessor has agreed to reserve for the Lessee certain additional areas in the Land and Building, which the Lessee proposes to take for its proposed expansion in accordance with this Clause 16.

16.2 Expansion Premises. The Lessor shall make available to the Lessee an additional twenty thousand (20,000) square feet of space in the Building (the "EXPANSION PREMISES") on an exclusive basis during the Term. Further, the Lessee shall have the right to exercise this option in installments and lease such portion or portions of the Expansion Premises as it deems fit at any time. In the event the Lessee exercises its option(s) under this Clause 16.2, the Lessee shall pay Lease Rentals (as defined in the Lease Deed) at the then applicable rate. Further, the Parties shall execute a fresh lease deed on identical terms and conditions as contained in the Lease Deed on each occasion that the Lessee exercises its option(s) under this Clause 16.2.

16.3 Expansion Plot. The Lessee shall have the exclusive right to exercise the option for an additional eighty thousand (80,000) square feet of Built Up Area on the Land (the "EXPANSION PLOT"), which option shall be exercised by the Lessee within twenty four (24) months from the Lease Commencement Date. It is hereby clarified that this option shall be exercised by the Lessee by the provision of three (3) months' notice in writing to the Lessor and the twenty four (24) month option period mentioned above shall be deemed to include such three (3) month notice period. In the event of the Lessee exercising its option under this Clause 16.3, the Lessor will construct the facility to be constructed on such premises in accordance with the specifications of the Lessee and make the same available to the Lessee within twelve (12) months of the Lessee exercising the option. Further, the Parties shall execute a fresh lease in identical terms and conditions as contained in the Lease Deed, in the event that the Lessee exercises its option under this Clause 16.3

17. SIGNAGE.

17.1 Signage. The Lessee will enjoy the following rights: (i) the right to place signage using the Lessee's standard graphics and signage on the Premises and all common areas of the Land and Building; and (iii) the right to install monument signage on the Land, the Building and the Premises.

18. TERMINATION.

18.1 Events of Termination. The Parties agree that this Lease Deed may be terminated by the non-defaulting Party (irrespective of the Lock-in Period), on the occurrence of any of the following events, by providing the defaulting Party with thirty (30) days' written notice of termination:

- (a) Either Party breaches any of the provisions of the Lease Deed and fails to remedy such breach within thirty (30) days from being notified to remedy the breach;
- (b) Any of the representations, warranties and assurances provided in the Lease Deed is false and untrue or is found to be false and untrue during the term of the Lease Deed;
- (c) The whole or any part of the Land, Building or the Premises is attached by any judicial or administrative order or is acquired for any public or quasi-public use or purpose;
- (d) The permission or approval of any applicable statutory or regulatory authority for the use of the Land, Building or the Premises in accordance with the terms and subject to the conditions contained in the Lease Deed is withdrawn or suspended by either a judicial, legislative or executive act; or
- (e) The defaulting Party is wound up or dissolved according to the provisions of law, or a petition for dissolution is admitted by a court of competent jurisdiction against the defaulting Party.

18.2 Termination after the Lock-in Period. After the Lock-in Period, the Lessee shall, at any time, and at its sole option, have the right to terminate the Lease Deed by providing the Lessor with sixty (60) days' written notice of termination.

18.3 Consequences of Termination. On the termination of the Lease Deed the following events shall occur:

- (a) The Lessor shall within fifteen (15) days from the termination of the Lease Deed and on the Lessee handing over vacant possession of the Premises and without demur, refund the Deposit to the Lessee. If the Lessor fails to refund the Deposit to the Lessee

within fifteen (15) days from the termination of the Lease Deed, the Lessor shall be liable to pay the Lessee interest at the rate of twelve percent (12%) per annum from the date of termination of the Lease Deed till the date of realisation of the Deposit by the Lessee.

19. GOVERNING LAW AND ARBITRATION.

19.1 Governing Law. This Lease Deed is governed by and shall be construed in accordance with the laws of the Republic of India.

19.2 Dispute. The Parties shall attempt to amicably settle all disputes arising out of this Lease Deed and the obligations hereunder (the "DISPUTE"). Either Party may give written notice of the Dispute to the other Party within ten (10) days of the occurrence of the event which gives rise to such dispute or the date such event came to the notice of the applicable Party.

19.3 Dispute Resolution. Both Parties shall nominate one person to attempt amicable settlement of the Dispute within fifteen (15) days of notice under Clause 19.2 and such attempt shall commence immediately.

19.4 Arbitration. If any Dispute arising between the Parties is not amicably settled within thirty (30) days of commencement of attempts to settle the same, the Dispute shall be referred to and be finally settled by arbitration. The Parties agree that the arbitration proceedings will be conducted at Bangalore, in the English language, and shall be governed by the provisions of the [Indian] Arbitration and Conciliation Act, 1996. The arbitration shall be conducted by a sole arbitrator mutually appointed by the Parties.

19.5 Jurisdiction. Subject to the foregoing the courts at Bangalore only shall have exclusive jurisdiction in all matters arising out of this Lease Deed or any arbitration hereunder.

20. NOTICES.

20.1 Notices. All notices, documents and other forms of communication under this Lease Deed shall be in writing and shall be sent through registered post acknowledgement due to the applicable Party at the addresses mentioned below:

If to the Lessor:

Orchid Apartments Private Limited,
No.10, Vittal Mallya Road,
Bangalore
ATTN: MR. B M JAYESHANKAR

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If to the Lessee:

Manhattan Associates India Development Centre Private Limited,
EPIP II-Phase,
Whitefield Industrial Area, K. R. Puram,
Bangalore

ATTN: MR. SRINIVASAN RAGHAVAN

21. GENERAL.

21.1 This Lease Deed is executed in one original and one counterpart. The Lessor shall retain the original Lease Deed while the Lessee shall retain a copy of the Lease Deed.

- 21.2 The rights of each Party under this Lease Deed:
- (a) may be exercised as often as necessary;
 - (b) are cumulative and not exclusive of rights and remedies provided by law;
 - (c) may be waived only in writing and specifically; and
 - (d) shall not be construed as waived in the event of a delay in exercising or non-exercise of any such right.
- 21.3 This Lease Deed may only be enforced by the Parties to this Lease Deed.
- 21.4 The Parties agree that if any of the provisions of this Lease Deed are illegal or are declared to be invalid or illegal, the remaining provisions of this Lease Deed shall continue to be in force and this Lease Deed shall be interpreted accordingly.
- 21.5 Unless otherwise agreed to between the Parties, this Lease Deed and the documents referred to in it contain the whole and definitive agreement between the Parties relating to the transactions contemplated by this Lease Deed and supercede all previous agreements, negotiations, proposals and documents between the Parties relating to these transactions.
- 21.6 The Lessee shall bear the stamp duty and the registration charges payable on this Lease Deed, and the Lessor shall bear the costs of procuring the approval of all applicable authorities contemplated under this Lease Deed. All other expenses, except for the stamp duty and registration fees, related to execution and registration of the Lease Deed shall be to the account of the Lessee.
- 21.7 Each Party shall bear its own attorney's fees.

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- 21.8 The Schedules and Annexures annexed to this Lease Deed shall be read as a part of this Lease Deed and shall constitute a part of this Lease Deed.
- 21.9 The Lessee hereby undertakes that it shall carry out its business in accordance with applicable law and environmental standards.
- 21.10 The Lessor shall enjoy the right to inspect the Premises subject to providing the Lessee with twenty four (24) hours prior written notice of inspection.
22. INDEMNIFICATION.
- 22.1 The Lessor agrees to indemnify and keep indemnified the Lessee against any Loss (not being in the nature of any direct or indirect business loss or any direct or indirect opportunity loss or any action in tort) arising out of (i) any breach of the terms and conditions of the Lease Deed by the Lessor; or (ii) any of the representations, warranties and assurances provided in the Lease Deed being false and untrue. The Lessor further agrees to indemnify the Lessee against any claim made against the Lessee arising out of any act or omission, directly or indirectly, attributable to the Lessor.

SCHEDULE VII
MAINTENANCE SERVICES

I. The Maintenance Services to be provided as consideration for the Maintenance Charges are as follows:

SECURITY: Effective and appropriate levels of security for the Land and Building shall be provided by trained security personnel, who shall be present in sufficient numbers to ensure the security of the Land and Building. The Maintenance Charge shall include the payment of salaries of the security personnel/agency and expenses for installation and operation and maintenance of any security equipment.

HOUSE-KEEPING / GENERAL MAINTENANCE IN COMMON AREA & BASEMENT AREAS: Housekeeping staff shall clean, wash/mop, and sweep the Land, and common areas and shall clean all facades of the Building and the Basements. The Maintenance Charge shall include salaries, wages, expenses and consumables used for housekeeping of the housekeeping staff.

GENERAL LIGHTING IN COMMON AREAS: Lighting and illumination of the Land, Building, common areas including corridors, terraces, basement, parking areas and lobbies. The Maintenance Charge shall include costs incurred by the Lessor towards repair/replacement of bulbs, tube lights, electrical fittings and other electrical equipment. The Lessor shall install a meters to record electricity consumption for the areas outside the Premises, including the exterior facade of the Premises.

ANNUAL MAINTENANCE CONTRACTS INCLUDING REPAIR AND SERVICE: Maintenance and operation of lifts including service elevators, generators, fire fighting systems, borewells, sumps, overhead water tanks, booster pumps / motors / de-watering systems, sewerage treatment plants, public address system in the Land, Building and common areas.

ELECTRICAL SUPPLY AND MAINTENANCE: The Lessor shall ensure electricity supply of 950 KVA to the Premises supplied from KPTCL and from a captive electricity generation plant (D.G. back-up) located in the Land, maintenance of bus ducts, electrical panels, transformers etc., including repair

and replacement and hire charges for the electricity meter in the Land, Building and Premises.

MONTHLY SETTLEMENT OF COMMON AREA EXPENSES: Water charges, electricity charges with respect to the common areas, lobbies, basement parking, Land and Building common

areas lighting.

LANDSCAPING, GARDENING
AND ROADS:

Regular maintenance of landscaped gardens in the Land, Building, common areas, the Premises and the Expansion Plot and maintenance of roads and paths within the Land and common areas and the Expansion Plot.

CIVIL:

Repairs of the Land, Building and common areas, white washing/painting of the Building and common areas as and when necessary.

PEST CONTROL:

Pest control with respect to the Land, Building, Premises and common areas.

MAINTENANCE OF BORE
WELLS, SUMPS, OVERHEAD
WATER TANKS IN
COMMON AREAS:

Maintenance, repairs and servicing of bore well(s), sump(s), overhead water tank(s) and ensuring that all pumps, motor(s), equipments etc., are in proper working condition.

PROPERTY MANAGEMENT:

Fees payable to property managers, if any

AIR-CONDITIONING AND
TEMPERATURE CONTROL

The Lessor shall provide a central air conditioning plant with multiple compressors with chilled water system to the Premises and shall maintain the Premises in the following condition:

- i) Temperature of 23 degrees +/- 1 degree centigrade with relative humidity design factor for office areas;
- ii) Data center/server room to have supply from a precision air conditioning plant as specified by the Lessor to achieve a temperature of 18 degrees +/- 1 degree centigrade.
- iii) Adequate provisions to get fresh air supply into Premises either by natural means or via mechanical systems.

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The Lessor shall ensure uninterrupted air-conditioning supply in the event of a power failure through D.G. backup.

DIESEL GENERATOR AND
BACK-UP ELECTRICITY
SUPPLY

The Lessor shall provide full and complete alternate/back up power supply for the Premises on the immediate occurrence of any electricity failure to the Land, Building or Premises. The supply shall be through automated diesel generator sets, with switch time equal to or less than eight (8) seconds.

SALARIES

The Maintenance Charges shall include the salaries payable to all administrative and maintenance staff hired by the Lessor.

WATER SUPPLY

The Maintenance Charges include payment for water consumed in the Premises.

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SCHEDULE VIII
CONSENT CERTIFICATE

[Lessee Letterhead]

[Date]
[Details of the Lessor]

Dear [Name]

This is to certify that the Conditions mentioned in the Agreement to Build and Lease executed between Orchid Apartments Private Limited and Manhattan Associates India Development Centre Private Limited on November 19, 2004 have been fulfilled to our satisfaction and that consequently we consent to the commencement of the construction of the Building and the Premises.

(authorised signatory)

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SCHEDULE IX
SATISFACTION CERTIFICATE

[Lessee Letterhead]

[Date]
[Details of the Lessor]

Dear [Name]

This is to certify that the Conditions Precedent mentioned in the Agreement to Build and Lease executed between Orchid Apartments Private Limited and Manhattan Associates India Development Centre Private Limited on November 19, 2004 have been fulfilled to our satisfaction.

(authorised signatory)

SCHEDULE X
SCHEDULE OF COMPETITORS

Access Data Systems
Accenture
Aldata
Ann Arbor Computer
Application Solutions
Applied Identification and Information Services
American Software
Applied Automation Techniques, Inc. (AAT)
Applied Tactical Systems (ATS)
Avexxis
BDM International
Cantoc
Catalyst International
CIM Vision
Computer Associates
Ciber
Cypress Associates
Data Collection Systems
Distribution Resources
EXE Technologies
Exeter Software Ltd.
FASCOR
Flo Thru Art
Flowtrack
Foxfire
Digiterra
Gateway Data Sciences Corporation
GE Information Services
Genco
Global Software
HK Systems
Haushahn Systems & Engineers
Harnischfegar Engineers
Highjump
Heyde
IMI
Infinity
Infoscan
Integrated Technologies Group, Inc.
Intentia
Interlink
Irista
J.D. Edwards
IRMS (Integrated Warehousing Solutions)
Kearney Systems Alpha & Omega
Oracle
Lily Software
LIS
LIOCS Corporation
Logility
MARC
MCBA
SSA
Management Technology International
Midgard
Mincron
OMI International, Inc.
Optum Software

PCS
Provia
Quantronix Inc.
QSSI
Red Prairie
Radio Beacon
Renaissance
Retek
RLM
RT Systems
Robocom Systems, Inc.
SAP
Savant
Scandata Systems
Somerset Automation
Sonica
Swisslog
Tecsys
TrakLink
Trident Systems
Uniteq
Vantageware
Viewlocity
Warehouse Automation
Western Atlas Material Handling Systems
Yantra

44

Manugistics
I2
G-Log
Nistevo
Elogex
NTE
Descartes
GT Nexus
LeanLogistics
Celarix
CarrierPoint
Schneider Logistis
Transplace

Any successor company to any company listed above.

Any new company formed by or a division of an existing company formed by or on behalf of an employee.

45

[Architectural Sketch showing the Details of Plot No. 170, 171, & 172
of Epip I phase, White field]

DATED 1 FEBRUARY 2005

IGE ENERGY SERVICES (UK) LIMITED (1)

and

MANHATTAN ASSOCIATES LIMITED (2)

and

MANHATTAN ASSOCIATES, INC. (3)

LEASE

Premises: First Floor, Building A, The Arena, Bracknell
Term: 5 years
Rent: Pound Sterling 317,540 per annum

WALKER MORRIS
Kings Court
12 King Street
LEEDS
LS1 2HL
Tel: 0113 2832500
Fax: 0113 2459412
Ref: IMH

WALKER
MORRIS
SOLICITORS

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THIS LEASE made on 1 February 2005

BETWEEN:

- (1) IGE ENERGY SERVICES (UK) LIMITED (company number 3499114) whose registered office is at The Arena Downshire Way Bracknell Berkshire RG12 1PU (the LANDLORD)
- (2) MANHATTAN ASSOCIATES LIMITED (company number 3562638) whose registered office is at 2 The Arena Downshire Way Bracknell Berkshire RG12 1PU (the TENANT)
- (3) MANHATTAN ASSOCIATES, INC. of 2300 Windy Ridge Parkway, Suite 700, Atlanta, Georgia 30339 United States of America (the GUARANTOR)

WITNESSES as follows:

1 INTERPRETATION

1.1 In this Lease unless the context requires otherwise:

1.2 The following words and expressions mean

AGA: an authorised guarantee agreement within the meaning of section 16 of the 1995 Act;

THE BUILDING: the land and buildings known as Block A The Arena Downshire Way Bracknell as edged green on the Plan comprised within the Headlease;

THE CAR PARK: the parts of the Building used for parking shown for identification purposes only shown coloured blue on Plan 2;

THE CDM REGULATIONS: the Construction (Design and Management) Regulations 1994 and any other regulations of a similar nature in force at any time during the Term;

THE COMMON PARTS: all parts of the Building which at any time during the Term do not form part of the Premises or any other premises in the Building let or intended to be let to any other tenant of the Landlord including without limitation:

- (1) the roof, foundations, main ceilings, main floors and floor slabs, main walls, structural steelwork, structural and main columns, beams and joists and all other external and structural parts of the Building including all external windows and doors and window and door frames in the Building;

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- (2) all internal walls, whether load-bearing or not, inside the Common Parts or separating the Common Parts from the Premises or any other premises in the Building let or intended to be let to any other tenant of the Landlord and all windows and doors and window and door frames in those walls;

- (3) all entranceways, hallways, passageways, staircases, lifts, toilets, kitchens, refuse areas, roads and footpaths and all parking, service, access and landscaped areas, all boundary structures and all Pipes other than those demised to the Tenant or any

other tenant in the Building;

- (4) any central heating, air handling or air conditioning system (including all associated Pipes, radiators, boilers, ducts, pumps, coolers, controls, and other equipment) which serves the Building as a whole or any parts of it communally; and
- (5) any video, monitoring, security, control, access, fire detection, fire prevention or sprinkler system and any other electrical or other system of any type (including all associated Pipes) which serves the Building as a whole or any parts of it communally

to the extent that they exist at any time during the Term;

THE CONTRACTUAL TERM: the term of five years starting on 1 February 2005 and ending on 31 January 2010;

THE END OF THE TERM: the end of the Term however that happens;

ENVIRONMENTAL LEGISLATION: the Health and Safety at Work etc Act 1974, the Environmental Protection Act 1990, the Water Resources Act 1991, the Environment Act 1995, the Control Substances Hazardous to Health Regulation and any other statute of a similar nature in force at any time during the Term;

THE EXCEPTIONS: the exceptions and reservations set out in the Third Schedule;

THE EXCLUDED PARTS: the windows, window frames, window sills, columns, ceilings and floor slabs to the Building

GROUP COMPANY: a group company within the meaning of section 42 of the Landlord and Tenant Act 1954;

HAZARDOUS SUBSTANCES: any and all dangerous substances, hazardous substances, toxic

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substances, radioactive substances, hazardous wastes, controlled wastes, oils, hazardous chemicals and any other material which may be harmful to human health or the environment and which are controlled under the Environmental Legislation and includes (without limitation) any petrol, benzol or other highly flammable spirit, liquor, fluid or substance or any material of a dangerous, combustible, explosive or corrosive nature which may attack or in any way injure by percolation, corrosion, vibration or otherwise the structure of the Premises or the Building or the use of which may constitute a nuisance to the occupiers of neighbouring or adjoining property;

THE HEADLEASE: a lease dated 18 January 1999 and made between Scottish Widows' Fund Life Assurance Society (1) Tektronix UK Limited (2) and Tektronix, Inc (3);

THE INTEREST RATE: three per cent per annum above the base rate from time to time of any bank that is a member of the British Banking Association and that the Landlord specifies at any time or, if those base rates cease to exist, such other equivalent rate of interest as the Landlord reasonably specifies at any time both before and after any judgment and in every case compounded on the Rent Days;

THE LANDLORD: includes the reversioner for the time being

immediately expectant on the End of the Term;

THE LANDLORD'S CONSENT: the previous consent of the Landlord by deed or, at the Landlord's discretion, under hand;

THIS LEASE: this Lease and any documents supplemental to it or entered into in accordance with or under it;

PIPES: pipes, sewers, drains, conduits, gutters, watercourses, wires, cables, channels, ducts, flues, aerials, cisterns, tanks and all other conducting media and ancillary apparatus and any enclosures for them;

THE PLAN: the plan or plans annexed to this Lease;

THE PLANNING ACTS: the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991 and any other statute of a similar nature in force at any time during the Term;

THE PREMISES: the property described in the First Schedule;

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THE RENT COMMENCEMENT DATE: the 1st day of February 2006;

THE RENT DAYS: 25 March, 24 June, 29 September and 25 December in each year;

THE RIGHTS: the rights set out in the Second Schedule;

THE SERVICE CHARGE: the monies payable by the Tenant for the provision of the Services in accordance with the Fifth Schedule;

SUPERIOR LESSOR: everyone having a title to the Premises in reversion mediately or immediately expectant on the termination of the Landlord's title at any time during the Term;

TAX INVOICE: an invoice addressed to the Tenant and which complies with the requirements of Section 6(5) of and paragraph 2(1) of Schedule 11 to the Value Added Tax Act 1994 and regulations relating to tax invoices;

THE TENANT: includes its successors in title and assigns and all persons deriving title through or under it;

THE TERM: the Contractual Term;

UTILITIES: data transmission, drainage, electricity, energy of any other type, gas, telephone, water and all other services;

VAT: Value Added Tax and any tax of a similar nature substituted for it or imposed in addition to it at any time during the Term and any penalties or fines in relation to them;

THE 1995 ACT: the Landlord and Tenant (Covenants) Act 1995.

1.3 Any reference to any statute, including any reference in any definition in this clause, includes:

1.4 any amendment, modification, extension or re-enactment of it at any time;any regulations or orders made under or drawing

validity from any statute

- 1.5 Any reference to any form of legal entity includes all other forms of legal entity.
- 1.6 Any provisions in this Lease referring to the consent or approval of the Landlord shall be construed as also requiring the consent or approval of any superior landlord under a superior lease where such consent shall be required under any superior lease (which the Landlord shall use its reasonable endeavours to obtain at the cost of the Tenant) but

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nothing in this Lease shall be construed as implying that any obligation is imposed upon any such superior landlord not unreasonably to refuse any such consent or approval unless the superior lease so provides;

- 1.7 Reference to "consent of the Landlord" or words to similar effect means a consent in writing signed by or on behalf of the Landlord and to "be approved" and "authorised" or words to similar effect mean (as the case may be) approved or authorised in writing by or on behalf of the Landlord.
- 1.8 Obligations by more than one person are joint and several and where any party under this Lease at any time is more than one person references to it are to each person individually as well as jointly with the others comprising it.
- 1.9 Any obligation on the Tenant not to do something shall be deemed to include an obligation to use reasonable endeavours not to allow it or suffer it to be done.
- 1.10 Rights excepted, reserved or granted to the Landlord are excepted, reserved or granted to the Landlord, any Superior Lessor and everyone authorised in writing by them and which authority shall be produced to the Tenant before such access is made.
- 1.11 The perpetuity period applicable to this Lease is the Contractual Term or 80 years from the start of the Term, whichever is the shorter.
- 1.12 The clause headings in this Lease are for reference only and are not to be taken into account in its construction or interpretation.

2 THE DEMISE

The Landlord demises the Premises to the Tenant with the Rights but excepting and reserving the Exceptions for the Contractual Term subject to all rights, easements, privileges, restrictions, covenants and stipulations of any nature affecting them paying throughout the Term from the Rent Commencement Date the yearly rent of Pound Sterling 317,540 by equal quarterly payments in advance on the Rent Days and so in proportion for any period less than a year, the first payment being a proportionate sum in respect of the period from and including the Rent Commencement Date to the next Rent Day after that date to be paid on that date.

3 TENANT'S COVENANTS

The Tenant covenants with the Landlord:

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3.1 PAYMENTS

- 3.1.1 To pay the rent reserved by clause 2 of this Lease as set out in that clause with payment being made by electronic payments if the Landlord requires it.
- 3.1.2 To pay to the Landlord within 7 days of demand as additional rent:
- (a) a fair and proper proportion (to be determined by the Landlord acting reasonably) of the Insurance Rent properly payable by the Landlord to the Superior Lessor pursuant to clause 2(b) of the Headlease;
 - (b) all premiums payable by the Landlord for insuring against loss of rent from the Premises for three years;
 - (c) a fair and reasonable proportion (to be reasonably determined by the Landlord) of all sums properly payable by the Landlord under clauses 3 and 36 of the Fourth Schedule of the Headlease upon production of a Tax Invoice for same and a copy of the Superior Landlord's demand and on the Rent Days;
 - (d) the Service Charge;
 - (e) Whilst the Restaurant is operational, or until the Tenant terminates its use of the Restaurant in accordance with the Fourth Schedule, all sums payable in accordance with that Schedule;
- 3.1.3 To make all payments referred to in this sub-clause, and all other payments due to the Landlord under this Lease, without any deduction (except as required by law) and without exercising any right of legal or equitable set off.

3.2 OUTGOINGS AND UTILITIES

- 3.2.1 To pay all rates, taxes, assessments, duties, charges, impositions and other outgoings of any type charged, assessed or imposed on or in respect of the Premises or their owner or occupier at any time (including any of a capital or non-recurring nature) except such as are payable on a disposal of the landlord's reversion hereto and income or corporation tax charged on the Landlord;
- 3.2.2 To pay for all Utilities used or consumed at the Premises, including standing charges, and meter rents

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and if any payments due under this sub-clause are due in respect of the Premises and any other part of the Building jointly to pay a fair and reasonable proportion of them to be determined by the Landlord.

3.3 INTEREST

If the Landlord does not receive payment of:

- 3.3.1 the rent reserved by clause 2 of this Lease and the VAT due in respect of it on the due date whether formally demanded or not; or
- 3.3.2 any other money due under this Lease (other than any money which this Lease states is to bear interest from the date of expenditure by the Landlord) within seven days of the due date

to pay interest on the money concerned to the Landlord at the Interest Rate from the due date until the date of actual receipt by the Landlord.

Provided that this sub-clause shall not prejudice any other right or remedy of the Landlord for the recovery of any money due.

3.4 VAT

To pay and indemnify the Landlord against any VAT chargeable in respect of or levied on:

- 3.4.1 any payment due from or any supply made to the Tenant under or in connection with this Lease; and
- 3.4.2 any payment made by or any supply made to the Landlord where the Tenant is liable to reimburse it for that payment or in respect of that supply (save where the Landlord can recover VAT)

in each case in addition to the payment or supply concerned provided that the Tenant shall not be obliged to pay any VAT on any of the rents reserved by this Lease or any other payments due under this Lease unless and until the Tenant shall be in receipt of a Tax Invoice in respect of them.

3.5 REPAIR

- 3.5.1 To keep the Premises in good and substantial repair fair wear and tear excepted and keep them clean, damage caused by the Insured Risks excepted:

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- (a) save to the extent of any excess in any relevant insurance policy; and/or
- (b) unless any relevant insurance policy is vitiated or payment of insurance monies refused in whole or in part as a result of anything done by the Tenant, any undertenant or any other occupier of the Premises or anyone at the Premises with the express or implied authority of any of them

Provided That the Tenant's liability is limited to the extent that the Landlord effects any recovery under clause 4.4 hereof.

- 3.5.2 To carry out all work required under this sub-clause or any other provision of this Lease:

- (a) in a good and workmanlike manner;
- (b) in accordance with good modern practice from time to time, all relevant codes of practice and all British Standards; and

(c) to the Landlord's reasonable satisfaction.

3.6 DECORATION

3.6.1 To decorate the Premises in the last three months before the End of the Term and all additions to them previously or usually decorated.

3.6.2 To carry out the work required by this sub-clause:

(a) in a good and workmanlike manner;

(b) with good quality materials;

(c) to the Landlord's reasonable satisfaction;
and

(d) in accordance with such reasonable directions as may be communicated to the Tenant by or on behalf of the Landlord in the last three months of the Term in a colour and scheme of decoration approved by the Landlord, such approval not to be unreasonably withheld or delayed.

3.7 KEEP TIDY

3.7.1 To keep the Premises clean, tidy and free from litter.

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3.7.2 Not to litter or make untidy the Building or any neighbouring or adjoining property.

3.7.3 To keep all rubbish in suitable receptacles and to arrange for its collection and disposal in an appropriate manner as often as necessary and at least weekly.

3.8 ALTERATIONS

3.8.1 Not to commit waste to the Premises, divide them or merge them with other premises or make any alterations or additions of any type to them unless paragraph 3.8.2 is first complied with in full when the following alterations and additions will be allowed with the Landlord's consent, such consent not to be unreasonably withheld or delayed:

(a) Internal non-structural alterations and additions.

(b) Alterations and additions to the Pipes forming part of the Premises.

(c) Minor alterations or additions to the structure or exterior of the Premises that are consequential to any work carried out under paragraphs (a) or (b) and which do not affect the structural integrity of the Premises or the Building.

Provided That the Tenant shall (without any consent of the Landlord) be entitled to install alter and remove internal demountable partitioning which does not affect the structure of the Premises or prejudice

or affect the air conditioning fire protection or other building systems subject to the Tenant supplying 2 copies of as built drawings to the Landlord forthwith upon completion of any such works.

3.8.2 Before carrying out any alterations or additions which require Landlord's consent and at its own cost to:

- (a) obtain all necessary consents from any competent authority and any other person;
- (b) supply four sets of all drawings and specifications for the proposed alteration or additions to the Landlord for its approval (such approval not to be unreasonably withheld or delayed);
- (c) enter into any covenants that the Landlord reasonably requires for the execution, supervision and reinstatement of them.

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3.8.3 If so required by the Landlord not less than three calendar months prior to the end or sooner determination of this Lease at the cost of the Tenant to remove any alterations or additions to the Premises, or any part of them, and to reinstate the Premises, or the appropriate part of them, to their former condition before the End of the Term and subject to the Landlord's reasonable satisfaction.

3.8.4 To commence to remedy any breach of this sub-clause within two months of receiving written notice from the Landlord of such breach and then diligently to remedy the same and if it does not to allow the Landlord to enter the Premises with all necessary workmen and equipment to carry out the work required and to pay to the Landlord all expenses properly and reasonably incurred by it in doing so, including all proper legal and surveyors' fees reasonably incurred, within 7 days of an invoice for same detailing such expenses together with interest at the Interest Rate from the date of expenditure by the Landlord to the date of repayment.

3.9 STATUTORY OBLIGATIONS

3.9.1 At its own expense to comply with all requirements of, and execute all works required by, any statute or any competent authority in respect of the Premises, any activity at or use of them or the use of any plant, machinery or other equipment in them (save that forming part of the Common Parts or the Landlord's equipment).

3.9.2 To obtain all planning permissions and other consents that are required for the carrying out of any operations on the Premises or any use of them by the Tenant which may constitute development within the meaning of the Planning Acts but no application for planning permission or any other consent is to be made without the Landlord's consent, such consent not to be unreasonably withheld or delayed in respect of any application for permission or consent in respect of anything for which consent has already been given by the Landlord under any other provision of this

Lease.

- 3.9.3 To pay and satisfy any charge or levy that is imposed under the Planning Acts in respect of any operation or use referred to in paragraph 3.9.2.

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- 3.9.4 That where any alterations or additions are covered by the CDM Regulations it and not the Landlord will be the client for the purposes of regulation 4 of those regulations and that it will:

- (a) send a declaration to that effect to the Health & Safety Executive in accordance with paragraph (4) of regulation 4 of the CDM Regulations;
- (b) provide the Landlord with a copy of the acknowledgement received from the Health & Safety Executive in respect of the declaration when received by it;
- (c) not revoke the declaration;
- (d) comply with the client's obligations under the CDM Regulations.

- 3.9.5 To supply to the Landlord at its own cost all information in respect of any work done to the Premises, and the Premises as altered by that work, which is required to keep any Health and Safety file maintained under the CDM Regulations in respect of the Premises or the Building up to date including copies of all relevant plans, specifications and other documents.

- 3.9.6 Not to carry out any operation on or any change of use of the Premises before all notices required under the Planning Acts and any Environmental Legislation have been served or before all relevant notices, planning permissions and other consents have been produced to the Landlord and acknowledged by it in writing as being satisfactory, such acknowledgement not to be unreasonably withheld or delayed in respect of any notice, consent or permission in respect of anything for which consent has already been given by the Landlord under any other provision of this Lease.

- 3.9.7 Unless the Landlord directs otherwise to carry out and complete before the End of the Term any works which are to be carried out to the Premises by a date after the End of the Term as a condition of any planning permission granted for any development begun during the Term.

- 3.9.8 That if it receives any compensation in respect of its interest in the Premises because of any restriction imposed on their use under the Planning Acts and this Lease is determined by surrender or re-entry to immediately make such payment to the Landlord as is reasonable to ensure that the Landlord receives due benefit from that compensation.

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- 3.9.9 To produce to the Landlord on demand all notices,

orders, proposals, permissions, consents, plans and other evidence which the Landlord reasonably requires in order to be satisfied that this sub-clause has been fully complied with.

3.10 INSPECTION AND NOTICE TO REPAIR

To allow the Landlord and everyone authorised by it to enter the Premises at all reasonable times during the Term on reasonable prior notice (except in the case of emergency) to:

- 3.10.1 take inventories of fixtures, fittings and other items to be yielded up at the End of the Term;
- 3.10.2 establish whether the Tenant's obligations under this Lease have been complied with:
 - (a) if any breach of obligation is found the Landlord may serve written notice on the Tenant requiring it to remedy the breach concerned;
 - (b) if the Tenant does not start or is not proceeding expeditiously to rectify any breach of obligation notified to it within two months of service of the Landlord's notice, or sooner in emergency, the Landlord may enter the Premises with all necessary workmen and equipment to rectify the breach concerned and the Tenant shall pay to the Landlord within 14 days of demand detailing such costs etc. as a debt the costs and expenses of doing so, including legal and surveyors' fees, together with interest at the Interest Rate from the date of expenditure by the Landlord to the date of repayment

And subject in each case to making good any physical damage caused to the Premises

3.11 USER

- 3.11.1 Not to do anything at the Premises which may be, become or cause a nuisance, disturbance, injury or damage to the Landlord or any owner or occupier of the Building or any neighbouring or adjoining property.
- 3.11.2 Not to bring onto the Premises any Hazardous Substances anything of an offensive nature and to comply with all requirements of the Landlord's insurers and the competent fire authority.
- 3.11.3 Not to use the Premises or any part of them for:
 - (a) any use falling within Use Classes B3 to B7 (inclusive) of the Town and Country Planning (Use Classes) Order 1987 (as originally enacted);
 - (b) any dangerous, noxious, noisy or offensive trade or business;
 - (c) the business of a staff agency, employment agency, a Government Department or Agency in

each case at which the general public call without appointment, a betting office, residential purposes as sleeping accommodation or any illegal or immoral act or purpose; and

- (d) not to hold any sale by auction on the Premises.
- 3.11.4 Not to generate any noise in the Premises which can be heard, or which creates vibrations that can be felt, in any other part of the Building or in any neighbouring or adjoining property.
- 3.11.5 Not to use the Premises or any part of them for any purpose other than a use falling within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as originally enacted) and not without the Landlord's consent, such consent not to be unreasonably withheld, to use the Premises or any part of them for any purpose other than high class offices.
- 3.11.6 To pay to the Landlord within 14 days of demand all costs, charges and expenses which may be incurred by it in complying with a notice served, or a requirement made, by any competent authority under any Environmental Legislation or in abating any private or public nuisance on or arising from the Premises including any statutory nuisance abated by the Landlord in compliance with a notice served by any competent authority together with interest at the Interest Rate from the date of expenditure by the Landlord to the date of repayment.

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3.12 SIGNS

Save where specifically provided for in the Second Schedule to this Lease not to install or display on any part of the outside of the Premises or to or through any window in the Premises any placard, poster, notice, advertisement, name, sign or other writing without the Landlord's consent, such consent not to be unreasonably withheld in respect of a sign showing the name of the Tenant or any other permitted occupier on or adjacent to the door into the Premises from the Common Parts, the exterior of the Building and in the Common Parts at first floor level Provided That no such consent shall be required for the Tenant to exhibit its trading name or that of a permitted occupier on internal directory boards within the Common Parts.

3.13 INSURANCE OBLIGATIONS

- 3.13.1 Not to do anything which prejudices or invalidates any insurance policy in respect of the Premises, the Building or any neighbouring or adjoining property or which may do so or which makes or may make any increased or additional premium payable for any of them.
- 3.13.2 To pay to the Landlord on demand the cost of any increased or additional premium which becomes payable in respect of the Premises, the Building or any neighbouring or adjoining property as a result of the occupancy or use of the Premises by the Tenant or any person it expressly or impliedly allows into

occupation of the Premises (including any referred to in paragraph 3.13.1).

- 3.13.3 Not to effect any insurance in respect of the Premises or the Building except as required by this Lease without the Landlord's consent such consent not to be unreasonably withheld or delayed.
- 3.13.4 If the Premises are destroyed or damaged to give immediate notice to the Landlord stating the cause if known.

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3.14 NOTICES

- 3.14.1 Within fourteen days of any notice, direction or order (or any proposal for any of them) from any competent authority being received by it or otherwise coming to its knowledge to give full details of it to the Landlord and, if reasonably required by the Landlord, to produce it to the Landlord and/or take all steps necessary to comply with it and/or make or join with the Landlord in making any objection or representation against it or in respect of it that the Landlord reasonably requires provided that the Landlord may only request compliance by the Tenant with any such notice order requisition direction or other thing insofar as it relates to the Tenant's use and occupation of the Demised Premises.

3.15 ALIENATION

- 3.15.1 Not to hold on trust for another, assign, underlet or share or part with the possession or occupation of the Premises or any part of them or allow any other person to do so unless:

- (a) the transaction is not prohibited by paragraph 13.15.2; and
- (b) paragraphs 3.15.3 to 13.15.7 (inclusive) are first complied with in full where and to the extent that they relate to the transaction in question; and
- (c) any consent required from any Superior Lessor and any mortgagee of the Landlord and any Superior Lessor has been obtained

when the following transactions will be allowed with the Landlord's consent, such consent not to be unreasonably withheld or delayed:

- (i) assignments of the Premises as a whole;
- (ii) underleases of the Premises as a whole.

and if the Tenant is a company it may share or part with the occupation of the Premises or any part of them with or to a Group Company or the parent company of the Tenant without the Landlord's consent for so long only as the company concerned remains a Group Company or the parent company of the Tenant, no relationship of landlord and tenant is created or security of tenure

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obtained and the Landlord is given written notice of the sharing or parting with occupation.

3.15.2 Not to effect any assignment:

- (a) to any Group Company unless the covenant of the Group Company itself (without reference to any guarantees, rent deposits or other security which may be offered for or by it) is, not materially less in value and strength to the Landlord than the outgoing Tenant as at the date of the application to the Landlord for licence to assign;
- (b) to any assignee which enjoys diplomatic or state immunity except where the proposed assignee is the Government of a country which is a member of the European Union;
- (c) to any assignee which is not resident in the European Union;
- (d) to an assignee which in the reasonable opinion of the Landlord is not of sufficient financial standing to enable it to pay the rents reserved from time to time by this Lease and otherwise perform the covenants on the part of the Tenant contained in this Lease.

3.15.3 Before any assignment the outgoing Tenant must enter into a deed constituting an AGA (to be prepared by the Landlord's solicitors) in the form of clause 6 of this Lease (but with the reference to the Tenant in clause 6.1 being to the proposed assignee and subject to any variation that may be necessary to produce a valid AGA and/or as the Landlord reasonably requires) to secure the obligations of the proposed assignee to the Landlord;

3.15.4 Before any assignment the proposed assignee must enter into a deed (to be prepared by the Landlord's solicitors) in a form reasonably required by the Landlord containing direct covenants with the Landlord and the Superior Lessor if required to comply with the obligations under this Lease or the underlease that is being assigned as appropriate.

3.15.5 Before any underlease the proposed underlessee must enter into a deed (to be prepared by the Landlord's solicitors) in a form reasonably required by the Landlord containing direct covenants with the Landlord to comply with the underlessee's obligations required by clause 3.15.7(b) to be contained in the proposed underlease.

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3.15.6 Before any assignment or underlease, if the Landlord reasonably requires it, a guarantor approved by the Landlord, such approval not to be unreasonably withheld or delayed, must enter into a deed (to be prepared by the Landlord's solicitors) in the form of clause 6 of this Lease (but with the reference to the

Tenant in clause 6.1 being to the proposed assignee or underlessee, as appropriate, and subject to any variation that may be appropriate in the case of a proposed underlease or the assignment of an underlease and/or in any case as the Landlord reasonably requires) to secure the obligations of the proposed assignee of this Lease, the proposed underlessee or the proposed assignee of an underlease, as appropriate, to the Landlord.

3.15.7 That any underlease must:

- (a) be granted at a rent in accordance with clauses 3.16.9 and 3.16.10 of this Lease;
- (b) be on terms which shall incorporate such provisions as are necessary to ensure that any underlease is consistent with and in any event no less onerous than this Lease and (but without prejudice to the generality of the foregoing) contain covenants controlling dealings in accordance with this sub-clause and an absolute restriction on any further subletting whether in whole or in part;
- (c) contain a re-entry clause in a form equivalent to the re-entry clause in this Lease;
- (d) be validly excluded from the security of tenure provisions of Part II of the Landlord and Tenant Act of 1954.

3.15.8 That in respect of any underlease granted it will:

- (a) use reasonable endeavours to enforce compliance with the obligations in it and not at any time expressly or by implication waive any breach by the underlessee;
- (b) not vary its terms, forfeit it or accept a surrender of it without the Landlord's consent, such consent not to be unreasonably withheld or delayed.

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3.15.9 Not to underlet the whole of the Premises at a rent less than the open market rent (without fine or premium).

3.15.10 On every application for consent under this sub-clause to disclose to the Landlord the terms of the proposed transaction.

3.15.11 To supply to the Landlord on reasonable demand but not more often than once in each 12 month period the names and addresses of everyone deriving title from the Tenant, whether mediately or immediately, or occupying the Premises together with details of all rents and other monies payable and the other terms of all underleases and occupancies.

3.15.12 Where this Lease prohibits or imposes pre-conditions on any particular assignment they:

- (a) are specified for the purposes of section

19(1A) of the Landlord and Tenant Act 1927;
and

- (b) do not affect the Landlord's right to withhold consent on any other ground which is reasonable or to impose any further condition which is reasonable in the circumstances.

3.15.13 Within one month of every assignment, underlease, charge, mortgage or other dealing with or devolution of this Lease to produce a certified copy of all relevant documents to the Landlord's solicitors for registration and to pay their reasonable fee.

3.16 SALE AND RE-LETTING

To permit the Landlord to enter the Premises:

- 3.16.1 during the six months before the End of the Term to fix in a suitable place (but not so as to materially interfere with the access of light or air to the Premises), and retain without interference, a sign or signs of reasonable size for re-letting them;
- 3.16.2 at any time during the Term to fix in a suitable place, and retain without interference, a sign or signs of reasonable size for selling them

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and during those periods to allow everyone authorised by the Landlord to view the Premises at all reasonable times during normal business hours and by appointment without interruption.

3.17 RIGHTS OF LIGHT AND ENCROACHMENTS

- 3.17.1 Not to stop up, darken or obstruct any windows in the Premises or do anything which would or might cause any easement or other right enjoyed by the Premises or the Building to be extinguished, abandoned, diminished or otherwise adversely affected.
- 3.17.2 Not to allow any new window, opening, path, drain or other encroachment or easement to be made or acquired in, against, out of or on the Premises and if any are made or acquired or any attempt is made to acquire or make them to give immediate notice to the Landlord and at the Landlord's request, but at its own cost, do whatever is reasonably required to prevent the encroachment or the acquisition of the easement concerned.

3.18 INDEMNITIES

To be responsible for and to indemnify the Landlord against:

- 3.18.1 all damage caused to the Premises, the Building or any neighbouring or adjoining property or to any person or goods which is caused by the use (save for use in accordance with the permitted user) or misuse by the Tenant of the Premises;
- 3.18.2 all actions, claims, proceedings, costs, expenses and demands made against or incurred by the Landlord as a result of:

- (a) any act, omission or negligence by it, any undertenant or any other occupier of the Premises or anyone at the Premises with the express or implied authority of any of them; or
- (b) any failure to comply with its obligations under this Lease;

3.18.3 any tax or other fiscal liability imposed on the Landlord as a result of any work carried out at, any act done on or any change of use of the Premises.

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3.19 DAMAGING SUBSTANCES

Not to allow any damaging substance (including water) to escape from the Premises and to make good, and pay compensation for, any damage caused by any escape that occurs Provided That this clause shall not apply in respect of any escape which is caused directly from a breach by the Landlord of its obligations under this Lease.

3.20 NOTICES OF BREACH AND COSTS

To pay to the Landlord within 7 days of written demand on a full indemnity basis all reasonable and proper costs, charges and expenses (including solicitors', surveyors', bailiffs' and other professional fees) properly incurred by it for the purpose of or in connection with:

- 3.20.1 the preparation and service of a notice under section 146 of the Law of Property Act 1925 or in contemplation of proceedings under sections 146 or 147 of that Act even if forfeiture is avoided unless a competent court orders otherwise;
- 3.20.2 the preparation and service of all notices relating to any failure by it or any guarantor to comply with their obligations under this Lease whether served before or after the End of the Term;
- 3.20.3 any application for any licence or consent under this Lease whether granted or not including where the application is withdrawn but not where the Landlord unlawfully refuses or fails to grant licence or consent or unreasonably delays same;
- 3.20.4 the enforcement or remedying of any breach of its or any guarantor's obligations under this Lease whether or not court proceedings are involved.

3.21 YIELD UP

At the End of the Term to:

- 3.21.1 yield up the Premises (with all keys) in the state and condition required by this Lease;

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- 3.21.2 remove all notices, advertisements, signs, aerals and tenant's fixtures, fittings, furniture and other goods from the Premises and make good any damage caused to the Premises or the Building (including

damage to decorative finishes) by their removal to the Landlord's reasonable satisfaction.

3.22 PIPES

3.22.1 Not to connect anything to any Pipes forming part of or serving the Premises which might endanger or overload them.

3.22.2 Not to allow any oil or grease or any deleterious, objectionable, dangerous, poisonous or explosive substance to be discharged into any Pipes forming part of or serving the Premises and not to cause any obstruction or deposit in them or any damage to them and if any obstruction, deposit or damage occurs to immediately remove or rectify it to the Landlord's reasonable satisfaction.

3.23 OVERLOADING

3.23.1 Not to do anything which would or might strain or damage the Premises, the Building or any neighbouring or adjoining property.

3.23.2 Not to do anything which adversely affects any central heating, air handling, air conditioning, sprinkler, alarm or other system running through or serving the Premises or that imposes an additional load on any of them beyond that which they are designed to bear.

3.24 KEYHOLDER

To supply the Landlord with the names, home addresses and telephone numbers of at least two keyholders of the Premises.

3.25 DEFECTS

To give notice to the Landlord of any defect in the Premises which might require the Landlord to do or refrain from doing anything in order to comply with its obligations under this Lease or any duty of care imposed on it under the Defective Premises Act 1972 or otherwise and to display and maintain all notices relating to those matters which the Landlord at any time reasonably requires to be displayed at the Premises.

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3.26 REPLACEMENT GUARANTOR

To give notice to the Landlord within fourteen days if any guarantor of the then current Tenant under this Lease (being an individual) dies, becomes bankrupt, has a receivership order made against him or has a receiver appointed under the Mental Health Act 1983 or (being a company) enters into liquidation whether compulsory or voluntary (save for the purpose of the amalgamation or reconstruction of a solvent company not involving the realisation of assets), has a receiver (including an administrative receiver) or an administrator appointed of its undertaking or any of its assets, has a winding up or an administration order made against it or a petition is presented for any such order, is deemed unable to pay its debts as defined in section 123 of the Insolvency Act 1986, or is struck off the Register of Companies, is dissolved or (being a company incorporated outside Great Britain) ceases to exist under the laws of the country of its incorporation or (in any case) enters into an

arrangement or composition for the benefit of its creditors and if required by the Landlord, but at its own expense, to procure that within twenty eight days a new guarantor acceptable to the Landlord, such acceptance not to be unreasonably withheld, executes a guarantee in the form of clause 6 of this Lease (but in respect of the liability of the then current Tenant) subject to any variation that the Landlord reasonably requires.

3.27 REGULATIONS

To comply with all reasonable written regulations from time to time made by the Landlord for the satisfactory running or management of the Building.

3.28 DISPUTES

To advise the Landlord and thereafter keep the same fully informed as to the progress of any dispute or potential dispute between the Tenant and any superior landlord and to give details of the nature of the dispute together with all other relevant facts and information.

3.29 OCCUPATION

Not to leave the Premises unoccupied for a period of 14 days or more without notifying the Landlord and to comply with the requirements of the insurers of the Premises.

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3.30 HEADLEASE

To comply with the lessee's obligations under the Headlease (except the covenant to pay rent and service charge) in so far as they relate to the Premises save insofar as the obligations contained in the Headlease conflict with the covenants and regulations contained in this Lease whereupon this Lease shall prevail.

3.31 CAR PARK

In connection with the use of the Car Park:

3.31.1 Not to litter or leave any rubbish on it.

3.31.2 Not to use it so as to be or become or cause a nuisance, injury or damage to the Landlord or any other user.

3.31.3 Not to obstruct any access or manoeuvring area.

3.31.4 Not to allow oil or grease to drip onto it and not to bring onto it any fuel or lubricating oil except any inside the tank or mechanical parts of any car using it.

3.31.5 Not to clean or undertake any maintenance work on any car using it.

3.31.6 To comply with, and ensure that the owners and drivers of all cars using the Car Park under its authority, comply with all reasonable regulations made by the Landlord at any time for its satisfactory running or management.

The Landlord covenants with the Tenant:

4.1 QUIET ENJOYMENT

That the Tenant may, so long as it pays the rent reserved by and complies with its obligations under this Lease, peaceably and quietly hold and enjoy the Premises during the Term without any unlawful interruption by the Landlord or any person rightfully claiming under or in trust for it or by title paramount.

4.2 INSURANCE

4.2.1 To use its best endeavours to ensure that the Building is insured:

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- (a) in an amount sufficient to cover the cost of rebuilding or full reinstatement cost;
- (b) against loss or damage by the Insured Risks together with an appropriate addition for the cost of demolition, site clearance and professional fees and the cost of any works required by or by virtue of any act of Parliament or other laws and all VAT in connection therewith

but the Landlord shall not be under any obligation to insure any alterations, additions or fixtures and fittings made or installed by the Tenant, any undertenant or any other occupier until notified of them and the amount for which they should be insured.

4.2.2 If the Premises are destroyed or damaged by any of the Insured Risks (the insurance policy not being vitiated by anything done by the Tenant, any undertenant or any other occupier of the Premises or anyone at the Premises with the express or implied authority of any of them) the Landlord will:-

- (a) use its reasonable endeavours to ensure that the Superior Lessor lays out all insurance monies (save for loss of rent) and reinstates the Building and with all reasonable speed; or
- (b) in the event that the Landlord has insured the Building, with all convenient speed to use its reasonable endeavours to obtain any consents needed to enable it to reinstate the Building (but without any obligation to appeal any refusal of any consent) and will where the consents have been obtained and subject to the availability of the necessary materials and labour) rebuild and reinstate the Building in a form as near as reasonably practicable to the form existing before the destruction or damage.

4.2.3 At the request and cost of the Tenant, but not more than once in any year, to produce to the Tenant a copy, or at the Landlord's option, sufficient details of the Landlord's insurance policy or the policy affected by the Superior Lessor and evidence of

payment of the last premium.

4.3 HEADLEASE

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To pay the rents reserved by the Headlease and, by way of indemnity only, and subject to the Tenant complying with its obligations under this Lease, to observe and perform the lessee's obligations conditions and other things under the Headlease insofar as the same are not the responsibility of the Tenant under this Lease and to use all reasonable endeavours at the request and cost of the Tenant to enforce the lessor's obligations under the Headlease and to seek the lessor's approval or consent to and use reasonable endeavours to obtain the same where the Tenant seeks any such consent or approval under this Lease Provided That the Landlord shall have no obligation to issue proceedings against the lessor by virtue of this clause.

4.4 WARRANTIES

4.4.1 To the extent that the warranties, details of which are contained in the Fourth Schedule (THE WARRANTIES), have been properly assigned to the Landlord, the Landlord will use all reasonable endeavours to enforce the rights it has pursuant to the Warranties insofar as there is any defect in the Demised Premises which is due to any breach of the obligations owed to the Landlord pursuant to the Warranties.

4.4.2 The Tenant shall notify the Landlord in writing of any such defect as described above and the Landlord shall forthwith use its reasonable endeavours to enforce the rights it has pursuant to the Warranties and shall supply to the Tenant copies of all correspondence relating thereto and shall keep the Tenant fully informed of the progress of any claims.

4.5 COMPETITION

4.5.1 The Landlord shall not grant a lease of any part or of the whole Building to any party whom the parties hereto agree to be a competitor of the Tenant. The Landlord shall notify the Tenant in writing before granting any such lease with full details of the intended new tenant ("the New Tenant") whereupon the Tenant (acting reasonably) shall within 5 working days of receipt of such notice inform the Landlord of whether or not it considers the New Tenant to be a competitor of the Tenant

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4.5.2 If there is any dispute as to whether the New Tenant is a competitor of the Tenant the matter shall be referred to a chartered accountant qualified for at least ten years such accountant to be appointed by agreement of the parties hereto and in the event that the parties are unable to agree such appointment shall be made by the President (or other acting chief officer) for the time being of the Institute of Chartered Accountants of England and Wales whose decision to be made within ten working days of referral shall be final and binding on the parties.

4.6 RECEPTION AREA

The Landlord shall ensure that the reception area and Common Parts are neutrally branded

4.7 SERVICES AND SERVICE CHARGE

The Landlord will comply with its obligations under the Fifth Schedule.

4.8 RESTAURANT CHARGE

The Landlord will comply with its obligations under the Sixth Schedule.

5. PROVISOS

It is agreed that:

5.1 RE-ENTRY

If any of the following occur:

5.1.1 The rent payable under clause 2 of this Lease or any part of it is unpaid for 21 days after it becomes due, whether formally demanded or not.

5.1.2 The Tenant fails to comply with any of its obligations under this Lease.

5.1.3 Any distress or execution is levied on at the Premises.

5.1.4 Where the Tenant is a corporation:

(a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any of its creditors;

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(b) the making of an application for an administration order or the making of an administration order in relation to it;

(c) the giving of any notice of intention to appoint an administrator, the filing at court of the prescribed documents in connection with the appointment of an administrator or the appointment of an administrator, in relation to it;

(d) the appointment of a receiver or manager or an administrative receiver in relation to any of its property or income;

(e) the commencement of a voluntary winding-up in relation to it except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies;

(f) the making of a petition for a winding-up

order or a winding-up order in relation to it;

- (g) it being struck-off the Register of Companies or the making of an application for it to be struck-off; or
- (h) the Tenant otherwise ceasing to exist.

5.1.5 Where the Tenant is an individual:

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any of his creditors;
- (b) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against him; or
- (c) the making of a receivership order against him or the appointment of a receiver under the Mental Health Act 1983.

the Landlord may at any time afterwards, even though any earlier right of re-entry has been waived, re-enter the Premises or any part of them in the name of the whole when this Lease shall end but without prejudice to any claim by the Landlord in respect of any failure by the Tenant to comply with its obligations.

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5.2 SUSPENSION OF RENT

If the Premises or any part of them or the access thereto are destroyed or damaged by any Insured Risk so as to be wholly or partly unfit for occupation or use then (unless any insurance policy in respect of the Premises or the Building including for the avoidance of doubt not by the Superior Lessor in respect of the Estate (as defined in the Head Lease) is vitiated by anything done by the Tenant, any undertenant or any other occupier of the Premises or anyone at the Premises with the express or implied authority of any of them) the rent reserved by clauses 2 and 3.1.2(c) and (a) of this Lease or a fair proportion of it according to the nature and extent of the damage concerned shall be suspended until the Premises or the damaged part of them are re-instated or made fit for occupation or use.

5.3 DETERMINATION OF THE TERM

If the Premises are destroyed or damaged by any Insured Risk so as to be unfit for occupation or use and they have not been reinstated at the expiration of the period for which the Landlord has insured loss of rent from the Premises (or such longer period as shall be agreed in writing between the Landlord and the Tenant before the expiry of such period) calculated from the date upon which the Premises shall have been destroyed or damaged by any of the Insured Risks as to render them unfit for occupation and use and:

- 5.3.1 the insurance of the Premises effected by the Landlord pursuant to its covenant contained in this Lease shall not have been vitiated by or any payment of the policy monies refused in whole or in part as a consequence of any act or default of the Tenant or

any undertenant or their respective agents or visitors; and

- 5.3.2 the Landlord shall have been unable to obtain all necessary consents and approvals for the rebuilding replacement and/or reinstatement of the Premises;

then (unless otherwise agreed in writing between the Landlord and the Tenant prior to the expiration of such period) then either party may serve notice on the other at any time after such period to determine this Lease whereupon this Lease shall absolutely cease and determine but without prejudice to any claim by either party against the other for any breach of its obligations up to that time and if this Lease is ended under this sub-clause (or if the rebuilding or reinstatement of the Premises or the Building is

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prevented or frustrated by any cause at all) all insurance monies relating to the Premises and the Building shall belong to the Landlord.

5.4 EXCLUSION OF USE WARRANTY

Nothing in this Lease or in any consent granted by the Landlord under it implies or warrants that the Premises may be used for any use allowed by this Lease either under the Planning Acts or otherwise.

5.5 NOTICES

Section 196 of the Law of Property Act 1925, as amended by the Recorded Delivery Service Act 1962, applies to the service of all notices in connection with this Lease except that it shall be deemed to be amended as follows:

- 5.5.1 In this sub-clause WORKING DAY means any day from Monday to Friday (inclusive) other than bank or public holidays.
- 5.5.2 The final words of section 196(4) "and that service...be delivered" shall be deleted and replaced with "and that service shall be deemed to be made on the second Working Day after the registered letter has been posted".
- 5.5.3 Any notice may be sufficiently served by facsimile when service shall be deemed to be made on the day of transmission if transmitted before 4.00 pm on a Working Day but otherwise on the next following Working Day and only in any event if it is actually received.

5.6 COMPENSATION

Any statutory right of the Tenant to claim compensation from the Landlord on vacating the Premises is excluded to the extent permitted by law.

5.7 IMPLIED EASEMENTS

Section 62 of the Law of Property Act 1925 is excluded from this Lease so that the only rights granted to the Tenant are those expressly set out in this Lease and the Tenant shall not be deemed to have acquired or be entitled to and the Tenant shall not during the Term acquire or become entitled to (save

on behalf of the Landlord against third parties) by any means any easement or advantage of any sort in respect of or affecting the Building or any neighbouring or adjoining property.

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5.8 PARTY WALLS

Any internal non-loading bearing walls dividing the Premises from any other premises in the Building let or intended to be let to any other tenant of the Landlord are party walls within the meaning of section 38 of the Law of Property Act 1925 and shall be maintained at the joint expense of the respective estate owners.

5.9 TENANT'S PROPERTY

If at the End of the Term the Tenant leaves any items on the Premises and fails to remove them within seven days of being requested to do so the Landlord may remove them as the Tenant's agent and, if the Landlord wishes to, sell them and hold the proceeds of sale, after deduction of removal, sale and other costs, to the Tenant's order and the Tenant shall indemnify the Landlord against any liability to any third party whose property is removed or sold by the Landlord in the mistaken belief, which shall be presumed unless the contrary is proved, that it belonged to the Tenant.

5.10 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this Lease has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Lease but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

5.11 EXCLUSION OF SECURITY

5.11.1 The Landlord and the Tenant have agreed that the provisions of Sections 24 to 28 (inclusive) of the Landlord and Tenant Act 1954 (THE 1954 ACT) be excluded in relation to this tenancy.

5.11.2 A notice as required by Section 38A(3) of the 1954 Act (as amended) has been served on the Tenant and the Tenant has made the [statutory] declaration as required by Schedule 2 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003.

5.12 JURISDICTION AND GOVERNING LAW

This Lease shall be governed by and interpreted in accordance with English law and the parties irrevocably submit to the jurisdiction of the English courts.

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6 FORM OF GUARANTOR'S COVENANTS

6.1 Interpretation

6.1.1 In this clause unless the context requires otherwise the following words and expressions mean:

6.1.2 THE LIABILITY PERIOD: the period ending at the End of

the Term or, if earlier, on the date on which the Tenant is released from its obligations under this Lease by the 1995 Act;

6.1.3 THE TENANT: the specific Tenant in respect of which the relevant guarantee is given only and in the case of the guarantee given by the Guarantor named as a party to this Lease (if any) means the Tenant named as a party to this Lease only.

6.2 GUARANTEE AND INDEMNITY

6.2.1 The Guarantor guarantees to the Landlord that the Tenant will pay the rents reserved by this Lease and comply with its other obligations under this Lease throughout the Liability Period and that if the Tenant does not do so that the Guarantor will.

6.2.2 The Guarantor covenants with the Landlord as a separate and independent primary obligation to the obligation contained in clause 6.2.1 to indemnify the Landlord against all losses, costs, damages and expenses suffered or incurred by it due to any failure by the Tenant to comply with any of its obligations under this Lease at any time during the Liability Period.

6.3 PRESERVATION OF GUARANTOR'S LIABILITY

The Guarantor's liability under clauses 6.2.1 and 6.2.2 shall not be affected by:

6.3.1 any time or indulgence granted to the Tenant or any compromise of the liability of the Tenant or any person comprised in the Tenant;

6.3.2 any failure by the Landlord to obtain or accept payment of rent or other monies or to enforce any of the Tenant's obligations;

6.3.3 any refusal by the Landlord to accept rent or other monies from the Tenant following any default by the Tenant;

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6.3.4 the Landlord enforcing any remedy against the Tenant for any failure to comply with its obligations under this Lease;

6.3.5 the Landlord taking, or refraining from taking, any action in connection with any other security held by it in respect of the Tenant's liability under this Lease including the release of any such security;

6.3.6 any release or compromise of the liability of any person comprised in the Guarantor or the grant of any time or concession to any of them;

6.3.7 any legal limitation or disability of the Tenant or any invalidity or irregularity of any of the Tenant's obligations under this Lease or any unenforceability of any of them against the Tenant;

6.3.8 the Tenant being dissolved, struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing his affairs;

- 6.3.9 without prejudice to clause 6.4 any disclaimer of the Tenant's liability under this Lease, any forfeiture of this Lease or this Lease being brought to an end in any other way except by surrender or the exercise of any break right;
- 6.3.10 any agreement with the Tenant or any licence or consent given under this Lease;
- 6.3.11 any surrender of part of the Premises except that the Guarantor will not be under any liability in relation to the surrendered part in respect of any period after the surrender;
- 6.3.12 any review or alteration of the rent payable under this Lease; or
- 6.3.13 anything else which without this paragraph would release the Guarantor except an express release under seal by the Landlord.

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6.4 OBLIGATION TO TAKE A NEW LEASE

- 6.4.1 If, during the Liability Period, this Lease is disclaimed, forfeited or prematurely brought to an end in any other way except by surrender or the exercise of any break right or the Tenant is dissolved, struck off the register of companies or otherwise ceases to exist and the Landlord requires it within three months after the relevant event the Guarantor will accept a new lease of the Premises.
- 6.4.2 The new lease referred to in clause 6.4.1 shall be of the Premises:
 - (a) in their then actual state and condition;
 - (b) subject to any underlease or tenancy or other interest affecting the Premises at the time;
 - (c) for a term equal to the residue of the Contractual Term remaining at the date of the relevant event;
 - (d) at the rent last payable under this Lease (ignoring any abatement of rent) subject to review in accordance with the Rent Review Provisions;
 - (e) subject to the same obligations as those contained in this Lease but as if this Lease had continued;
 - (f) with effect from the date of the relevant event; and
 - (g) with the Guarantor paying the costs of the new lease (including the Landlord's solicitors' costs and disbursements) and executing and delivering a counterpart of it to the Landlord.
- 6.4.3 If the Landlord's right to require the Guarantor to

accept a new lease arises under sub-clause 6.4.1 but for any reason the Landlord does not require the Guarantor to do so the Guarantor shall pay to the Landlord on demand an amount equal to the rent and other monies which would have been payable under this Lease for the period starting on the date of the event giving rise to the Landlord's right and ending on the date six months after that date or, if earlier, the date on which the Premises are re-let and any rent free period or period at a concessionary rent under the new letting expires.

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6.5 EXTENT OF GUARANTOR'S LIABILITY

- 6.5.1 The Guarantor's liability under this Lease is to the Landlord and its successors in title without any need for an express assignment.
- 6.5.2 If any of the circumstances specified in sub-clause 6.4.1 occur and there are any outstanding matters under this Lease, including any outstanding rent review, they shall be determined between the Landlord and the Guarantor, as if the Guarantor was the Tenant, for the purposes of the Guarantor's obligations to the Landlord under both this Lease and any new lease entered into by the Guarantor under clause 6.4.
- 6.5.3 The Guarantor waives any right which it may otherwise have to require the Landlord to enforce any other remedy available it, or to proceed against the Tenant, before proceeding against the Guarantor.
- 6.5.4 The Guarantor shall not make any claim or exercise any right against the Tenant in competition with the Landlord.
- 6.5.5 The Guarantor shall not be entitled to participate in, or stand in the Landlord's place in respect of, any other security held by the Landlord in respect of the Tenant's obligations under this Lease.

IN WITNESS of which the parties to this Deed have duly executed it on the date specified on page one.

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THE FIRST SCHEDULE - THE PREMISES

ALL THOSE first floor premises in the Building as shown edged in red on the Plan including:

- 1 the non-load bearing finishes or coverings to:
 - 1.1 the main ceilings, floors and walls of the Premises; and
 - 1.2 any main columns in the Premisesbut not any other part of those main ceilings, floors, walls or columns;
- 2 any internal non-load bearing walls inside the Premises;
- 3 any doors and door frames inside the Premises;

- 4 any raised floors and suspended ceilings inside the Premises;
- 5 all Pipes inside and exclusively serving the Premises;
- 6 all additions and improvements to the Premises and all fixtures and fittings of every kind which are at any time in or on the Premises (whether originally fixed or fastened to them or not) except tenant's or trade fixtures and fittings

so far as they exist at any time during the Term.

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[Architectural Design of First Floor of Building A, The Arena, Bracknell]

[Tektronix]

[GL HEARN FMS]

[PLAN A]

Plan A

[Architectural Design of Building Floor Space]

[PLAN B]

Plan B

THE SECOND SCHEDULE - THE RIGHTS

- 1 The right to pass over any entranceways, hallways, passageways, staircases, lifts, roads, footpaths and service and access areas forming part of the Common Parts to the extent that they serve the Premises at any time in order to gain access to and egress from the Premises.
- 2 The right to pass the Utilities through the Pipes which are at any time in the Building and the Estate to the extent that they serve the Premises.
- 3 The right to park 70 private cars in the Car Park in the spaces from time to time designated by the Landlord for that purpose together with a right of access to and egress from those spaces over the appropriate roads and access areas forming part of the Common Parts.
- 4 The right to place a sign, subject to the Landlord's approval of its design (such approval not to be unreasonably withheld or delayed), giving the name and business of the occupier of the Premises in any nameboard provided by the Landlord in the Building and outside the Building on the southern front of the Building in the position

currently utilised by Tektronix and on the first floor of the Building in a position to be approved by the Landlord (such approval not to be unreasonably withheld or delayed).

- 5 Subject to receiving the consent in writing of the Superior Lessor in accordance with the provisions of the Head Lease the right to erect a sign the design and precise location which are to be approved by the Landlord (such approval not to be unreasonably withheld or delayed) on the exterior of the Building.
- 6 The rights granted to the lessee in the Headlease insofar as they relate to and affect the Premises.
- 7 The right of support and protection from the Building.
- 8 The right to use the toilet facilities on the first floor of the Building
- 9 The right to the Tenant and its employees and visitors and any undertenant and its employees and visitors to use the Restaurant at the Building and subject to the terms of the Sixth Schedule hereto

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THE THIRD SCHEDULE - THE EXCEPTIONS

- 1 The right to carry out works to and alter or rebuild the Building or any building or other structure erected on any neighbouring or adjoining property at any time owned by the Landlord or any of its Group Companies and to use the Building or such neighbouring or adjoining property or the buildings or structures on them at any time as the Landlord wishes even though the access of light and air to the Premises is interfered with but Provided That such works do not materially interfere with the Tenant's use and occupation of the Premises or the rights granted by this Lease.
- 2 The right to connect into and pass the Utilities through any Pipes at any time forming part of or serving the Premises which serve or are to serve the remainder of the Building or any neighbouring or adjoining property.
- 3 The right for the Landlord and all persons authorised by it at all reasonable times and on reasonable notice in writing (except in emergency) to enter the Premises with or without workmen and others for all of the following purposes:-
 - 3.1 Repairing, renewing, inspecting or connecting any pipe, wire, drain, conduit or other conducting media within the Premises;
 - 3.2 Carrying out any works (whether of repair or otherwise) for which the Landlord or the Tenant is liable under this Lease;
 - 3.3 Carrying out any works (whether of repair or otherwise) to the Premises or to any property adjoining the Premises or to any party structure, sewer, drain or pavement light
 - 3.4 For any other purpose mentioned in this Lease and the Headlease.
- 4 The right to erect scaffolding on or adjacent to the Premises or the Building even though it temporarily restricts the access to or use of the Premises but the Landlord shall use all reasonable endeavours to keep any such restrictions to a minimum.
- 5 All rights of light, air, support and shelter and all other easements, quasi-easements and other rights at any time existing or created for the benefit of any other part of the Building or any neighbouring or

adjoining property.

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6 The exceptions out of the Landlord's demise set out at Part III of the First Schedule in so far as they relate to the Premises

And provided that all such rights shall be exercised causing as little disturbance to the Tenant as reasonably practicable and (save in emergency) on reasonable prior written notice and subject to making good any physical damage caused.

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THE FOURTH SCHEDULE - WARRANTIES

DATE	DOCUMENT	PARTIES
04.02.1999	Sub Contractor's Warranty	Southdown Construction Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	Schindler Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	Roger Wilde Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	Kvaerner Rashleigh Wetherfoil Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	James Gibons Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	Composit Structures Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Specialist Supply Warranty	Bison Concrete Products Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
04.02.1999	Sub Contractor's Warranty	Airteck Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
05.03.1999	Sub Contractor's Warranty	Construction Elements & Contracting (trading as Pollards Fyrespan) (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)
08.01.1999	Environmental Consultant's Warranty	Mott Macdonald Limited (1) Tektronix (UK) Limited (2) Helical Bar Developments (South East) Limited (3) Scottish Widows Fund & Life Assurance Society (4)
04.02.1999	Sub Contractor's Warranty	Sky Roofing Limited (1) Tektronix (UK) Limited (2) Bryant Construction Southern Limited (3) Helical Bar Developments (South East) Limited (4)

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18.01.1999	Sub Contractor's Warranty	Bryant Construction Limited (1) Bryant Construction Group Plc (2) Tektronix (UK) Limited (3) Helical Bar Developments (South East) Limited (4)
18.01.1999	Contractor's Warranty	Bryant Construction Limited (1) Bryant Construction Group Plc (2) Tektronix (UK) Limited (3) Helical Bar Developments (South East) Limited (4)
18.01.1999	Planning Supervisor's Warranty	Bucknall Austin Plc (1) Tektronix (UK) Limited (2) Helical Bar Developments (South East) Limited (3)
18.01.1999	Quantity Surveyor's Warranty	Bucknall Austin Plc (1) Tektronix (UK) Limited (2) Helical Bar Developments (South East) Limited (3)

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18.01.1999	Architect's Warranty	Hamilton Associates Architects Limited (1) Tektronix (UK) Limited (2) Helical Bar Developments (South East) Limited (3)
18.01.1999	Structural Engineer's Warranty	Mott Macdonald Limited (1) Tektronix (UK) Limited (2) Helical Bar Developments (South East) Limited (3)

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THE FIFTH SCHEDULE - THE SERVICE CHARGE

1 In this Schedule unless the context requires otherwise the following words and expressions mean:

THE PROVISIONAL SUM means a provisional sum in respect of the Tenant's Proportion for the relevant Account Year which in the case of the first Account Year shall be determined by the Landlord and in respect of any subsequent Account Year shall be a sum equal to the actual service charge paid by the Tenant in the Account Year immediately preceding the relevant Account Year

THE SERVICES: the services listed in paragraph 13 of this Schedule;

THE EXPENDITURE: all costs, expenses and outgoings whatsoever reasonably and properly incurred by the Landlord in providing or procuring the provision of all or any of the Services in respect of the Common Parts or the Building (as appropriate) including:

- (1) the reasonable fees of the Landlord for any of the Services undertaken by the Landlord or an employee of the Landlord and not by a third party;
- (2) any VAT payable on any costs, expenses or outgoings in respect of the Services or any other supply to the Landlord in connection with the Services;

THE SURVEYOR: any person or firm appointed by or acting for the Landlord (who may be an employee of the Landlord or the person or firm appointed by the Landlord to manage the Building) Provided That any person or the majority of the partners of any firm concerned shall be an Associate or Fellow of the Royal Institution of Chartered Surveyors or the Incorporated Society of Valuers and Auctioneers;

THE TENANT'S PROPORTION: a reasonable and proper proportion of the Expenditure properly attributable to the Premises to be determined by the Landlord or the Surveyor acting reasonably;

THE ACCOUNT YEAR: the annual period nominated by the Landlord at any time for the purposes of this Schedule and may include or comprise any such part of an annual period as occurs at the commencement or expiration of the Term.

- 2 The Landlord will carry out those services detailed in paragraphs 13.1, 13.2 and 13.3 below but the Landlord shall not be liable to the Tenant for:

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- 2.1.1 any interruption to any service because of maintenance of, damage to or destruction of any equipment, breakdown, inclement weather, shortage of materials or labour or any other cause at all outside the Landlord's immediate control;
- 2.1.2 any act, omission or negligence of any of the Landlord's employees or contractors in connection with the provision of any service;
- 2.1.3 any disrepair or failure to supply any service unless the Tenant has already given written notice of it to the Landlord.

Provided that the Landlord shall use reasonable endeavours to keep any interruption disrepair or failure to supply a service to a minimum.

- 3 The Landlord will arrange for proper records to be kept in respect of the Expenditure and as soon as practicable after the end of each Account Year and in any event within 3 months thereof will arrange for the preparation and submission to the Tenant of a statement ("the Statement") showing a summary of the Expenditure for that Account Year together with the Tenant's Proportion such account itemising the different heads of expenditure and any balance payable by or due to the Tenant allowance being made for any Provisional Sum made

- 4 For a period of two months from the date of submission of the Statement t the Landlord shall if so required by the Tenant make available for inspection at the Building during Business hours copies of all available vouchers receipts invoices or other documentary evidence sufficient to enable the Tenant to verify the accuracy of the Statement

- 5 During each Account Year the Tenant shall pay the Provisional Sum in respect of the Tenant's Proportion for each Account Year such sum to be paid by equal payments in advance on the Rent Days the first payment, being a proportionate sum in respect of the period from the commencement date of the Term to the Rent Day immediately after the date of this Lease, to be paid on the execution of this Lease.

- 6 When the Tenant's Proportion for each Account Year is finally fixed:

- 6.1 if it exceeds the Provisional Sum paid by the Tenant the excess shall be paid to the Landlord within 14 days of written demand;
- 6.2 if it is less than the Provisional Sum paid by the Tenant the overpayment shall be credited to the Tenant's account for the then current Account Year or if the Term has come to an end shall be repaid to the Tenant within 14 days

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7 The Expenditure shall not contain any costs expenses or outgoings
attributable to any period prior to the commencement of the Term

8 This Schedule shall continue to apply even though the Term has come to
an end but only in respect of the period down to the End of the Term.

9 If the Tenant disputes any demand made by the Landlord for payment of
monies under this Schedule, whether or not the dispute is to be
referred to a surveyor appointed pursuant to paragraph 10 below, it
shall, even though there is a dispute, pay the monies demanded to the
Landlord in accordance with this Schedule and on the final resolution
of the dispute (whether by a surveyor or otherwise) the Landlord shall
repay to the Tenant any excess which is found to have been paid.

10

10.1 If the parties are unable to resolve any such disagreement or
dispute either party may refer the matter for determination by
an independent surveyor to be agreed upon by the parties who
shall be a suitably qualified and experienced surveyor
generally recognised in the market as a specialist in shopping
centre service charge or (if the parties are unable to agree)
to an independent surveyor nominated at the request of either
party by or on behalf of the President for the time being of
the Royal Institution of Chartered Surveyors (whose nomination
and decision shall be binding on the parties

10.2 Such surveyor shall act in accordance with the provisions set
out in clauses 10.3 to 10.5

10.3 If the said surveyor should decide that the Landlord cannot
justify payment by the Tenant of the disputed sum then it
shall forthwith be repaid to the Tenant by the Landlord with
interest at 3% below the Interest Rate from payment until
repayment

10.4 The appointment of such surveyor shall be upon terms that he
shall afford to the Landlord and to the Tenant an opportunity
to make representations to him

10.5 If the surveyor shall die delay or become unwilling to act or
incapable of acting for any other reason and if on the
application of either the Landlord or the Tenant the President
for the time being of the Royal Institution of Chartered
Surveyors of the person acting on his behalf shall in his
discretion think fit he may by writing discharge the surveyor
and appoint another in his place

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11 Subject to paragraph 2 of this Schedule the inclusion of a service in
this Schedule does not impose any obligation on the Landlord to provide
it.

12 In the calculation of any capital expenditure to be included in the
Expenditure the Landlord shall take into account the deemed useful life
of the item and with regard to the Term of this Lease

13 The Services:

13.1 Inspecting, maintaining, repairing, amending, altering and
(where such items are beyond economic repair) reinstating or
renewing and (where appropriate) decorating, treating,
cleaning, heating, lighting and supplying the Utilities
(including hot water) to the Common Parts or the Building or
any part of it (but excluding any repairs, maintenance,
renewal or reinstatement of the roof of the Building or the

Excluded Parts) and for the avoidance of doubt (and without liability for the generality of the foregoing) to ensure the Premises are wind and water tight.

13.2 The provision, maintenance, repair, and (where such items are beyond economic repair) replacement, renewal and operation of any:

13.2.1 lifts and lift machinery;

13.2.2 air conditioning, air handling, heating, cooling and ventilation plant, machinery and systems;

13.2.3 window cleaning plant and machinery;

13.2.4 mechanical, electrical, lighting, security, CCTV, emergency, fire detection, fire prevention, fire fighting, alarm, telephone, public address, sprinkler, control and monitoring systems and equipment and any other systems, equipment or plant of any type;

13.2.5 notice boards, signage and marking out (whether to areas used by vehicles or otherwise) of any type;

13.2.6 escape routes; and

13.2.7 floor and wall coverings

that are at any time deemed reasonably necessary by the Landlord.

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13.3 Paying all existing and future rates, taxes, assessments, duties, charges, impositions and outgoings of any type charged, assessed or imposed on the Common Parts or the Building or on any part of them or on the owner or occupier of them or any of them or on the provision of the Services or the Utilities and whether or not of a capital or non-recurring nature.

13.4 Keeping books of account and management records in respect of the Services and the preparation and auditing of those accounts and the preparation and service of all notices and statements in respect of the Services.

13.5 Employing the Surveyor and any other surveyor, accountant, agent, solicitor or other professional or adviser employed or retained in connection with the Services or anything arising in relation to them.

13.6 Employing managing agents in respect of the Building but excluding where such agents collect rent in relation to other tenants in the Building.

13.7 Providing any services, equipment and staff that are at any time deemed reasonably necessary by the Landlord for the efficient care, security and administration of the Common Parts or the Building and/or the provision of the Services including staff remuneration and the payment of all National Health and Insurance contributions and other payments required by law to be paid by employers, pensions or other payments or benefits in kind (whether or not ex-gratia) and the provision of any clothing and materials required by any staff for the proper performance of their duties.

- 13.8 Maintaining third party, employers' liability, public liability and other insurances and insuring all apparatus, equipment and other items at any time used or kept in on or forming part of the Common Parts or the Building (but not any lettable parts of the same).
- 13.9 Inspecting and valuing the Common Parts or the Building and any items in or on them for insurance purposes but not more than once in any year.
- 13.10 The removal of refuse and the provision and maintenance of refuse disposal equipment.
- 13.11 The making and promulgation of any regulations for, or in connection with, the proper use of the Common Parts or the Building but not the enforcement of them.
- 13.12 Abating any private or public nuisance save where an individual tenant is in breach of its lease in relation to the same.

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- 13.13 Providing any additional service and making any other payment that the Landlord at any time deems reasonably necessary for, or incidental to, the provision of the Services or for the proper care, maintenance or good management of the Common Parts or the Building. provided that such services are carried out or provided in accordance with the principles of good estate management and provided further that the Expenditure shall not include:-
 - (a) any fees and expenses attributable to the collection of rents or other sums due from the tenants or occupiers of the Building
 - (b) the costs of reviews of rent and lettings at the Building
 - (c) the costs and expenses of making good any damage caused by any of the Insured Risks (or by terrorism where an Insured Risk) unless any of the insurance monies are irrecoverable as a result of any act or default of the Tenant any undertenant their respective employees agents or licensees or anyone at the Premises with their express or implied authority and provided further that if the insurance monies are insufficient to reinstate or rebuild the Premises the Landlord shall be entitled to recover the difference from the tenants at the Building by way of service charge

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THE SIXTH SCHEDULE - RESTAURANT CHARGE

1 Definitions

ACCOUNT YEAR: the annual period nominated by the Landlord for the

purposes of this Schedule;

THE RESTAURANT EXPENDITURE: all proper costs and expenses (excluding rent and business rates reasonably and properly incurred by the Landlord in providing a restaurant at the Building;

THE TENANT'S PROPORTION: the percentage of the Restaurant Expenditure properly attributable to the Premises as the Landlord decides acting reasonably and properly not exceeding 39.5% of the Restaurant Expenditure;

2 The Landlord will arrange for proper records to be kept in respect of the Restaurant Expenditure and will as soon as reasonably practicable after the end of each Account Year and in any event within 3 months thereof arrange for the preparation and submission to the Tenant of an account showing a summary of the Restaurant Expenditure for the Account Year itemising the different heads of expenditure together with details of the Tenant's Proportion.

3

3.1 The Tenant shall pay a provisional sum in respect of the Tenant's Proportion for each Account Year which in the case of the first Account Year shall be Pound Sterling 65,000 exclusive of VAT and in respect of each subsequent Account Year is to be a sum equal to the Tenant's Proportion relating to the Account Year immediately preceding the relevant Account Year by equal payments in advance on the usual quarter days, being a proportionate sum in respect of the period from the commencement date of the Term to the next usual quarter day after that to be paid on the execution of this Lease.

3.2 When the Tenant's Proportion for each Account Year is finally fixed:

3.2.1 if it exceeds the provisional sum paid by the Tenant the excess shall be paid to the Landlord within 14 days of written demand;

3.2.2 if it is less than the provisional sum paid by the Tenant the overpayment shall be reimbursed to the Tenant within 14 days of demand.

4 If there is any dispute in relation to this Schedule, this dispute will be referred at the request of either party to a professionally qualified surveyor who shall act as an arbitrator under the provisions of the Arbitration Act 1996, the identity of such surveyor to be agreed between the

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parties or in the absence of agreement by the President for the time being of the Royal Institution of Chartered Surveyors or his duly authorised deputy.

5 The Tenant may at any time by serving not less than one month's notice in writing on the Landlord terminate its use of the Restaurant and on the expiry of such notice its obligations under this Schedule will cease without prejudice to any antecedent breach of the provisions of this Schedule.

6 The Landlord shall be under no obligation to provide any particular standard of service to the Tenant and shall have no liability to the Tenant for any times during which the Restaurant is unavailable for use.

7 The Tenant agrees that the Landlord shall be at liberty to cease running the Restaurant at any time whether temporarily or permanently and the Tenant shall have no liability under this schedule to pay for any expenditure incurred by the Landlord whilst the Restaurant is not operational.

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EXECUTED as a Deed (but not delivered)
until the date hereof) by)
IGE ENERGY SERVICES (UK) LIMITED)
acting by a director and its secretary)
or two directors)

Director

/s/ Auysan Clem [Illegible signature]

Secretary/Director

/s/ R. Cel [Illegible signature]

EXECUTED as a Deed (but not delivered)
until the date hereof) by)
MANHATTAN ASSOCIATES LIMITED)
acting by a director and its secretary)
or two directors)

Director

Secretary/Director

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SIGNED as a Deed (but not delivered)
until the date hereof) on behalf of)
MANHATTAN ASSOCIATES, INC.)

a company incorporated in Georgia,)
United States of America)
by [full names of people signing])
being [a] person[s] who [is]/[are] in)
accordance with the laws of that territory)
acting under the authority of the Company)

Authorised Signatory

[Authorised Signatory]

SEPARATION AND NON-COMPETITION AGREEMENT

This Separation and Non-Competition Agreement is made this 25th day of January, 2005 by and between Manhattan Associates, Inc. ("Company") and Ramesh Srinivasan ("Executive").

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, and in consideration of the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

- 1) Severance and Separation from Employment: Executive and Company have agreed that Executive will end his employment on March 31, 2005. However, on January 15, 2005, Executive's job description as well as scope and nature of Executive's employment will change. Executive will only be reasonably available upon the prior request of Company to perform services for Company consistent with Executive's prior job responsibilities. Between January 16, 2005 and March 31, 2005 Executive may work for or with other entities as long as he does not perform competitive services for such entity during such period or otherwise violate any provision of this Agreement. On March 31, 2005, Executive agrees to return to Company any and all Company property. Executive shall continue to receive his current base salary through March 31, 2005, subject to all standard deductions. Executive will likewise be accorded all other Employee Benefits he has been provided by the Company prior to this date and shall continue to be indemnified by Company in his capacity as an Officer. Executive's options (and/or restricted shares) under the Manhattan Associates Stock Option Plan shall continue to vest through March 31, 2005 as reflected on the Optionee Statement of Company attached hereto. All vested stock options (and/or restricted shares) not exercised will expire April 30, 2005 pursuant to Manhattan Associates Stock Option Plan. Executive agrees to waive any further separation payments or any other rights relating to his employment agreement. This Agreement governs the terms by which Executive has and shall receive certain payments in return for a promise not to compete with the business of the Company pursuant to paragraph 3.

- 2) Release of Claims. For and in consideration of the promises, covenants, and warranties contained herein, and other good and valuable consideration, the sufficiency of which is hereby expressly acknowledged, on behalf of himself, his heirs, administrators, executors, successors and assigns, Executive does hereby release, remise, acquit and forever discharge Company and each of Company's successors, assigns, subsidiaries, affiliates, and parent corporations, and each and all of Company's respective past and present officers, directors, agents, servants, employees, and attorneys, from any and all rights, demands, claims, damages, losses, costs, expenses, actions and causes of action whatsoever, including but not limited to claims for compensation, stock options, stock rights, wages, benefits, bonuses, breach of contract, intentional infliction of emotional distress, defamation, or any other torts or personal injury, or claims under any municipal, state or federal statute, regulation or ordinance, including but not limited to The Civil Rights Acts 1866, 1871, 1964 and 1991, the Age Discrimination in Employment Act of

1967, the Older Workers Benefit Protection Act, the Americans with Disabilities Act, The Rehabilitation Act, the Family and Medical Leave Act, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, the Occupational and Safety and Health Act, the Immigration Reform and Control Act of 1986, Georgia's fair employment practices laws, or claims in tort or in contract, at law

or in equity known or unknown, contingent or fixed, suspected or unsuspected, arising out of or in any way related to Executive's employment or termination of employment with Company, and/or any other matter or claim occurring or existing at any time from the beginning of time through the date of the execution of this Agreement. Employee understands and agrees that by signing this Agreement, he is giving up any right which he may have under federal, state, or municipal law, and is hereby covenanting not to file complaints or lawsuits or to assert any claims against Company or any affiliates, directors or employees concerning any events relating to his employment or termination of employment with Company. Executive understands that he shall have the right to have twenty-one (21) days from the date of receipt of this Agreement to review this document, and within seven (7) days of signing this agreement to revoke this Agreement. Employer agrees and Employee understands that he does not waive any rights or claims that may arise after the date this Agreement is executed. The parties have had access to legal counsel of their choosing, and they acknowledge they fully understand the terms and conditions herein and agree to be bound and subject thereto. Executive's release hereunder does not release Company from any of its obligations under: (i) this Separation and Non-Competition Agreement, (ii) the Manhattan Associates Stock Option Plan, or (iii) the Indemnification Agreement between Company and Executive dated September 2, 2004.

- 3) Non-Competition. As a condition to any payment based on termination, Executive agrees that he will not work for any of the Fourteen (14) direct competitors to Company listed in Schedule A for a period of Twelve (12) months from January 15, 2005 without written consent of Employer. Executive further agrees that he will not (without Company's prior written consent) recruit or hire, another Executive or employee of Employer for a period of Twelve (12) months from January 15, 2005 or cause or assist (without Company's prior written consent) another Executive or employee of Employer to be hired by any of the Fourteen (14) direct competitors to Company listed in Schedule A for a period of Twelve (12) months from January 15, 2005.
- 4) Effect of violations by Executive. Executive agrees and understands that any action by him in violation of this Agreement shall void Employer's payment to the Executive of all severance monies and benefits provided for herein and shall require immediate repayment by the Executive to Employer.
- 5) Severability. If any provision, or portion thereof, of this Agreement is held invalid or unenforceable under applicable statute or rule of law, only that provision shall be deemed omitted from this Agreement, and only to the extent to which it is held invalid and the remainder of the Agreement shall remain in full force and effect.
- 6) Law and Enforcement. This Agreement shall be governed under the laws of the United States.

I have read this Agreement, I understand its contents, and I willingly, voluntarily, and knowingly accept and agree to the terms and conditions of this Agreement. I acknowledge and represent that I have received a copy of this Agreement on January 25, 2005.

EXECUTIVE:

/s/ Ramesh Srinivasan

1/25/05

Ramesh Srinivasan

Date

EMPLOYER:

/s/ Peter F. Sinisgalli

1/25/05

Peter F. Sinisgalli
President and Chief Executive Officer

Date

SCHEDULE A

SSA Global

Highjump/3M

Oracle

MARC

PeopleSoft

Red Prairie

SAP

Yantra

Manugistics

i2

Catalyst

Provia

Optum

Retailex

MANHATTAN ASSOCIATES, INC. AND ITS SUBSIDIARIES

Manhattan Associates Limited
Manhattan Associates Europe B.V.
Manhattan Associates France SARL
Manhattan Associates GmbH
Manhattan Associates KK
Manhattan Associates Software (Shanghai), Co. Ltd.
Manhattan Associates Pty Ltd.
Manhattan Associates Software Pte Ltd.
Manhattan Associates (India) Development Centre Private Limited

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statements of Manhattan Associates, Inc. listed below of our reports dated March 16, 2005, with respect to the consolidated financial statements and schedule of Manhattan Associates, Inc. and subsidiaries, Manhattan Associates, Inc. management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of Manhattan Associates, Inc. and subsidiaries, included in this Annual Report (Form 10-K) for the year ended December 31, 2004.

1. Registration Statement on Form S-8 pertaining to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (File No. 333-68968);
2. Registration Statement on Form S-8 pertaining to the Manhattan Associates, Inc. 1998 Stock Incentive Plan (File No. 333-45802);
3. Registration Statement on Form S-8 pertaining to the Manhattan Associates, LLC Option Plan, Manhattan Associates, Inc. Stock Incentive Plan and Other Stock Options (File No. 333-60635);
4. Registration Statement on Form S-8 pertaining to the Manhattan Associates, Inc. Stock Incentive Plan (File No. 333-105913).

/s/ Ernst & Young LLP

Atlanta, Georgia
March 16, 2005

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

PURSUANT TO RULE 13a-14(a)/15d-14(a), AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Peter F. Sinisgalli, Chief Executive Officer of Manhattan Associates, Inc. (the "registrant"), certify that:

1. I have reviewed this annual report on Form 10-K of the registrant;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 annual 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 principals;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or

other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 16th day of March, 2005.

/s/ Peter F. Sinisgalli

Peter F. Sinisgalli, Chief Executive Officer

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO RULE 13a-14(a)/15d-14(d), AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Steven R. Norton, Chief Financial Officer of Manhattan Associates, Inc. (the "registrant"), certify that:

1. I have reviewed this annual report on Form 10-K of the registrant;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this annual 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 annual 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 principals;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or

other employees who have a significant role in the registrant's internal control over financial reporting.

Dated this 16th day of March, 2005.

/s/ Steven R. Norton

Steven R. Norton, Chief Financial Officer

CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER

PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

This Certificate is being delivered pursuant to the requirements of Section 1350 of Chapter 63 (Mail Fraud) of Title 18 (Crimes and Criminal Procedures) of the United States Code and shall not be relied on by any person for any other purpose.

The undersigned, who are the Chief Executive Officer and Chief Financial Officer, respectively, of Manhattan Associates, Inc. (the "Company"), hereby each certify that, to the undersigned's knowledge:

1. the Annual Report on Form 10-K of the Company for the twelve month period ended December 31, 2004 (the "Report"), which accompanies this Certification, fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. all information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated this 16th day of March, 2005.

/s/ Peter F. Sinisgalli

Peter F. Sinisgalli, Chief Executive Officer

/s/ Steven R. Norton

Steven R. Norton, Chief Financial Officer

In accordance with SEC Release No. 34-47986, this Exhibit is furnished to the SEC as an accompanying document and is not deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference into any filing under the Securities Act of 1933. A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to the registrant and will be retained by the registrant and furnished to the Securities and Exchange Commission or its staff upon request.

SAFE HARBOR COMPLIANCE STATEMENT FOR FORWARD-LOOKING STATEMENTS

You should consider the following factors in evaluating our business or an investment in our common stock. If any of the following or other risks actually occurs, our business, financial condition and results of operations could be adversely affected. In such case, the trading price of our common stock could decline.

OUR OPERATING RESULTS ARE DIFFICULT TO PREDICT AND COULD CAUSE OUR STOCK PRICE TO FALL.

Our quarterly revenue and operating results are difficult to predict and may fluctuate significantly from quarter to quarter. If our quarterly revenue or operating results fall below the expectations of investors or public market analysts, the price of our common stock could fall substantially. Our quarterly revenue is difficult to forecast for several reasons, including the following:

- the varying sales cycle for our products and services from customer to customer;
- demand for our products;
- customers' budgeting and purchasing cycles;
- delays in our implementations at customer sites;
- timing of hiring new services employees and the rate at which these employees become productive;
- development and performance of our distribution channels; and
- timing of any acquisitions and related costs.

As a result of these and other factors, our license revenue is difficult to predict. Because our revenue from services is largely correlated to our license revenue, a decline in license revenue could also cause a decline in our services revenue in the same quarter or in subsequent quarters. In addition, an increase or decrease in hardware sales, which provide us with lower gross margins than sales of software licenses or services, may cause variations in our quarterly operating results.

Most of our expenses, including employee compensation and rent, are relatively fixed. In addition, our expense levels are based, in part, on our expectations regarding future revenue increases. As a result, any shortfall in revenue in relation to our expectations could cause significant changes in our operating results from quarter to quarter and could result in quarterly losses. As a result of these factors, we believe that period-to-period comparisons of our revenue levels and operating results are not necessarily meaningful. Although we have grown significantly during the past six years, we do not believe that our prior growth rates are sustainable or a good indicator of future operating results. You should not rely on our historical quarterly revenue and operating results to predict our future performance.

DELAYS IN IMPLEMENTATIONS OF OUR PRODUCTS COULD ADVERSELY IMPACT US.

Due to the size and complexity of most of our software implementations, our implementation cycle can be lengthy and may result in delays. These delays could cause customer dissatisfaction, which could harm our reputation. Additional delays could result if we fail to attract, train and retain services personnel, or if our alliance companies fail to commit sufficient resources towards implementing our software. These delays and resulting customer dissatisfaction could harm our reputation and cause our revenue to decline.

OUR ABILITY TO SUCCESSFULLY COMPETE WITH OTHER COMPANIES MAY FAIL.

We compete in markets that are intensely competitive and are expected to become more competitive as current competitors expand their product offerings and new competitors enter the market. Our current competitors come from many segments of the software industry and offer a variety of solutions directed at various aspects of the extended supply chain, as well as the enterprise as a whole. We face competition for product sales from:

- the corporate information technology departments of current or potential customers capable of internally developing solutions;
- supply chain execution vendors, including Catalyst International, Inc., RedPrairie Corporation, Optum, Inc., Provia Software, Inc., Highjump (3M) and SSA Global Technologies, Inc. among others;
- Enterprise resource planning (ERP) or supply chain management (SCM) application vendors with products or modules of their product suite offering varying degrees of supply chain execution (SCE) functionality, such as Retek, Inc., Manugistics Group, Inc., i2 Technologies, Oracle Corp. and SAP AG; and
- smaller independent companies that have developed or are attempting to develop distribution center management software that competes with our SCE solutions.

We may face competition in the future from ERP and SCM applications vendors and business application software vendors that may broaden their product offerings by internally developing or by acquiring or partnering with independent developers of supply chain execution software. To the extent such ERP and SCM vendors develop or acquire systems with functionality comparable or superior to our products, their significant installed customer bases, long-standing customer relationships and ability to offer a broad solution could provide a significant competitive advantage over our products. In addition, it is possible that new competitors or alliances among current and new competitors may emerge and rapidly gain significant market share. Increased competition could result in price reductions, fewer customer orders, reduced gross margins and loss of market share. Both Oracle and SAP have entered the market for SCM applications. We believe that the domain expertise required to compete provides us with a competitive advantage and is a significant barrier to market entry. However, some of our competitors have significant resources at their disposal, and the degree to which we will compete with these new products in the marketplace is still undetermined.

Many of our competitors and potential competitors have longer operating histories, significantly greater financial, technical, marketing and other resources, greater name recognition and a larger installed base of customers than we do. In order to be successful in the future, we must continue to respond promptly and effectively to technological change and competitors' innovations. We cannot assure you that our current or potential competitors will not develop products comparable or superior in terms of price and performance features to those developed by us. In addition, we cannot assure you that we will not be required to make substantial additional investments in connection with our research, development, marketing, sales and customer service efforts in order to meet any competitive threat, or that we will be able to compete successfully in the future. Increased competition may result in reductions in market share, pressure for price reductions and related reductions in gross margins, any of which could materially and adversely affect our ability to achieve our financial and business goals. We cannot give assurance that in the future we will be able to successfully compete against current and future competitors.

OUR PERFORMANCE MAY BE NEGATIVELY IMPACTED BY MACRO-ECONOMIC OR OTHER EXTERNAL INFLUENCES.

Beginning in the fourth quarter of 2000, a declining United States economy began to adversely impact the performances of many businesses particularly within the technology sector. We are a technology company selling

technology-based solutions with total pricing, including software and services,

in many cases, exceeding \$1.0 million. Reductions in the capital budgets of our customers and prospective customers could have an adverse impact on our ability to sell our solutions. During 2004, we continued to experience effects from a weak spending environment for information technology in both the United States and Europe, in the form of delayed and cancelled buying decisions by customers for our software, services and hardware, deferrals by customers of service engagements previously scheduled and pressure by our customers and competitors to discount our offerings. We believe that prolonged continuation of or further deterioration in the current business climates, and the continued delay in capital spending within the United States and/or other geographic regions in which we operate, principally the United Kingdom and continental Europe, could have a material adverse impact on our business and our ability to compete, and is likely to further intensify our intensely competitive markets.

OUR INTERNATIONAL OPERATIONS HAVE MANY ASSOCIATED RISKS.

We continue to expand our international operations, and these efforts require significant management attention and financial resources. We may not be able to successfully penetrate international markets or if we do, there can be no assurance that we will grow these markets at the same rate as in North America. Because of the complex nature of this expansion, it may adversely affect our business and operating results.

In the last three years, we opened new international offices in China, Germany, France, Australia, India, Singapore and Japan. These openings constituted a substantial expansion of our international presence, which, prior to 2002, consisted principally of offices in the United Kingdom and the Netherlands. We have committed resources to the opening and integration of international sales offices and the expansion of international sales and support channels. Our efforts to develop and expand international sales and support channels may not be successful. International sales are subject to many risks, including the following:

- difficulties in staffing and managing foreign operations;
- difficulties in managing international systems integrators;
- difficulties and expenses associated with complying with a variety of foreign laws;
- difficulties in producing localized versions of our products;
- import and export restrictions and tariffs;
- difficulties in collecting accounts receivable;
- unexpected changes in regulatory requirements;
- currency fluctuations; and
- political and economic instability abroad.

Seasonal fluctuations may arise from the lower sales that typically occur during the summer months in Europe and other parts of the world. Additionally, our moves into other geographical markets may give rise to greater foreign currency exchange risk, in addition to further concentration of risk in Europe.

OUR OPERATING RESULTS ARE SUBSTANTIALLY DEPENDENT ON ONE LINE OF BUSINESS.

We continue to derive a substantial portion of our revenues from sales of our software and related services and hardware. Any factor adversely affecting the markets for SCE solutions could have an adverse effect on our business, financial condition and results of operations. Accordingly, our future operating

results will depend on the demand for our products and related services and hardware by our customers, including new and enhanced releases that we subsequently introduce. We cannot assure you that the market will continue to demand our current products or that we will be successful in marketing any new or enhanced products. If our competitors release new products that are superior to our products in performance or price, demand for our products may decline. A decline in demand for our products as a result of competition, technological change or other factors would reduce our total revenues and harm our ability to maintain profitability.

OUR FAILURE TO MANAGE GROWTH OF OPERATIONS MAY ADVERSELY AFFECT US.

We plan to continue to increase the scope of our operations domestically and internationally. This growth may place a significant strain on our management systems and resources. If we are unable to manage our growth effectively, our business, financial condition and results of operations will be adversely affected. We may further expand domestically or internationally through internal growth or through acquisitions of related companies and technologies. For us to effectively manage our growth, we must continue to:

- maintain continuity in our executive officers;
- improve our operational, financial and management controls;
- improve our reporting systems and procedures;
- enhance management and information control systems;
- develop the management skills of our managers and supervisors; and
- train and motivate our employees.

OUR INABILITY TO ATTRACT, INTEGRATE AND RETAIN MANAGEMENT AND OTHER PERSONNEL MAY ADVERSELY AFFECT US.

Our success greatly depends on the continued service of our executives, as well as our other key senior management, technical and sales personnel. In 2004 we entered into an employment agreement with Peter F. Sinisgalli, which provides for Mr. Sinisgalli to serve as our Chief Executive Officer. Our success will depend on the ability of any new executive officers, including Mr. Sinisgalli, to integrate themselves into our daily operations, to gain the trust and confidence of our other employees and to work together as a team. The loss of any of our senior management or other key professional services, research and development, sales and marketing personnel, particularly if lost to competitors, could impair our ability to grow our business. We do not maintain key man life insurance on any of our executive officers. Our future success will depend in large part upon our ability to attract, retain and motivate highly skilled employees. We face significant competition for individuals with the skills required to perform the services we offer. We cannot assure you that we will be able to attract and retain sufficient numbers of these highly skilled employees or to motivate them. Because of the complexity of the SCE market, we may experience a significant time lag between the date on which technical and sales personnel are hired and the time at which these persons become fully productive.

FLUCTUATIONS IN OUR HARDWARE SALES MAY ADVERSELY AFFECT US.

A portion of our revenue in any period is comprised of the resale of a variety of third-party hardware products to purchasers of our software. Our customers may choose to purchase this hardware directly from manufacturers or distributors of these products. We view sales of hardware as non-strategic. We perform this service to our customers seeking a single source for their supply chain execution needs. Hardware sales are difficult to forecast and fluctuate from quarter to quarter, leading to unusual comparisons of total revenue and fluctuations in profits. Revenue from hardware sales as a percentage of total revenue decreased in 2002, 2003 and 2004, and may continue to decrease in the future. If we are not

able to increase our revenue from software licenses and services or maintain our hardware revenue, our profitability may be adversely affected.

OUR EMPLOYEE RETENTION AND HIRING MAY BE HINDERED BY IMMIGRATION RESTRICTIONS.

A number of our employees are Indian nationals employed pursuant to non-immigrant work-permitted visas issued by the United States Immigration and Naturalization Service, or INS. There have been many changes within the INS as a result of the events of September 11, 2001. We anticipate that there will be additional restrictions placed on non-immigrant work-permitted visas, and we do not know how such changes may affect us. In 2003, the INS reduced the number of new non-immigrant work-permitted visas that will be issued each year. In years in which this limit is reached, we may be unable to retain or hire additional foreign employees. If we are unable to retain or hire additional foreign employees, we may incur additional labor costs and expenses or not have sufficient qualified personnel to carry on our business, which could harm our ability to successfully continue and grow our business.

OUR BUSINESS AND OUR PROFITABILITY MAY BE ADVERSELY AFFECTED IF WE CANNOT INTEGRATE ACQUIRED COMPANIES.

We acquired Intrepa, L.L.C. in October 2000, Logistics.com, Inc. in December 2002, ReturnCentral, Inc. in June 2003, Streamsoft, L.L.C. in October 2003 and Avere, Inc. in January 2004. We may from time to time acquire companies with complementary products and services. These acquisitions will continue to expose us to increased risks and costs, including the following:

- difficulties in assimilating new operations and personnel;
- diverting financial and management resources from existing operations; and
- difficulties in integrating acquired technologies.

We may not be able to generate sufficient revenue from any of these acquisitions to offset the associated acquisition costs. We will also be required to maintain uniform standards of quality and service, controls, procedures and policies. Our failure to achieve any of these standards may hurt relationships with customers, employees and new management personnel. In addition, future acquisitions may result in additional issuances of stock that could be dilutive to our shareholders.

We may also evaluate joint venture relationships with complementary businesses. Any joint venture we enter into would involve many of the same risks posed by acquisitions, particularly the following:

- risks associated with the diversion of resources;
- the inability to generate sufficient revenue;
- the management of relationships with third parties; and
- potential additional expenses.

Many acquisition candidates have significant intangible assets, and an acquisition of these businesses would likely result in significant amounts of goodwill and other intangible assets. Under new accounting rules, goodwill and certain other intangible assets will no longer be amortized to income, but will be subject to at least annual impairment reviews. If the acquisitions do not perform as planned, future charges to income arising from such impairment reviews could be significant. Likewise, future quarterly and annual earnings could be significantly adversely affected. In addition, these acquisitions could involve acquisition-related charges, such as one-time acquired research and development charges. During the third

quarter of 2003, we recorded expenses of \$885,000 relating to fees incurred in connection with two potential acquisitions that we decided not to consummate.

OUR GROWTH IS DEPENDENT UPON THE SUCCESSFUL DEVELOPMENT OF OUR DIRECT AND INDIRECT SALES CHANNELS.

We believe that our future growth also will depend on developing and maintaining successful strategic relationships with systems integrators and other technology companies. Our strategy is to continue to increase the proportion of customers served through these indirect channels. We are currently investing, and plan to continue to invest, significant resources to develop these indirect channels. This investment could adversely affect our operating results if these efforts do not generate license and service revenue necessary to offset this investment. Also, our inability to partner with other technology companies and qualified systems integrators could adversely affect our results of operations. Because lower unit prices are typically charged on sales made through indirect channels, increased indirect sales could reduce our average selling prices and result in lower gross margins. In addition, sales of our products through indirect channels will reduce our consulting service revenues, as the third-party systems integrators provide these services. As indirect sales increase, our direct contact with our customer base will decrease, and we may have more difficulty accurately forecasting sales, evaluating customer satisfaction and recognizing emerging customer requirements. In addition, these systems integrators and third-party software providers may develop, acquire or market products competitive with our products.

Our strategy of marketing our products directly to customers and indirectly through systems integrators and other technology companies may result in distribution channel conflicts. Our direct sales efforts may compete with those of our indirect channels and, to the extent different systems integrators target the same customers, systems integrators may also come into conflict with each other. Any channel conflicts that develop may have a material adverse effect on our relationships with systems integrators or harm our ability to attract new systems integrators.

OUR TECHNOLOGY MUST BE ADVANCED IF WE ARE TO REMAIN COMPETITIVE.

The market for our products is characterized by rapid technological change, frequent new product introductions and enhancements, changes in customer demands and evolving industry standards. Our existing products could be rendered obsolete if we fail to continue to advance our technology. We have also found that the technological life cycles of our products are difficult to estimate, partially because of changing demands of other participants in the supply chain. We believe that our future success will depend upon our ability to continue to enhance our current product line while we concurrently develop and introduce new products that keep pace with competitive and technological developments. These developments require us to continue to make substantial product development investments. Although we are presently developing a number of product enhancements to our product sets, we cannot assure you that these enhancements will be completed on a timely basis or gain customer acceptance.

OUR LIABILITY TO CLIENTS MAY BE SUBSTANTIAL IF OUR SYSTEMS FAIL.

Our products are often critical to the operations of our customers' businesses and provide benefits that may be difficult to quantify. If our products fail to function as required, we may be subject to claims for substantial damages. Courts may not enforce provisions in our contracts that would limit our liability or otherwise protect us from liability for damages. Although we maintain general liability insurance coverage, including coverage for errors or omissions, this coverage may not continue to be available on reasonable terms or in sufficient amounts to cover claims against us. In addition, our insurer may disclaim coverage as to any future claim. If claims exceeding the available insurance coverage are successfully asserted against us, or our insurer imposes premium increases, large deductibles or co-insurance requirements on us, our business and results of operations could be adversely affected.

OUR SOFTWARE MAY CONTAIN UNDETECTED ERRORS OR "BUGS," RESULTING IN HARM TO OUR REPUTATION AND OPERATING RESULTS.

Software products as complex as those offered by us might contain undetected errors or failures when first introduced or when new versions are released. We cannot assure you, despite testing by us and by current and prospective customers, that errors will not be found in new products or product enhancements after commercial release. Any errors found may cause substantial harm to our reputation and result in additional unplanned expenses to remedy any defects as well as a loss in revenue.

OUR FAILURE TO ADEQUATELY PROTECT OUR PROPRIETARY RIGHTS MAY ADVERSELY AFFECT US.

Our success and ability to compete is dependent in part upon our proprietary technology. We cannot assure you that we will be able to protect our proprietary rights against unauthorized third-party copying or use. We rely on a combination of copyright, trademark and trade secret laws, as well as confidentiality agreements and licensing arrangements, to establish and protect our proprietary rights. Despite our efforts to protect our proprietary rights, existing copyright, trademark and trade secret laws afford only limited protection. In addition, the laws of certain foreign countries do not protect our rights to the same extent, as do the laws of the United States. Attempts may be made to copy or reverse engineer aspects of our products or to obtain and use information that we regard as proprietary. Any infringement of our proprietary rights could negatively impact our future operating results. Furthermore, policing the unauthorized use of our products is difficult, and litigation may be necessary in the future to enforce our intellectual property rights, to protect our trade secrets or to determine the validity and scope of the proprietary rights of others. Litigation could result in substantial costs and diversion of resources and could negatively impact our future operating results.

OUR LIABILITY FOR INTELLECTUAL PROPERTY CLAIMS CAN BE COSTLY AND RESULT IN THE LOSS OF SIGNIFICANT RIGHTS.

It is possible that third parties will claim that we have infringed their current or future products. We expect that SCE software developers like us will increasingly be subject to infringement claims as the number of products grows. Any claims, with or without merit, could be time-consuming, result in costly litigation, cause product shipment delays or require us to enter into royalty or licensing agreements, any of which could negatively impact our operating results. We cannot assure you that these royalty or licensing agreements, if required, would be available on terms acceptable to us, if at all. We cannot assure you that legal action claiming patent infringement will not be commenced against us, or that we would prevail in litigation given the complex technical issues and inherent uncertainties in patent litigation. If a patent claim against us was successful and we could not obtain a license on acceptable terms or license a substitute technology or redesign to avoid infringement, we may be prevented from distributing our software or required to incur significant expense and delay in developing non-infringing software.

OUR BUSINESS MAY REQUIRE ADDITIONAL CAPITAL.

We may require additional capital to finance our growth or to fund acquisitions or investments in complementary businesses, technologies or product lines. Our capital requirements may be impacted by many factors, including:

- demand for our products;
- the timing of and extent to which we invest in new technology;
- the timing of and extent to which we acquire other companies;
- the level and timing of revenue;
- the expenses of sales and marketing and new product development;

- the success and related expense of increasing our brand awareness;
- the extent to which competitors are successful in developing new products and increasing their market share; and
- the costs involved in maintaining and enforcing intellectual property rights.

To the extent that our resources are insufficient to fund our future activities, we may need to raise additional funds through public or private financing. However, additional funding, if needed, may not be available on terms attractive to us, or at all. Our inability to raise capital when needed could have a material adverse effect on our business, operating results and financial condition. If additional funds are raised through the issuance of equity securities, the percentage ownership of our company by our current shareholders would be diluted.

OUR STOCK PRICE HAS BEEN HIGHLY VOLATILE.

The trading price of our common stock has fluctuated significantly since our initial public offering in April 1998. In addition, the trading price of our common stock could be subject to wide fluctuations in response to various factors, including:

- quarterly variations in operating results;
- announcements of technological innovations or new products by us or our competitors;
- developments with respect to patents or proprietary rights; and
- changes in financial estimates by securities analysts.

In addition, the stock market has experienced volatility that has particularly affected the market prices of equity securities of many technology companies and that often has been unrelated or disproportionate to the operating performance of these companies. These broad market fluctuations may adversely affect the market price of our common stock.

INVESTOR CONFIDENCE AND SHARE VALUE MAY BE ADVERSELY IMPACTED AS A RESULT OF THE INABILITY OF OUR INDEPENDENT AUDITORS TO PROVIDE US WITH THEIR ATTESTATION REGARDING OUR MAINTENANCE OF EFFECTIVE INTERNAL CONTROL OVER FINANCIAL REPORTING.

The Securities and Exchange Commission, as directed by Section 404 of the Sarbanes-Oxley Act of 2002, adopted rules requiring public companies to include a report of our management's assessment of the effectiveness of our internal control over financial reporting in our annual reports on Form 10-K. In addition, our independent auditors must attest to and report on management's assessment of the effectiveness of the company's internal control over financial reporting.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2004, and this assessment identified one material weakness in our internal controls. A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. The material weakness related to revenue recognition for sales contracts with multiple revenue elements. We have historically been able to establish vendor specific objective evidence ("VSOE") of fair value of our professional services and customer support services and software enhancement subscriptions ("maintenance") but not for our software licenses and, therefore, typically allocate arrangement consideration using the residual method and recognize software license revenue upon the execution of the software license

contract, provided that all other revenue recognition criteria have been met. Although various preventive controls have been in place, our management believes that additional detective controls should be established to ensure that professional services and maintenance, when sold separately, are not being offered at prices substantially different than the established VSOE of fair market value for those services. If substantial variations from VSOE of fair value exist, then VSOE of fair value does not exist and we would be required to recognize the revenue from software license fees ratably over the service period, rather than at the time of contract execution. As a result of the identification of this material weakness, our independent auditors were unable to provide us with their attestation regarding our maintenance of effective internal control over financial reporting as of December 31, 2004. This inability could result in an adverse reaction in the financial marketplace due to a loss of investor confidence in the reliability of our financial statements, which ultimately could negatively impact the market price of our shares.

OUR ARTICLES OF INCORPORATION AND BYLAWS AND GEORGIA LAW MAY INHIBIT A TAKEOVER OF OUR COMPANY.

Our basic corporate documents and Georgia law contain provisions that might enable our management to resist a takeover of our company. These provisions might discourage, delay or prevent a change in the control of our company or a change in our management. These provisions could also discourage proxy contests and make it more difficult for you and other shareholders to elect directors and take other corporate actions. The existence of these provisions could also limit the price that investors might be willing to pay in the future for shares of our common stock.