FORM 10-Q

Orion Marine Group Inc - ORN

Filed: August 06, 2009 (period: June 30, 2009)

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

Table of Contents

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

FORM 10-Q

(Mark One)
[√] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended June 30, 2009
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:
1-33891

ORION MARINE GROUP, INC.
(Exact name of registrant as specified in its charter)

DELAWARE	**26-0097459**
(State or other jurisdiction of Incorporation or organization)	(I.R.S. Employer Identification Number)
12550 Fuqua Houston, Texas	**77034**
(Address of principal executive offices)	(Zip Code)

(713) 852-6500
(Registrant's telephone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every interactive date file required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files
Yes [ ] No [ ]

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of "Large Accelerated Filer," "Accelerated Filer," and "Smaller Reporting Company" in Rule 12b-2 of the Exchange Act. (Check one)
Large accelerated filer [ ] Accelerated filer [√] Non-accelerated filer [ ] Smaller reporting company [ ]

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

As of August 1, 2009, 21,928,742 shares of the Registrant's common stock, $0.01 par value, were outstanding.

ORION MARINE GROUP, INC.
Quarterly Report on Form 10-Q for the period ended June 30, 2009
INDEX

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Balance Sheets
(Unaudited)
(In Thousands, Except Share and Per Share Information)

	June 30, 2009	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 44,003	$ 25,712
Accounts receivable:		
Trade, net of allowance of $1,203 and $800, respectively	28,670	37,806
Retainage	8,206	5,719
Other	514	691
Income taxes receivable	2,513	4,017
Inventory	1,528	738
Deferred tax asset	1,630	1,319
Costs and estimated earnings in excess of billings	7,568	7,228
Prepaid expenses and other	1,743	3,207
Total current assets	96,375	86,437
Property and equipment, net	81,011	84,154
Goodwill	12,096	12,096
Intangible assets, net of accumulated amortization	1,147	3,556
Other assets	66	79
Total assets	$ 190,695	$ 186,322
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current portion of long-term debt	$ 3,500	$ 5,909
Accounts payable:		
Trade	9,382	13,276
Retainage	356	389
Accrued liabilities	10,324	8,176
Taxes payable	630	--
Billings in excess of costs and estimated earnings	7,417	11,666
Total current liabilities	31,609	39,416
Long-term debt, less current portion	26,466	28,216
Other long-term liabilities	522	422
Deferred income taxes	11,731	12,286
Deferred revenue	343	371
Total liabilities	70,671	80,711
Commitments and contingencies		
Stockholders' equity:		
Common stock -- $0.01 par value, 50,000,000 authorized, 21,940,388 issued; 21,928,742 outstanding	219	216
Treasury stock, 11,646 and 11,646 shares, at cost	--	--
Additional paid-in capital	59,171	55,388
Retained earnings	60,634	50,007
Total stockholders' equity	120,024	105,611
Total liabilities and stockholders' equity	$ 190,695	$ 186,322

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Statements of Income
(Unaudited)
(In Thousands, Except Share and Per Share Information)

	Three months ended June 30,		Six months ended June 30,	
	2009	**2008**	**2009**	**2008**
Contract revenues	$ 70,753	$ 67,070	$ 140,793	$ 119,661
Costs of contract revenues	51,878	57,240	107,644	99,759
Gross profit	18,875	9,830	33,149	19,902
Selling, general and administrative expenses	8,739	5,695	15,939	11,522
Income from operations	10,136	4,135	17,210	8,380
Interest (income) expense				
Interest income	(95)	(119)	(198)	(268)
Interest expense	231	364	437	490
Interest expense, net	136	245	239	222
Income before income taxes	10,000	3,890	16,971	8,158
Income tax expense	3,714	1,489	6,344	2,911
Net income	$ 6,286	$ 2,401	$ 10,627	$ 5,247
Basic earnings per share	$ 0.29	$ 0.11	$ 0.49	$ 0.24
Diluted earnings per share	$ 0.28	$ 0.11	$ 0.48	$ 0.24
Shares used to compute earnings per share:				
Basic	21,662,219	21,565,324	21,613,969	21,565,324
Diluted	22,148,304	21,845,972	22,033,866	21,843,897

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Statement of Stockholders' Equity
(Unaudited)
(In Thousands, Except Share Information)

	Common Stock		Treasury Stock		Additional Paid-In	Retained	
	Shares	Amount	Shares	Amount	Capital	Earnings	Total
Balance, January 1, 2009	21,577,366	$ 216	(11,646)	$ --	$ 55,388	$ 50,007	$ 105,611
Stock-based compensation					701		701
Stock issued upon exercise of options	357,217	3			1,665		1,668
Tax benefit on exercise of options					1,417		1,417
Issuance of restricted stock	5,805	--					
Net income	--	--			--	10,627	10,627
Balance, June 30, 2009	21,940,388	$ 219	(11,646)	$ --	$ 59,171	$ 60,634	$ 120,024

See notes to unaudited condensed consolidated financial statements

Orion Marine Group, Inc. and Subsidiaries
Condensed Consolidated Statements of Cash Flows
(Unaudited)
(In Thousands)

	Six months ended June 30, 2009	2008
Cash flows from operating activities		
Net income	$ 10,627	$ 5,247
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	9,908	8,822
Deferred financing cost amortization	126	121
Non-cash interest expense	--	22
Bad debt expense	442	50
Deferred income taxes	(866)	(1,008)
Stock-based compensation	701	508
Gain on sale of property and equipment	(180)	(115)
Excess tax benefit from stock option exercise	(1,417)	--
Change in operating assets and liabilities:		
Accounts receivable	6,384	(1,954)
Income tax receivable	3,551	--
Inventory	(790)	(7)
Prepaid expenses and other	1,477	(3,208)
Costs and estimated earnings in excess of billings	(340)	3,318
Accounts payable	(3,927)	1,093
Accrued liabilities	2,248	1,207
Income tax payable	--	(5,427)
Billings in excess of costs and estimated earnings	(4,249)	3,539
Deferred revenue	(28)	(28)
Net cash provided by operating activities	23,667	12,180
Cash flows from investing activities:		
Proceeds from sale of property and equipment	443	158
Purchase of property and equipment	(4,745)	(8,629)
Acquisition of business (net of cash acquired)	--	(36,713)
Net cash used in investing activities	(4,302)	(45,184)
Cash flows from financing activities:		
Increase in loan costs	--	(80)
Borrowings on long-term debt	--	35,000
Payments on long-term debt	(4,159)	--
Exercise of stock options	1,668	--
Tax benefit from stock option exercises	1,417	--
Net cash (used in) provided by financing activities	(1,074)	34,920
Net change in cash and cash equivalents	18,291	1,916
Cash and cash equivalents at beginning of period	25,712	12,584
Cash and cash equivalents at end of period	$ 44,003	$ 14,500
Supplemental disclosures of cash flow information:		
Cash paid during the period for:		
Interest	$ 442	$ 247
Taxes, net of refunds	$ 3,658	$ 9,078

See notes to unaudited condensed consolidated financial statements

1. Description of Business and Basis of Presentation

Description of Business

Orion Marine Group, Inc., and its wholly-owned subsidiaries (hereafter collectively referred to as "Orion" or the "Company") provide a broad range of marine construction services on, over and under the water along the Gulf Coast, the Atlantic Seaboard and the Caribbean Basin. Our heavy civil marine projects include marine transportation facilities; bridges and causeways; marine pipelines; mechanical and hydraulic dredging and specialty projects. We are headquartered in Houston, Texas.

Although we describe our business in this report in terms of the services we provide, our base of customers and the geographic areas in which we operate, we have concluded that our operations comprise one reportable segment pursuant to Statement of Financial Accounting Standards No. 131 – *Disclosures about Segments of an Enterprise and Related Information*. In making this determination, we considered that each project has similar characteristics, includes similar services, has similar types of customers and is subject to similar regulatory environments. We organize, evaluate and manage our financial information around each project when making operating decisions and assessing our overall performance.

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements and financial information included herein have been prepared pursuant to the interim period reporting requirements of Form 10-Q. Consequently, certain information and note disclosures normally included in financial statements prepared in accordance with accounting principles generally accepted in the United States have been condensed or omitted. Readers of this report should also read our consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2008 ("2008 Form 10-K") as well as Item 7 – *Management's Discussion and Analysis of Financial Condition and Results of Operations* also included in our 2008 Form 10-K.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments considered necessary for a fair and comparable statement of the Company's financial position, results of operations and cash flows for the periods presented. Such adjustments are of a normal recurring nature. Interim results of operations for the three and six months ended June 30, 2009, are not necessarily indicative of the results that may be expected for the year ending December 31, 2009.

2. Summary of Significant Accounting Principles

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Management's estimates, judgments and assumptions are continually evaluated based on available information and experience; however, actual amounts could differ from those estimates. The Company's significant accounting policies are more fully described in Note 2 of the Notes to Consolidated Financial Statements in the 2008 Form 10-K.

On an ongoing basis, the Company evaluates the significant accounting policies used to prepare its condensed consolidated financial statements, including, but not limited to, those related to:

- Revenue recognition from construction contracts;
- Allowance for doubtful accounts;
- Testing of goodwill and other long-lived assets for possible impairment;
- Income taxes;
- Self-insurance; and
- Stock based compensation

Revenue Recognition

The Company records revenue on construction contracts for financial statement purposes on the percentage-of-completion method, measured by the percentage of contract costs incurred to date to total estimated costs for each contract. This method is used because management considers contract costs incurred to be the best available measure of progress on these contracts. The Company follows the guidance of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) 81-1, *Accounting for Performance of Construction—Type and Certain Production—Type Contracts,* for its accounting policy relating to the use of the percentage-of-completion method, estimated costs and claim recognition for construction contracts. Changes in job performance, job conditions and estimated profitability, including those arising from final contract settlements, may result in revisions to costs and revenues and are recognized in the period in which the revisions are determined. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined. Revenue is recorded net of any sales taxes collected and paid on behalf of the customer, if applicable.

The current asset "costs and estimated earnings in excess of billings on uncompleted contracts" represents revenues recognized in excess of amounts billed, which management believes will be billed and collected within one year of the completion of the contract. The liability "billings in excess of costs and estimated earnings on uncompleted contracts" represents billings in excess of revenues recognized.

The Company's projects are typically short in duration, and usually span a period of three to nine months. Historically, we have not combined or segmented contracts.

Risk Concentrations

Financial instruments that potentially subject the Company to concentrations of credit risk principally consist of cash and cash equivalents and accounts receivable.

The Company depends on its ability to continue to obtain federal, state and local governmental contracts, and indirectly, on the amount of funding available to these agencies for new and current governmental projects. Therefore, the Company's operations can be influenced by the level and timing of government funding. Statutory mechanics liens provide the Company high priority in the event of lien foreclosures following financial difficulties of private owners, thus minimizing credit risk with private customers.

At June 30, 2009, 31.5% of our accounts receivable was due from two customers. No single customer accounted for more than 10% of total receivables at December 31, 2008. In the three months ended June 30, 2009, one customers generated revenues in excess of 10% of total revenues, representing 19.7% of total revenues. In the six months ended June 30, 2009, two customers generated 28.7% of total revenues. In the three and six months ended June 30, 2008, no single customer generated revenues in excess of 10% of total revenues.

Accounts Receivable

Accounts receivable are stated at the historical carrying value, less write-offs and allowances for doubtful accounts. The Company writes off uncollectible accounts receivable against the allowance for doubtful accounts if it is determined that the amounts will not be collected or if a settlement is reached for an amount that is less than the carrying value. In the second quarter of 2009, the Company increased its allowance for doubtful accounts by $400,000 to fully reserve a receivable due to the bankruptcy filing of a customer. As of June 30, 2009 and December 31, 2008, the Company had an allowance for doubtful accounts of $1.2 million and $800,000, respectively.

Balances billed to customers but not paid pursuant to retainage provisions in construction contracts generally become payable upon contract completion and acceptance by the owner. Retention at June 30, 2009 totaled $8.2 million, of which $4.8 million is expected to be collected beyond 2009. Retention at December 31, 2008 totaled $5.7 million.

Income Taxes

The Company records income taxes based upon Statement of Financial Accounting Standards ("SFAS") No. 109, *Accounting for Income Taxes*, which requires the recognition of income tax expense for the amount of taxes payable or refundable for the current period and for deferred tax liabilities and assets for the future tax consequences of events that have been recognized in an entity's financial statements or tax returns. The Company accounts for any uncertain tax positions in accordance with the provisions of Financial Accounting Standards Board ("FASB") Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48).

Self-Insurance

The Company maintains insurance coverage for its business and operations. Insurance related to property, equipment, automobile, general liability, and a portion of workers' compensation is provided through traditional policies, subject to a deductible. A portion of the Company's workers' compensation exposure is covered through a mutual association, which is subject to supplemental calls. Effective July 1, 2009, the Company renewed its existing policies and increased retentions under its self-insurance programs.

Separately, the Company's employee health care is provided through a trust, administered by a third party. The Company funds the trust based on current claims. The administrator has purchased appropriate stop-loss coverage. Losses on these policies up to the deductible amounts are accrued based upon known claims incurred and an estimate of claims incurred but not reported. The accruals are derived from actuarial studies, known facts, historical trends and industry averages utilizing the assistance of an actuary to determine the best estimate of the ultimate expected loss.

Stock-Based Compensation

The Company recognizes compensation expense for equity awards based on the provisions of SFAS No. 123(R), *Share-Based Payment.* Compensation expense is recognized based on the fair value of these awards at the date of grant. The computed fair value of these awards is recognized as a non-cash cost over the period the employee provides services, which is typically the vesting period of the award.

Compensation is recognized only for share-based payments expected to vest. The Company estimates forfeitures at the date of grant based on historical experience and future expectations.

Goodwill and Other Intangible Assets

Goodwill
Goodwill represents the excess of costs over the fair value of the net tangible and intangible assets acquired. Goodwill and the cost of intangible assets with indefinite lives are not amortized, but are instead tested annually, in the fourth quarter of each fiscal year, for possible impairment (or more frequently if events occur or circumstances change that would more likely than not reduce the fair value of the reporting unit below its carrying value). The Company accounts for goodwill in accordance with SFAS 142, *Goodwill and Other Intangible Assets.* No impairment resulted from the test performed in 2008.

Intangible assets
Intangible assets that have finite lives continue to be subject to amortization. In addition, the Company evaluates the remaining useful life in each reporting period to determine whether events and circumstances warrant a revision of the remaining period of amortization. If the estimate of an intangible asset's remaining life is changed, the remaining carrying value of such asset is amortized prospectively over that revised remaining useful life. As described more fully in Note 3, the Company acquired certain intangible assets as part of the acquisition of the assets of Subaqueous Services, Inc. in February 2008.

Recently Issued Accounting Pronouncements

In June 2009, the FASB issued SFAS No. 168 – "*The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles – a replacement of FASB Statement No. 162"*. SFAS No. 168 sets forth the FASB's new codification which was first introduced in SFAS No. 162, *"The Hierarchy of Generally Accepted Accounting Principles"* as the source of authoritative GAAP. The Company will implement the provisions of this statement in its financial statements for the period ending September 30, 2009. The implementation of the standard will not have any impact on its consolidated financial statements but will require the Company to reference the new codification beginning in the third quarter of 2009.

In June 2009, the FASB issued SFAS No. 167, *Amendments to FASB Interpretation No. 46R* (SFAS No. 167). SFAS 167 amends FIN 46R to require ongoing analysis to determine whether a company holds a controlling financial interest in a variable interest entity ("VIE"). The amendments include a new approach for determining who should consolidate a VIE, requiring a qualitative rather than a quantitative analysis. SFAS 167 also changes when it is necessary to reassess who should consolidate a VIE. Previously an enterprise was required to reconsider whether it was the primary beneficiary of a VIE only when specific events had occurred. The new standard requires continuous reassessment of an enterprise's interest in the VIE to determine its primary beneficiary. This statement will be effective for us in 2010. Early adoption is prohibited. We do not believe that the adoption of SFAS 167 will have a significant effect on its consolidated financial statements.

In May 2009, the Financial Accounting Standards Board issued Statement 165, *Subsequent Events*, to incorporate the accounting and disclosure requirements for subsequent events into U.S. generally accepted accounting principles. Statement 165 introduces new terminology, defines a date through which management must evaluate subsequent events, and lists the circumstances under which an entity must recognize and disclose events or transactions occurring after the balance-sheet date. The Company adopted Statement 165 as of June 30, 2009, which was the required effective date. The Company evaluated its June 30, 2009 financial statements for subsequent events through August 6, 2009, the date the financial statements were available to be issued. The Company is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

In April 2009, the FASB issued FSP FAS 107-1 and APB 28-1, *Interim Disclosures about Fair Value of Financial Instruments,* which requires the fair value for all financial instruments within the scope of SFAS 107, *Disclosures about Fair Value of Financial Instruments* (SFAS No. 107), to be disclosed in the interim periods as well as in annual financial statements. This standard is effective for the quarterly and annual periods ending after June 15, 2009. Adoption of this standard did not have a material effect on our unaudited condensed consolidated financial statements. Disclosures related to adoption of this standard are included in Note 7, below.

In April 2009, the FASB issued FSP FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly,* which clarifies the objective and method of fair value measurement even when there has been a significant decrease in market activity for the asset being measured. This standard is effective for the quarterly and annual periods ending after June 15, 2009. Adoption of this standard did not have a material effect on our unaudited condensed consolidated financial statements.

In April 2009, the FASB issued FSP SFAS 141R-1, *Accounting for Assets Acquired and Liabilities Assumed in a Business Combination That Arise from Contingencies.* FSP SFAS 141R-1 amends the guidance in SFAS 141R to require that assets acquired and liabilities assumed in a business combination that arise from contingencies be recognized at fair value if fair value can be reasonably estimated. If fair value of such an asset or liability cannot be reasonably estimated, the asset or liability would generally be recognized in accordance with SFAS 5, *Accounting for Contingencies,* and FASB Interpretation (FIN) No. 14, *Reasonable Estimation of the Amount of a Loss*. FSP SFAS 141R-1 removes subsequent accounting guidance for assets and liabilities arising from contingencies from SFAS 141R and requires entities to develop a systematic and rational basis for subsequently measuring and accounting for assets and liabilities arising from contingencies. FSP SFAS 141R-1 eliminates the requirement to disclose an estimate of the range of outcomes of recognized contingencies at the acquisition date. For unrecognized contingencies, entities are required to include only the disclosures required by SFAS 5. FSP SFAS 141R-1 also requires that contingent consideration arrangements of an acquiree assumed by the acquirer in a business combination be treated as contingent consideration of the acquirer and should be initially and subsequently measured at fair value in accordance with SFAS 141R. FSP SFAS 141R-1 is effective for assets or liabilities arising from contingencies the Company acquires in business combinations occurring after January 1, 2009.

Effective January 1, 2009, the Company adopted the FASB's Staff Position (FSP) on the Emerging Issues Task Force (EITF) Issue No. 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions are Participating Securities.* The FSP required that all unvested share-based payment awards that contain nonforfeitable rights to dividends or dividend equivalents, whether paid or unpaid, should be included in the basic Earnings Per Share (EPS) calculation. Prior-year EPS numbers have been adjusted retrospectively on a consistent basis with 2009 reporting. This standard did not affect earnings per share for any period presented.

Effective January 1, 2009, the Company adopted the EITF No. 08-7, *Accounting for Defensive Intangible Assets* (EITF 08-7) that clarifies accounting for defensive intangible assets subsequent to initial measurement. EITF 08-7 applies to acquired intangible assets which an entity has no intention of actively using, or intends to discontinue use of, the intangible asset but holds it to prevent others from obtaining access to it (i.e., a defensive intangible asset). Under EITF 08-7, the Task Force reached a consensus that an acquired defensive asset should be accounted for as a separate unit of accounting (i.e., an asset separate from other assets of the acquirer); and the useful life assigned to an acquired defensive asset should be based on the period during which the asset would diminish in value. The adoption did not have a material impact on the Company's consolidated results of operations or financial condition.

Effective January 1, 2009, the Company adopted FASB FSP No. 142-3, *Determination of the Useful Life of Intangible Assets* (FSP No. 142-3) that amends the factors considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142. FSP No. 142-3 requires a consistent approach between the useful life of a recognized intangible asset under SFAS No. 142 and the period of expected cash flows used to measure the fair value of an asset under SFAS No. 141(R). The FSP also requires enhanced disclosures when an intangible asset's expected future cash flows are affected by an entity's intent and/or ability to renew or extend the arrangement. The adoption did not have a material impact on the Company's consolidated results of operations or financial condition.

SFAS 157. In September 2006, the FASB issued SFAS No. 157, *Fair Value Measurements*, which defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. SFAS No. 157 emphasizes that fair value is a market-based measurement, not an entity-specific measurement. We adopted SFAS No. 157 on January 1, 2008 as it relates to our financial assets. In February 2008, the FASB issued FASB Staff Position No. FAS 157-2 *Effective Date of FASB Statement No. 157*, which deferred the effective date for us to January 1, 2009 for all nonfinancial assets and liabilities, except those that are recognized or disclosed at fair value on a recurring basis. Adoption of FSP No. FAS157-2 on January 1, 2009 did not have a material effect on our consolidated financial statements.

SFAS 141(R). In December 2007, the FASB issued Statement No. 141(R), *Business Combinations*. SFAS No. 141(R) improves consistency and comparability of information about the nature and effect of a business combination by establishing principles and requirements for how an acquirer is to (1) recognize and measure in its financial statements the identifiable assets acquired, the liabilities assumed, and any non-controlling interest in the acquiree; (2) recognize and measure the goodwill acquired in the business combination or a gain from a bargain purchase; and (3) determine what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. SFAS141(R) applies prospectively to all business combination transactions for which the acquisition date is on or after January 1, 2009. Adoption of SFAS 141(R) did not have any impact on the Company's condensed consolidated financial statements as of and for the three and six months ended June 30, 2009.

3. Acquisition of the Assets of Subaqueous Services, Inc.

In February 2008, a wholly-owned subsidiary of the Company purchased substantially all of the assets (with the exception of working capital) and related business (principally consisting of project contracts) of Subaqueous Services, Inc., a Florida corporation ("*SSI*") for $35 million in cash. Additionally, the Company paid approximately $1.7 million for net under-billings and retained funds held under certain project contracts. The Company funded the acquisition using its acquisition line of $25 million and a draw on its accordion facility of $10 million, and cash on hand for the payments referenced above.

The Company accounted for the purchase of the assets of SSI as a business combination. The following represents the Company's allocation of the purchase price to the assets acquired:

Property and equipment	$ 18,500
Intangible assets	6,900
Goodwill	9,615
	$ 35,015

The following pro forma condensed financial results of operations are presented as if the acquisition described above had been completed at the beginning of the first quarter of 2008:

	Six months ended June 30, 2008
Revenue	$ 122,439
Income before taxes	$ 7,384
Net income	$ 4,769
Earnings per share:	
Basic	$ 0.22
Diluted	$ 0.22

4. Contracts in Progress

Contracts in progress are as follows at June 30, 2009 and December 31, 2008:

	June 30, 2009	December 31, 2008
Costs incurred	$ 220,513	$ 196,363
Estimated earnings	68,792	54,711
	289,305	251,074
Less: Billings to date	(289,154)	(255,512)
	$ 151	$ (4,438)
Included in the accompanying consolidated balance sheet under the following captions:		
Costs and estimated earnings in excess of billings	$ 7,568	$ 7,228
Billings in excess of costs and estimated earnings	(7,417)	(11,666)
	$ 151	$ (4,438)

Contract costs include all direct costs, such as materials and labor, and those indirect costs related to contract performance such as payroll taxes and insurance. Provisions for estimated losses on uncompleted contracts are made in the period in which such losses are determined. Changes in job performance, job conditions and estimated profitability may result in revisions to costs and income and are recognized in the period in which the revisions are determined. An amount equal to contract costs attributable to claims is included in revenues when realization is probable and the amount can be reliably estimated.

Costs and estimated earnings in excess of billings, net of billings in excess of costs and estimated earnings on completed contracts was $968,516 and $277,880 at June 30, 2009 and December 31, 2008, respectively.

5. Property and Equipment

The following is a summary of property and equipment at June 30, 2009 and December 31, 2008:

	June 30, 2009	December 31, 2008
Automobiles and trucks	$ 1,412	$ 1,472
Building and improvements	12,015	12,015
Construction equipment	89,117	88,063
Dredges and dredging equipment	42,628	42,458
Office equipment	1,588	1,123
	146,760	145,131
Less: accumulated depreciation	(75,986)	(69,092)
Net book value of depreciable assets	70,774	76,039
Construction in progress	5,008	2,886
Land	5,229	5,229
	$ 81,011	$ 84,154

For the three and six months ended June 30, 2009, depreciation expense was $3.8 million and $7.6 million, respectively. Depreciation expense for the three and six months ended June 30, 2008 was $3.9 million and $7.2 million, respectively. The assets of the Company are pledged as collateral for debt in the amount of $30.0 million and $34.1 million at June 30, 2009 and December 31, 2008, respectively. The debt obligations mature in September 2010.

6. Inventory

Inventory at June 30, 2009 and December 31, 2008, of $1.5 million and $738,000, respectively, consists of parts and small equipment held for use in the ordinary course of business.

7. **Fair Value of Other Financial Instruments**

We adopted FSP 107-1 and APB 28-1 as of June 30, 2009. This guidance requires quarterly fair value disclosures for financial instruments in addition to the annual disclosure. We believe that the carrying value of our accounts receivables, other current assets, accounts payables and other current liabilities approximate their fair values.
The table below summarizes the carrying amount and fair value of our debt payable (including current maturities):

	June 30, 2009	December 31, 2008
Carrying amount:		
Debt payable (including current maturities)	$ 29,966	$ 34,125
Fair value:		
Debt payable (including current maturities)	$ 29,311	$ 33,415

The fair value of the debt payable was based on borrowing rates available to the Company for bank loans with similar terms, average maturities and credit risk.

8. Non-monetary transaction

During the first quarter of 2009, the Company entered into a non-monetary exchange with an unrelated party, whereby the Company provides marine construction services, including dredging and sheet pile work in exchange for delivery of seven new pushboats to add to the Company's fleet. The total value of the work contracted and the fair value of the boats, when delivered to the Company, is approximately $2.0 million. All work performed by the Company, and delivery of all push boats is to be completed by December 31, 2009. At June 30, 2009, the Company had performed work with a value of approximately $1.1 million, had taken delivery of two pushboats, and construction was underway on the remaining five boats with an equivalent value expended.

9. Goodwill and Intangible Assets

Goodwill

The table below summarizes changes in goodwill recorded by the Company during the periods ended June 30, 2009 and December 31, 2008:

	June 30, 2009	December 31, 2008
Beginning balance, January 1	$ 12,096	$ 2,481
Additions	--	9,615
Ending balance	$ 12,096	$ 12,096

Intangible assets
The Company acquired certain finite-lived intangible assets as part of the acquisition of the assets of SSI, as described in Note 3, above. In each of the three months ended June 30, 2009 and 2008, the Company recorded amortization expense of $1.1 million, and for the six month periods recorded amortization expense of $2.3 and $1.6 in 2009 and 2008, respectively. Amortization for the balance of 2009 is $772,000, for 2010 is $33,000 and for 2011 is $5,000.

10. Accrued Liabilities

Accrued liabilities at June 30, 2009 and December 31, 2008 consisted of the following:

	June 30, 2009	December 31, 2008
Accrued salaries, wages and benefits	$ 5,406	$ 3,856
Accrual for self-insurance liabilities	2,560	2,143
Other accrued expenses	2,358	2,177
	$ 10,324	$ 8,176

11. Debt and Line of Credit

The Company has a credit agreement with several participating banks. In February 2008, the Company borrowed $35 million to fund the purchase of the assets of SSI, and amended its credit facility to reflect the borrowing. After such borrowing, the Company has available up to $15 million under an acquisition term loan facility and up to $8.5 million under a revolving line of credit.

The revolving line of credit is subject to a borrowing base and availability on the revolving line of credit is reduced by any outstanding letters of credit. At June 30, 2009, the Company had outstanding letters of credit of $910,000, thus reducing the balance available to the Company on the revolving line of credit to approximately $7.6 million. The Company is subject to a monthly commitment fee on the unused portion of the revolving line of credit at a current rate of 0.20% of the unused balance. As of June 30, 2009, no amounts had been drawn under the revolving line of credit.

Payments of interest are due monthly. Payments of principal are due quarterly in seven equal installments of $875,000, plus an annual principal payment based on year end results. The additional principal payment of $2.4 million, based on the 2008 year end results was paid on April 30, 2009. All provisions under the credit facility mature on September 30, 2010.

Interest on the Company's borrowings is based on the prime rate, less an applicable margin, or on the LIBOR rate, plus an applicable margin, then in effect, at the Company's discretion. For each prime rate loan drawn under the credit facility, interest is due quarterly at the then prime rate minus a margin that is adjusted quarterly based on total leverage ratios, as applicable. For each LIBOR loan, interest is due at the end of each interest period at a rate of the then LIBOR rate for such period plus the LIBOR margin based on total leverage ratios, as applicable. At June 30, 2009, interest was based on LIBOR. The LIBOR interest rate, plus the applicable margin, at June 30, 2009 was in two tranches, with rates of 1.81% and 1.93%.

The credit facility is secured by the bank accounts, accounts receivable, inventory, equipment and other assets of the Company and its subsidiaries and places restrictions on the Company as to its ability to incur additional debt, pay dividends, advance loans, and engage in other actions. The credit facility also requires the Company to maintain certain financial ratios as follows:

- A minimum net worth in the amount of not less than the sum of $40.0 million plus 50% of consolidated net income earned in each fiscal quarter ended after December 31, 2006 plus adjustments for certain equity transactions;
- A minimum fixed charge coverage ratio of not less than 1.30 to 1.0 from December 31, 2006 and each fiscal quarter thereafter; and
- A total leverage ratio not greater than 3.0 to 1.0 from December 31, 2006 and each fiscal quarter thereafter.

At June 30, 2009, the Company was in compliance with all its financial covenants with a sufficient margin as to not impair its ability to incur additional debt or violate the terms of its credit facility. Historically, the Company has not relied on debt financing to fund its operations or working capital.

12. Income Taxes

The Company's effective tax rate is based on expected income, statutory tax rates and tax planning opportunities available to it. For interim financial reporting, the Company estimates its annual tax rate based on projected taxable income for the full year and records a quarterly tax provision in accordance with the anticipated annual rate. The effective rate for the three and six months ended June 30, 2009 was 37.1% and 37.4%, respectively, and differed from the Company's statutory rate primarily due to permanent differences and state income taxes.

	Current	Deferred	Total
Three months ended June 30, 2009:			
U.S. Federal	$ 3,928	$ (490)	$ 3,438
State and local	247	29	276
	$ 4,175	$ (461)	$ 3,714
Three months ended June 30, 2008:			
U.S. Federal	$ 1,257	$ (223)	$ 1,034
State and local	437	18	455
	$ 1,694	$ (205)	$ 1,489

	Current	Deferred	Total
Six months ended June 30, 2009:			
U.S. Federal	$ 6,779	$ (928)	$ 5,851
State and local	431	62	493
	$ 7,210	$ (866)	$ 6,344
Six months ended June 30, 2008:			
U.S. Federal	$ 3,263	$ (1,091)	$ 2,172
State and local	656	83	739
	$ 3,919	$ (1,008)	$ 2,911

The Company does not believe that its uncertain tax positions will significantly change due to the settlement and expiration of statutes of limitations prior to June 30, 2010.

13. Earnings Per Share

Basic earnings per share are based on the weighted average number of common shares outstanding during each period. Diluted earnings per share is based on the weighted average number of common shares outstanding and the effect of all dilutive common stock equivalents during each period. For the three months ended June 30, 2009 and 2008, respectively, 187,621 and 577,618 common stock equivalents were not included in the diluted earnings per share calculation, as the effect of these shares would have been anti-dilutive. In the six months ended June 30, 2009 and 2008, respectively, 491,957 and 576,840 common stock equivalents were not included in the diluted earnings per share calculation, as the effect of these shares would have been anti-dilutive.

The following table reconciles the denominators used in the computations of both basic and diluted earnings per share:

	Three months ended June 30		Six months ended June 30,	
	2009	2008	2009	2008
Weighted average number of common shares outstanding:	21,662,219	21,565,324	21,613,969	21,565,324
Weighted average number of potentially dilutive common stock equivalents:	486,085	280,648	419,897	278,573
Total weighted average shares outstanding assuming dilution	22,148,304	21,845,972	22,033,866	21,843,897

14. Stock-Based Compensation

The Compensation Committee of the Company's Board of Directors is responsible for the administration of the Company's two stock incentive plans (the "LTIP" and the "2005 Plan"). In general, the plans provide for grants of restricted stock and stock options to be issued with a per-share price equal to the fair market value of a share of common stock on the date of grant. Option terms are specified at each grant date, but generally are 10 years. Options generally vest over a three to five year period. Total shares of common stock that may be delivered under the LTIP and the 2005 Plan may not exceed 2,943,946.

Restricted stock

As part of their 2009 compensation package, the independent directors of the Company each received an equity award of either restricted stock or options with a fair value on the date of grant of $35,000. In June 2009, three directors elected to receive stock, which is restricted from sale in total for a period of three years. One director elected to receive options, which grant is also restricted from exercise for a period of three years, and is included in the discussion of stock options below. Compensation related to the grants of restricted stock totaled $105,000, which is expensed ratably over the three-year vesting period.

The table below summarizes the restricted stock activity under the LTIP and the 2005 Plan at June 30, 2009:

	Number of shares	Weighted Average Fair Value of Shares
Non-vested shares outstanding at January 1, 2009	64,287	$ 1.65
Granted	5,805	$ 18.09
Vested	(18,386)	$ 0.02
Forfeited/repurchased shares	--	
Non-vested shares outstanding at June 30, 2009	51,706	$ 4.08

Stock options

In June 2009, the Company granted options to purchase 4,177 shares of common stock as part of the compensation package to the independent directors of the Company. The Company uses the Black-Scholes option pricing model to estimate the fair value of its stock-based awards. The options granted in June 2009 used the following assumptions:

Expected life of options	3 years
Expected volatility	68.66%
Risk-free interest rate	1.82%
Dividend yield	0.0%
Exercise price	$18.09
Grant date fair value	$8.38

In March 2008, the Company granted options to purchase 15,000 shares of common stock and used the Black-Scholes option pricing model to estimate the fair value of stock-based awards. The awards granted in March 2008 used the following assumptions:

Expected life of options	6 years
Expected volatility	36.7%
Risk-free interest rate	2.92%
Dividend yield	0.0%
Exercise price	$13.20
Grant date fair value	$5.35

Stock option activity during the six months ended June 30, 2009 consists of the following:

	Number of options	Weighted Average Exercise Price
Stock options outstanding at January 1, 2009	1,328,340	$ 8.38
Granted	4,177	$ 18.09
Exercised	(357,217)	$ 4.67
Forfeited	--	--
Stock options outstanding at June 30, 2009	975,300	$ 9.74
Stock options exercisable at June 30, 2009	281,885	$ 13.08

As of June 30, 2009, the aggregate intrinsic value of stock options outstanding and stock options exercisable was $9.0 million and $1.7 million, respectively. The weighted average contractual term of outstanding options was 8.58 years and the weighted average remaining contractual term of the exercisable options was 8.0 years at June 30, 2009. Proceeds received by the Company for the exercise of stock options in the three and six months ended June 30, 2009 was $1.7 million. No options were exercised in the three and six months ended June 30, 2008.

For the three and six months ended June 30, 2009, compensation expense related to equity awards for the periods was $350,000 and $701,000, respectively, and for the comparable periods in 2008 was $274,000 and $508,000.

At June 30, 2009, there was $2.1 million of unrecognized compensation cost, net of estimated forfeitures, related to the Company's non-vested equity awards, which is expected to be recognized over a weighted average period of 1.68 years.

15. Commitments and Contingencies

From time to time the Company is a party to various lawsuits, claims and other legal proceedings that arise in the ordinary course of business. These actions typically seek, among other things, compensation for alleged personal injury, breach of contract, property damage, punitive damages, civil penalties or other losses, or injunctive or declaratory relief. With respect to such lawsuits, the Company accrues reserves when it is probable a liability has been incurred and the amount of loss can be reasonably estimated. The Company does not believe any of these proceedings, individually or in the aggregate, would be expected to have a material adverse effect on results of operations, cash flows or financial condition.

The Company has been named as one of a substantial number of defendants in numerous individual claims and lawsuits brought by the residents and landowners of New Orleans, Louisiana and surrounding areas in the United States District Court for the Eastern District of Louisiana. These suits have been classified as a subcategory of suits under the more expansive proceeding, *In re Canal Breaches Consolidation Litigation,* Civil Action No: 05-4182, (E.D. La, 2005), which was instituted in late 2005. While not technically class actions, the individual claims and lawsuits are being prosecuted in a manner similar to that employed for federal class actions. The claims are based on flooding and related damage from Hurricane Katrina. In general, the claimants state that the flooding and related damage resulted from the failure of certain aspects of the levee system constructed by the Corps of Engineers, and the claimants seek recovery of alleged general and special damages. The Corps of Engineers has contracted with various private dredging companies, including us, to perform maintenance dredging of the waterways. In accordance with a court ruling *(In re Canal Breaches Consolidation Litigation,* Civil Action No: 05-4182, *"Order and Reasons,"* March 9, 2007 (E.D. La, 2007)), we believe that we have no liability under these claims unless we deviated from our contracted scope of work on a project. In June of 2007, however, the plaintiffs appealed this decision to the United States Court of Appeals for the Fifth Circuit, where the appeal is currently pending. Additionally, plaintiffs in other cases included in this subcategory of suits continue to seek trial court determinations contrary to those reached in the "Order and Reasons" described above.

16. Enterprise Wide Disclosures

The Company is a heavy civil contractor specializing in marine construction, and operates as a single segment, as each project has similar characteristics, includes similar services, has similar types of customers and is subject to the same regulatory environment. The Company organizes and evaluates its financial information around each project when making operating decisions and assessing its overall performance.

The following table represents concentrations of revenue by type of customer for the three and six months ended June 30, 2009 and 2008.

	Three months ended June 30,				Six months ended June 30,			
	2009	%	2008	%	2009	%	2008	%
Federal……..	$ 14,885	21%	$ 6,951	10%	$ 28,058	20%	$ 15,243	13%
State……..	6,480	9%	8,297	13%	15,387	11%	14,704	12%
Local…….	21,050	30%	15,473	23%	35,627	25%	31,352	26%
Private……	28,338	40%	36,349	54%	61,721	44%	58,362	49%
	$ 70,753	100%	$ 67,070	100%	$ 140,793	100%	$ 119,661	100%

Revenues generated from projects located in the Caribbean Basin totaled 9.1% and 13.3%, and 4.1% and 3.9% of total revenues for the three and six months ended June 30, 2009 and 2008, respectively.

The Company's long-lived assets are substantially located in the United States.

17. Stockholders' Equity

Common Stock

The Company has authorized 50,000,000 shares, of which 21,940,388 have been issued and 21,928,742 are outstanding as of June 30, 2009. Common stockholders are entitled to vote and to receive dividends if declared.

18. Subsidiary Guarantors

The Company filed a registration statement on Form S−3 which, when such registration statement becomes effective, will register certain securities described therein, including debt securities which may be guaranteed by certain of the Company's subsidiaries and are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933. Orion Marine Group, Inc., as the parent company, has no independent assets or operations. The Company contemplates that if it offers guaranteed debt securities pursuant to the registration statement, all guarantees will be full and unconditional and joint and several, and any subsidiaries of the Company other than the subsidiary guarantors will be minor. In addition, there are no restrictions on the ability of Orion Marine Group, Inc. to obtain funds from its subsidiaries by dividend or loan. Finally, there are no restricted assets in any subsidiaries.

19. Subsequent Events

The Company evaluated its June 30, 2009 financial statements for subsequent events through August 6, 2009, the date the financial statements were available to be issued. The Company is not aware of any subsequent events which would require recognition or disclosure in the financial statements.

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

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

Unless the context otherwise indicates, all references in this quarterly report to "Orion," "the company," "we," "our," or "us" are to Orion Marine Group, Inc. and its subsidiaries taken as a whole.

Certain information in this Quarterly Report on Form 10-Q, including but not limited to Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A"), may constitute forward-looking statements as such term is defined within the meaning of the "safe harbor" provisions of Section 27A of the Securities Exchange Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended.

All statements other than statements of historical facts, including those that express a belief, expectation, or intention are forward-looking statements. The forward-looking statements may include projections and estimates concerning the timing and success of specific projects and our future production, revenues, income and capital spending. Our forward-looking statements are generally accompanied by words such as "estimate," "project," "predict," "believe," "expect," "anticipate," "potential," "plan," "goal" or other words that convey the uncertainty of future events or outcomes.

We have based these forward-looking statements on our current expectations and assumptions about future events. While our management considers these expectations and assumptions to be reasonable, they are inherently subject to significant business, economic, competitive, regulatory and other risks, contingencies and uncertainties, most of which are difficult to predict and many of which are beyond our control. These and other important factors, including those described under "Risk Factors" in Item 1A of the Company's Annual Report on Form 10-K for the year ended December 31, 2008 ("2008 Form 10-K") may cause our actual results, performance or achievements to differ materially from any future results, performance or achievements expressed or implied by these forward-looking statements. The forward-looking statements in this quarterly report on Form 10-Q speak only as of the date of this report; we disclaim any obligation to update these statements unless required by securities law, and we caution you not to rely on them unduly.

MD&A provides a narrative analysis explaining the reasons for material changes in the Company's (i) financial condition since the most recent fiscal year-end, and (ii) results of operations during the current fiscal year-to-date period and current fiscal quarter as compared to the corresponding periods of the preceding fiscal year. In order to better understand such changes, this MD&A should be read in conjunction with the Company's fiscal 2008 audited consolidated financial statements and notes thereto included in its 2008 Form 10-K, Item 7 Management's Discussion and Analysis of Financial Condition and Results of Operations included in our 2008 Form 10-K and with our unaudited financial statements and related notes appearing elsewhere in this quarterly report.

Overview

We are a leading marine specialty contractor serving the heavy civil marine infrastructure market. We provide a broad range of marine construction and specialty services on, over and under the water along the Gulf Coast, the Atlantic Seaboard and the Caribbean Basin. Our customers include federal, state and municipal governments, the combination of which accounted for approximately 60% of our revenue in the three months ended June 30, 2009, as well as private commercial and industrial enterprises. We are headquartered in Houston, Texas.

Our contracts are obtained primarily through competitive bidding in response to "requests for proposals" by federal, state and local agencies and through negotiation with private parties. Our bidding activity is affected by such factors as backlog, current utilization of equipment and other resources, ability to obtain necessary surety bonds and competitive considerations. The timing and location of awarded contracts may result in unpredictable fluctuations in the results of our operations.

Most of our revenue is derived from fixed-price contracts. There are a number of factors that can create variability in contract performance and therefore impact the results of our operations. The most significant of these include the following:

- completeness and accuracy of the original bid;
- increases in commodity prices such as concrete, steel and fuel;
- customer delays and work stoppages due to weather and environmental restrictions;
- availability and skill level of workers; and
- a change in availability and proximity of equipment and materials.

All of these factors can impose inefficiencies on contract performance, which can impact the timing of revenue recognition and contract profitability. We plan our operations and bidding activity with these factors in mind and they have not had a material adverse impact on the results of our operations in the past.

Recent Developments. On April 17, 2009, the U.S. Environmental Protection Agency ("EPA") concluded that carbon dioxide and five other greenhouse gases, are a danger to public health and welfare, thus providing a basis for EPA regulation and control of emissions of such gases. The EPA finding is subject to public comment before an official ruling is made. Further, on June 26, 2009, the House of Representatives passed a climate change bill to reduce United State greenhouse gas emissions.

As more fully discussed in our 2008 Form 10-K, passage of climate control legislation or adoption of regulations that restrict emissions of greenhouse gases could have an adverse effect on our operations and demand for our services. The Company will continue to monitor the impact of EPA's actions, the House bill referenced above, and subsequent legislative actions on its business as more information as to the type and nature of potential regulation becomes available.

In addition to its proposed rule regarding safety hazards related to the operation of hoisting equipment, such as cranes, discussed in more detail in our 2008 Annual Report on Form 10-K, the US Occupational Safety and Health Administration ("OSHA") is expected to promulgate a rule which will impose stricter and more OSHA standards on certain of the Company's marine operations, including standards on the control of hazardous energy, so-called "lock-out, tag-out" or LOTO standards (which proposal is printed in the Federal Register, 72 Federal Register 72452.) While the Company does not currently expect that OSHA's final rule will materially, adversely impact its operations or financial condition, we are continuing to monitor potential impacts as OSHA's promulgation of the rule progresses.

Outlook. Despite continued instability in the economy and the challenges facing many state and local budgets, to date, we have not seen a general, significant decline in our end market bidding activity. Indeed, supplemental emergency funding legislation signed into law in 2008 provides $740 million to the Corp of Engineers allocated for emergency dredging and construction projects in areas affected by the 2008 storms, which include the markets in which we operate. The $787 billion American Recovery and Reinvestment Act provides $90 billion of infrastructure spending, including $27.5 billion toward highway construction, $4.6 billion to the US Army Corps of Engineers, and $240 million for US Coast Guard bridge alterations and construction improvements. Recently, we have seen the pace of projects released for bid by the US Army Corps of Engineers increase in the markets we serve.

In the short term, we have benefitted from the general decline in commodity prices, particularly in fixed cost or unit price contracts where we have been able to release certain cost contingencies. However, continued depressed commodity prices may adversely affect the revenue potential of future projects on which we choose to bid.

We continue to monitor our credit exposure. During the six months ended June 30, 2009, our operations provided cash from operations in excess of $23.7 million and our cash position at June 30, 2009 was in excess of $44.0 million. Our operations are not currently dependent on external short-term funding and we have not utilized the $7.6 million available to us under our revolving credit facility.

Our focus in 2009 is to concentrate on our core objectives; to manage our business effectively and efficiently in this unstable economic environment; to pursue rational growth strategies while closely monitoring the costs of our operations; and to maintain our strong balance sheet.

Consolidated Results of Operations

Three months ended June 30, 2009 compared with three months ended June 30, 2008

	Three months ended June 30,			
	2009		2008	
	Amount	Percent	Amount	Percent
Contract revenues	$ 70,753	100.0%	$ 67,070	100.0%
Costs of contract revenues	51,878	73.3	57,240	85.3
Gross profit	18,875	26.7	9,830	14.7
Selling, general and administrative expenses	8,739	12.4	5,695	8.5
Income from operations	10,136	14.3	4,135	6.2
Interest (income) expense				
Interest (income)	(95)	(0.1)	(119)	(0.2)
Interest expense	231	0.3	364	0.6
Interest expense, net	136	0.2	245	0.4
Income before income taxes	10,000	14.1	3,890	5.8
Income tax expense	3,714	5.2	1,489	2.2
Net income	$ 6,286	8.9%	$ 2,401	3.6%

Contract Revenues. In the three months ended June 30, 2009, revenues increased approximately 5.5% as compared with the same period last year. Revenues are driven by the progress schedules, size, composition, scope, and number of projects under contract at any given time. Contract revenue generated from government agencies, including federal, state and local municipalities represented 60% of total revenues in the second quarter of 2009, with projects in the private sector comprising 40% of revenue, as compared with the second quarter of 2008, when the mix of customers included 46% from government agencies and 54% from the private sector.

Gross Profit. Gross profit increased approximately $9.0 million, or 92.0%, in the second quarter of 2009 as compared with the corresponding period last year and gross margins improved to 26.7% from 14.7% in the prior year period. Improvements in gross profit and margin were due primarily to our ability to release certain cost contingencies resulting from improved project execution and performance. Also, in the three months ended June 30, 2008, unforeseen site conditions on two dredging projects resulted in project delays and adversely affected gross profit and margins. In addition, we self-performed approximately 90% of our work in the current year period, as compared with the second quarter of 2008, when our self-performance rate was 86% of total costs. Increased self-performance on contracts generally results in an increase in margin.

Selling, General and Administrative Expense. Selling, general and administrative expenses increased $3.0 million in the three months ended June 30, 2009 as compared with the prior year period. In the prior year period, the Company recovered in full a previously reserved receivable and benefitted from lower group medical and workers' compensation expenses. In the current year period, the Company increased its allowance for doubtful accounts to fully reserve a customer receivable based on that customer's bankruptcy filing during the second quarter. The Company partially reserved this receivable in the fourth quarter of 2008.

Income Tax Expense Our effective rate for the three months ended June 30, 2009 was 37.1% and differed from the Company's statutory rate of 35% primarily due to state income taxes, and to other permanent differences. Our effective rate for the three months ended June 30, 2008 was 38.3% and differed from the Company's statutory rate of 35% primarily due to state income taxes, non-deductible stock based compensation expense associated with employee incentive stock options and other permanent differences.

Six months ended June 30, 2009 compared with six months ended June 30, 2008

	Six months ended June 30, 2009		2008	
	Amount	**Percent**	**Amount**	**Percent**
Contract revenues	$ 140,793	100.0%	$ 119,661	100.0%
Costs of contract revenues	107,644	76.4	99,759	83.4
Gross profit	33,149	23.5	19,902	16.6
Selling, general and administrative expenses	15,939	11.3	11,522	9.6
Income from operations	17,210	12.2	8,380	7.0
Interest (income) expense				
Interest (income)	(198)	(0.1)	(268)	(0.2)
Interest expense	437	0.3	490	0.4
Interest expense, net	239	0.2	222	0.2
Income before income taxes	16,971	12.1	8,158	6.8
Income tax expense	6,344	4.5	2,911	2.4
Net income	$ 10,627	7.6%	$ 5,247	4.4%

Contract Revenues. Revenues for the six months ended June 30, 2009 increased approximately 17.7% as compared with the same period last year. The increase, as compared with last year, was attributable, in part, to our expansion late in the first quarter of 2008 of our dredging and other construction capabilities along the Atlantic Seaboard. Contract revenue generated from government agencies, including federal, state and local municipalities represented 56% of total revenues in the first six months of 2009, with projects in the private sector comprising 44% of revenue, as compared with the six months of 2008, when the mix of customers included 51% from government agencies and 49% from the private sector.

Gross Profit. Gross profit increased approximately $13.2 million, or 66.6%, in the first half of 2009 as compared with the corresponding period last year. The improvement in gross profit was due to the increase in revenues, as well as our ability to release certain cost contingencies, resulting from improved project execution and performance. Gross margin for the six months ended June 30, 2009 was 23.5%, as compared with 16.6% in the prior year period. Additionally, in the prior year unforeseen site conditions on two dredging projects resulted in project delays and adversely affected gross profit and margins. We self-performed approximately 93% of our work in the current year period, a significant increase over the first six months of 2008, when our self-performance rate was 87% of total costs, Increased self-performance generally results in an increase in margins.

Selling, General and Administrative Expense. Selling, general and administrative expenses ("SGA") increased $4.4 million in the six months ended June 30, 2009 as compared with the prior year period. The increase in expense was due to overheads and amortization of intangible assets related to the acquisition of the assets of Subaqueous Services, Inc. ("SSI") in February 2008, and to an increase in our reserve for doubtful accounts. In the six months ended June 30, 2008, we recovered in full a previously reserved receivable and benefitted from lower group medical and workers' compensation expenses.

Income Tax Expense Our effective rate for the six months ended June 30, 2009 was 37.4% and differed from the Company's statutory rate of 35% primarily due to state income taxes and to other permanent differences in the current year. In the first quarter of 2008, the Company revised its estimate of the impact of certain permanent deductions available to it on its federal tax return, which reduced its effective rate for the six month period to 35.7%.

Liquidity and Capital Resources

Our primary liquidity needs are to finance our working capital, invest in capital expenditures, and pursue strategic acquisitions. Historically, our source of liquidity has been cash provided by our operating activities and borrowings under our credit facility.

Our working capital position fluctuates from period to period due to normal increases and decreases in operational activity. At June 30, 2009, our working capital was $64.8 million compared to $47.0 million at December 31, 2008. The increase of $17.8 million in working capital was primarily due to an improved cash position and decreases in trade payables and liabilities related to billings in excess of costs and estimated earnings on uncompleted contracts. As of June 30, 2009, we had cash on hand and availability under our revolving credit facility of $51.6 million.

We continue to monitor our credit exposure. At June 30, 2009, our operations provided cash from operations in excess of $23.7 million and our cash position was in excess of $44.0 million. Our operations are not currently dependent on external short-term funding, and we have not utilized our available borrowing of $7.6 million under our revolving credit facility.

We expect to meet our future internal liquidity and working capital needs, service our debt, and maintain our equipment fleet through capital expenditure purchases and major repairs, from funds generated in our operating activities for at least the next 12 months. We believe our cash position, combined with the capacity available under our revolving credit facility, is adequate for our general business requirements.

The following table provides information regarding our cash flows and capital expenditures for the six months ended June 30, 2009 and 2008 (unaudited):

	Six months ended June 30,	
	2009	2008
Cash flows provided by operating activities……	$ 23,667	$ 12,180
Cash flows used in investing activities……	$ (4,302)	$ (45,184)
Cash flows provided by (used in) financing activities…….	$ (1,074)	$ 34,920

Operating Activities. During the six months ended June 30, 2009, our operating activities provided $23.7 million of cash as compared with $12.2 million for the six months ended June 30, 2008. Contributing to the increase between comparable periods was an increase of $5.8 million within working capital components, including strong collections of receivables during the period and a decrease in vendor payables related to the timing of such payments, and to the nature of the contracts in progress. In addition, we had increases in non-cash items affecting net income, such as depreciation and amortization expense associated with the equipment and intangible assets acquired from SSI, and an increase in non-cash stock-based compensation related to grants of options during 2008.

Investing Activities. Our capital asset additions totaled $4.7 million in the six months ended June 30, 2009, as compared with $8.6 million in the prior year period. In February 2008, we purchased substantially all of the assets of SSI for a total purchase price of $35 million, plus $1.7 million related to the acquisition of projects under contract by SSI, for total cash related to the acquisition of $36.7 million.

Financing Activities. In the six months ended June 30, 2009, we paid down our principal balances on our credit facility, which was offset by proceeds received from stock option exercises, including the related excess tax benefits. Cash provided by financing activities in the prior year period was attributable to our borrowing of $35 million under of line of credit to fund the assets purchased from SSI.

Sources of Capital

In addition to our cash balances and cash provided by operations, we have a credit facility available to us to finance capital expenditures and working capital needs.

The Company has a credit agreement with several participating banks. In February 2008, the Company borrowed $35 million to fund the purchase of the assets of SSI, and amended its credit facility to reflect the borrowing. After such borrowing, the Company has available up to $15 million under an acquisition term loan facility and up to $8.5 million under a revolving line of credit.

The revolving line of credit is subject to a borrowing base and availability on the revolving line of credit is reduced by any outstanding letters of credit. At June 30, 2009, the Company had outstanding letters of credit of $910,000, thus reducing the balance available to the Company on the revolving line of credit to approximately $7.6 million. The Company is subject to a monthly commitment fee on the unused portion of the revolving line of credit at a current rate of 0.20% of the unused balance. As of June 30, 2009, no amounts had been drawn under the revolving line of credit.

Payments of interest are due monthly. Payments of principal are due quarterly in seven equal installments of $875,000, plus an annual principal payment based on year end results. The additional principal payment of $2.4 million, based on the 2008 year end results was paid on April 30, 2009. All provisions under the credit facility mature on September 30, 2010.

Interest on the Company's borrowings is based on the prime rate, less an applicable margin, or on the LIBOR rate, plus an applicable margin, then in effect, at the Company's discretion. For each prime rate loan drawn under the credit facility, interest is due quarterly at the then prime rate minus a margin that is adjusted quarterly based on total leverage ratios, as applicable. For each LIBOR loan, interest is due at the end of each interest period at a rate of the then LIBOR rate for such period plus the LIBOR margin based on total leverage ratios, as applicable. At June 30, 2009, interest was based on LIBOR. The LIBOR interest rate, plus the applicable margin, at June 30, 2009 was in two tranches, with rates of 1.81% and 1.93%.

The credit facility is secured by the bank accounts, accounts receivable, inventory, equipment and other assets of the Company and its subsidiaries and places restrictions on the Company as to its ability to incur additional debt, pay dividends, advance loans, and engage in other actions. The credit facility also requires the Company to maintain certain financial ratios as follows:

- A minimum net worth in the amount of not less than the sum of $40.0 million plus 50% of consolidated net income earned in each fiscal quarter ended after December 31, 2006 plus adjustments for certain equity transactions;
- A minimum fixed charge coverage ratio of not less than 1.30 to 1.0 from December 31, 2006 and each fiscal quarter thereafter; and
- A total leverage ratio not greater than 3.0 to 1.0 from December 31, 2006 and each fiscal quarter thereafter.

At June 30, 2009, the Company was in compliance with all its financial covenants with a sufficient margin as to not impair its ability to incur additional debt or violate the terms of its credit facility. Historically, the Company has not relied on debt financing to fund its operations or working capital.

Bonding Capacity

We are generally required to provide various types of surety bonds that provide additional security to our customers for our performance under certain government and private sector contracts. Our ability to obtain surety bonds depends on our capitalization, working capital, past performance and external factors, including the capacity of the overall surety market. At June 30, 2009, we believe our capacity under our current bonding arrangement was in excess of $400 million, of which we had approximately $100 million in surety bonds outstanding. Despite the prevailing economic conditions, we believe our strong balance sheet and working capital position will allow us to continue to access our bonding capacity. During the quarter ended June 30, 2009, approximately 60% of projects, measured by revenue, required us to post a bond.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Management is actively involved in monitoring exposure to market risk and continues to develop and utilize appropriate risk management techniques. Our exposure to significant market risks includes outstanding borrowings under our floating rate credit agreement and fluctuations in commodity prices for concrete, steel products and fuel. An increase in interest rates of 1% would have increased interest expense by approximately $79,000 for the three months ended June 30, 2009 and $165,000 for the six month period. Although we attempt to secure firm quotes from our suppliers, we generally do not hedge against increases in prices for concrete, steel or fuel. Commodity price risks may have an impact on our results of operations due to the fixed-price nature of many of our contracts.

As of June 30, 2009, there was $30.0 million outstanding under our credit agreement and there were no borrowings outstanding under our revolving credit facility; however, there were letters of credit issued in the amount of $910,000 which lower the amount available to us on the revolving facility to approximately $7.6 million.

Item 4. Controls and Procedures

(a) *Evaluation of Disclosure Controls and Procedures.* As required, the Company's management, with the participation of its Chief Executive Officer and Chief Financial Officer, have conducted an evaluation of the effectiveness of disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) as of the end of the period covered by this quarterly report. Based on that evaluation, such officers have concluded that the disclosure controls and procedures are effective.

(b) *Changes in Internal Controls.* There have been no changes in our internal controls over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

PART II – Other Information

Item 1. Legal Proceedings

For information about litigation involving us, see Note 15 to the condensed consolidated financial statements in Part I of this report, which we incorporate by reference into this Item 1of Part II.

Item 1A. Risk Factors

There have been no material changes to the risk factors previously disclosed in our 2008 Form 10-K

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

The Company's 2009 Annual Meeting of Shareholders was held on May 14, 2009, as previously announced in its Notice of 2009 Annual Meeting of Shareholders and Proxy Statement dated April 13, 2009, copies of which were filed with the Securities and Exchange Commission pursuant to Regulation 14A.

Two matters were voted upon by the shareholders at the Annual Meeting: (1) the re-election of Richard L. Daerr, Jr. and J. Michael Pearson to serve as directors until the 2012 annual meeting, and (2) the approval of the appointment of Grant Thornton, LLP as the Company's independent registered public accounting firm for 2009.

The results of the shareholder voting were as follows (all shares were voted by proxy)

	Votes For	Votes Against	Abstentions	Broker Non-votes
1. Election of directors:				
Richard L. Daerr, Jr.	17,971,224	13,355	79,950	
J. Michael Pearson	17,982,169	2,211	80,148	
2. Approval of the appointment of Grant Thornton LLP as the Company's independent registered accounting firm	18,060,928	2,908	692	

Item 6. Exhibits

10.24* Lease Agreement dated May 14, 2009 by and between Orion Marine Group, Inc. and Aerospace Operating Associates, LP.

10.25* Amendment to Lease Agreement dated April 8, 2009 by and between Orion Construction, LP and Signet Maritime Corporation.

10.26* Schedule of Changes to Compensation of Non-employee Directors, effective for 2009

31.1* Certification of the Chief Executive Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

31.2* Certification of the Chief Financial Officer Pursuant to Rules 13a-14 and 15d-14 of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

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

*filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ORION MARINE GROUP, INC.

By: /s/ J. Michael Pearson

August 6, 2009

J. Michael Pearson
President and Chief Executive Officer

By: /s/ Mark R. Stauffer

August 6, 2009

Mark R. Stauffer
Executive Vice President and Chief Financial Officer

LEASE AGREEMENT

AEROSPACE

BY AND BETWEEN

AEROSPACE OPERATING ASSOCIATES, LP

("LANDLORD")

AND

ORION MARINE GROUP, INC.

("TENANT")

HOU:2916584.5

TABLE OF CONTENTS

Page

SEC. 53 BACK UP GENERATOR:
SEC. 54 SATELLITE ANTENNA
SEC. 55 MONUMENT SIGNAGE

EXHIBITS:
EXHIBIT A – FLOOR PLAN OF THE LEASED PREMISES
EXHIBIT B – LEGAL DESCRIPTION OF THE LAND
EXHIBIT C – PARKING AGREEMENT
EXHIBIT D – RULES AND REGULATIONS
EXHIBIT E – ACCEPTANCE OF PREMISES MEMORANDUM
EXHIBIT F – TENANT'S ESTOPPEL CERTIFICATE
EXHIBIT G – LEASEHOLD IMPROVEMENTS
EXHIBIT H – AIR CONDITIONING AND HEATING SERVICES
EXHIBIT I – INSURANCE REQUIREMENTS
EXHIBIT J – ROOFTOP SATELLITE ANTENNA

HOU:2916584.5

LEASE AGREEMENT

Office Building

This Lease Agreement (this "**Lease Agreement**") is made and entered into as of the date set forth on the signature page between Aerospace Operating Associates, LP, a New Mexico limited partnership, hereinafter referred to as " **Landlord**", and Orion Marine Group, Inc., a Delaware corporation, hereinafter referred to as "**Tenant**":

WITNESSETH:

SEC. 1 LEASED PREMISES»

In consideration of the mutual covenants as set forth herein, Landlord and Tenant hereby agree as follows:

A. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord for the rental and on the terms and conditions hereinafter set forth approximately 10,983 square feet of Net Rentable Area on the third (3rd) floor as indicated on the floor plan attached hereto as **Exhibit A** and known as Suite 300 (the "**Leased Premises**") in the office building located at 12000 Aerospace Ave., Houston, Harris County, Texas 77034 (the "**Building**") and situated on that certain tract or parcel of land more particularly described by metes and bounds on **Exhibit B** attached hereto and made a part hereof for all purposes (the "**Land**"). Subject to Section 9.B below, Landlord hereby grants Tenant, its employees, invitees and other visitors, a nonexclusive license for the Term of this Lease Agreement and all extensions and renewals thereof to use, for the purpose of ingress and egress to the Building and the Leased Premises, and in accordance with Section 19 below, the Common Areas (as hereinafter defined). Facilities and areas of the Building that are intended and designated by Landlord from time to time for the common, general and non-exclusive use of all tenants of the Building are called "**Common Areas**." Landlord has the exclusive control over and right to manage the Common Areas. In addition, Landlord shall have the exclusive use and control over all other areas of the Building not designated as Common Areas nor leased exclusively to tenants of the Building, which include, but are not limited to, all risers, horizontal and vertical shafts and telephone closets in the Building.

B. The term "**Net Rentable Area**" shall mean the net rentable area measured according to standards similar to those published by the Building Owners and Managers Association International, Publication ANSI Z 65.1-1996, as amended or replaced from time to time (the "**Modified BOMA Standard**"). The Modified BOMA Standard has been used in calculating the Net Rentable Area of the Building and the Leased Premises, and Tenant and Landlord hereby stipulate and agree that same are correct, notwithstanding any minor variations in measurement or other variations that may have been incurred in the calculation thereto. If the Building is ever demolished, altered, remodeled, renovated, expanded or otherwise changed in such a manner as to alter the amount of space contained therein, then the Net Rentable Area of the Building shall be adjusted and recalculated by using the Modified BOMA Standard. The Net Rentable Area of the Building is stipulated for all purposes to be 79,850 square feet.

C. Landlord also leases to Tenant certain parking spaces on the terms and conditions set forth in **Exhibit C** attached hereto and made a part hereof for all purposes.

D. The Leased Premises shall be delivered to Tenant and Tenant shall accept same, in its current "**AS IS, WHERE IS**" condition subject to the construction of leasehold improvements, if any, set forth and described on **Exhibit G** attached hereto and made a part hereof for all purposes and to Landlord's maintenance and repair obligations under this Lease Agreement. Tenant acknowledges that no representations as to the repair of the Leased Premises or the Building, nor promises to alter, remodel or improve the Leased Premises or the Building, have been made by Landlord, except as are expressly set forth in this Lease Agreement.

SEC. 2 TERM:

A. The term of this Lease Agreement (the "**Term**") shall be ninety-one (91) months and shall commence on the Leasehold Improvements Completion Date (as defined in **Exhibit G**), which is anticipated to be August 1, 2009 (the "**Estimated Leased Premises Delivery Date**"), less the total number of days of Tenant Delay (as defined on **Exhibit G**) (such date being herein referred to as the "**Commencement Date**") and, unless sooner terminated or renewed and extended in accordance with the terms and conditions set forth herein, shall expire at 11:59 p.m. on February 28, 2017 (the "**Expiration Date**").

B. This Lease Agreement shall be effective as of the Effective Date (as hereinafter defined) and in the event Landlord consents to Tenant or its agents, employees or contractors entering the Leased Premises prior to the Commencement Date, such entry shall be subject to the terms and conditions of this Lease Agreement, except that the Rent (as hereinafter defined) shall not commence to accrue as a result of such entry until the date specified in Section 5 below.

SEC. 3 USE:»

The Leased Premises shall be used and occupied by Tenant solely as general office use and for no other purpose. The Leased Premises shall not be used for any purpose which would tend to lower the character of the Building, violate any other tenants' exclusive use, if any, previously granted by Landlord, create unreasonable elevator loads or otherwise interfere with standard Building operations and Tenant shall not engage in any activity which does not comply with the standards of the Building. Tenant agrees specifically that no food, soft drink or other vending machine will be installed within the Leased Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld if such machine is for the exclusive use of Tenant, its employees and invitees.

SEC. 4 SECURITY DEPOSIT:»

$16,474.50 payable on the Effective Date. Upon the occurrence of any Event of Default (as hereinafter defined) by Tenant, Landlord may, from time to time, without prejudice to any other remedy, use the security deposit paid to Landlord by Tenant as herein provided to the extent necessary to make good any arrears of Rent (as hereinafter defined) and any other damage, injury, expense or liability caused to Landlord by such Event of Default for which Tenant is liable hereunder. Following any such application of the security deposit, Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to the amount thereof existing prior to such application. Any remaining balance of the security deposit shall be returned by Landlord to Tenant within sixty (60) days after the termination of this Lease Agreement and after Tenant provides written notice to Landlord of Tenant's forwarding address; provided, however, Landlord shall have the right to retain and expend such remaining balance (a) to reimburse Landlord for any and all rentals or other sums due hereunder that have not been paid in full by Tenant and/or (b) for cleaning and repairing the Leased Premises if Tenant shall fail to deliver same at the termination of this Lease Agreement in a neat and clean condition and in as good a condition as existed at the date of possession of same by Tenant, ordinary wear and tear only excepted. Tenant shall not be entitled to any interest on the security deposit. Such security deposit shall not be considered an advance payment of rental or a measure of Landlord's damages in case of an Event of Default by Tenant.

SEC. 5 BASE RENT:

A. As part of the consideration for the execution of this Lease Agreement, Tenant covenants and agrees and promises to pay Landlord base rent according to the following schedule (the "**Base Rent**"):

Months Following the Commencement Date	Annual Base Rent Rate Per Square Foot of Net Rentable Area	Annual Base Rent	Monthly Payment
1-7	abated	$0.00	$0.00
8-19	$18.00	$197,694.00	$16,474.50
20-31	$18.25	$200,439.75	$16,703.31
32-43	$18.50	$203,185.50	$16,932.13
44-55	$18.75	$205,931.25	$17,160.94
56-67	$19.00	$208,677.00	$17,389.75
68-79	$19.25	$211,422.75	$17,618.56
80-91	$19.50	$214,168.50	$17,847.38

The Base Rent shall be payable to Landlord at the address set forth in Section 31 below (or such other address as may be designated by Landlord in writing from time to time) in monthly installments in legal tender of the United States of America, in advance, without demand, set-off or counterclaim except as herein expressly provided, on or before the first day of each calendar month during the Term hereof; provided, however, the first monthly payment of Base Rent shall be made on the Effective Date. If the Term of this Lease Agreement as described above commences on other than the first day of a calendar month or terminates on other than the last day of a calendar month, then the installments of Base Rent for such month or months shall be prorated and the installment or installments so prorated shall be paid in advance. The payment for such prorated month shall be calculated by multiplying the monthly installment by a fraction, the numerator of which shall be the number of days of the Term occurring during said commencement or termination month, as the case may be, and the denominator of which shall be the total number of days occurring in said commencement or termination month.

B. In addition to the foregoing Base Rent and the Additional Rent to be paid by Tenant pursuant to Section 6 below, Tenant agrees to pay to Landlord as additional rent all charges for any services, goods or materials furnished by Landlord at Tenant's request which are not required to be furnished by Landlord under this Lease Agreement, as well as other sums payable by Tenant hereunder, within ten (10) days after Landlord renders a statement therefor to Tenant. All Rent (as hereinafter defined) shall bear interest from the date due until paid at the greater of (i) two percent (2%) above the "prime rate" per annum of the JPMorgan Chase Bank, a New York banking corporation or its successor or such other "money center" as Landlord and Tenant may agree from time to time ("**Chase**") in effect on said due date (or if the "prime rate" be discontinued, the base reference rate then being used by Chase to define the rate of interest charged to commercial borrowers) or (ii) twelve percent (12%) per annum; provided, however, in no event shall the rate of interest hereunder exceed the maximum non-usurious rate of interest (hereinafter called the "**Maximum Rate**") permitted by the applicable laws of the State of Texas or the United States of America, and to the extent that the Maximum Rate is determined by reference to the laws of the State of Texas, the Maximum Rate shall be the weekly ceiling (as defined and described in Chapter 303 of the Texas Finance Code, as amended) at the applicable time in effect.

C. If the Net Rentable Area of the Leased Premises is modified for any reason, the provisions of this Lease Agreement which are contingent upon the size of the Leased Premises (including without limitation, Base Rental, Additional Rent, Tenant's pro rata share, the Improvement Allowance and number of reserved Parking Spaces and number of unreserved Parking Spaces) shall be automatically adjusted to reflect the modification of the Net Rentable Area of the Leased Premises, effective as of the date of the determination made in accordance with Section 1.B above. If the Net Rentable Area of the Building is modified for any reason, the provisions of this Lease Agreement which are contingent upon the size of the Building (including, without limitation, Tenant's pro rata share) shall automatically be adjusted to reflect the modification of the Net Rentable Area of the Building, effective as of the date of the determination made in accordance with Section 1.B above. The parties shall memorialize all such adjustments in an amendment to this Lease Agreement as soon as reasonably possible thereafter.

SEC. 6 ADDITIONAL RENT:

A. As part of the consideration for the execution of this Lease Agreement, and in addition to the Base Rent specified above, Tenant covenants and agrees to pay, for each calendar year after calendar year 2009, (the "**Base Year**"), as additional rent (the "**Additional Rent**"), Tenant's pro rata share of the Operating Expenses (as hereinafter defined) for that year which exceed the Operating Expenses for the Base Year. Tenant's pro rata share shall be a fraction, the numerator of which is the Net Rentable Area in the Leased Premises and the denominator of which is the Net Rentable Area in the Building, which for all purposes herein shall be stipulated to be 13.75%.

B. All Operating Expenses shall be determined in accordance with generally accepted accounting principles, consistently applied and shall be computed on the accrual basis. The term "**Operating Expenses**" as used herein shall mean all expenses, costs and disbursements in connection with the ownership, operation, management, maintenance and repair of the Building, the Land, related pedestrian walkways, landscaping, fountains, roadways and parking facilities, and such additional facilities to service any of the foregoing in subsequent years as may be necessary or desirable in Landlord's discretion (the Building, the Land and said additional facilities being hereinafter sometimes referred to as the "**Complex**"), including but not limited to the following:

(1) Wages and salaries of all employees at or below the level of property manager engaged in the operation, security, cleaning and maintenance of the Complex, including customary taxes, insurance and benefits relating thereto.

(2) All supplies, tools, equipment and materials used in operation and maintenance of the Complex.

(3) Cost of all utilities for the Complex, including but not limited to the costs of water, electricity, gas, heating, lighting, air conditioning and ventilation.

(4) Cost of all janitorial service, maintenance and service agreements for the Complex and the equipment therein, including alarm service, security service, window cleaning, janitorial service, trash removal and elevator maintenance.

(5) Cost of all insurance relating to the Complex which Landlord may elect to obtain, including but not limited to casualty and liability insurance applicable to the Complex and Landlord's personal property used in connection therewith; the amount of the deductible paid by Landlord or deducted from any insurance proceeds paid to Landlord shall also constitute an Operating Expense.

(6) Accounting costs and audit fees attributable to Landlord's ownership of the Complex, including without limitation in connection with tax returns. All taxes and assessments and other governmental charges (whether federal, state, county or municipal and whether they be by taxing districts or authorities presently taxing the Leased Premises or by others subsequently created or otherwise) and any other taxes and improvement assessments attributable to the Complex, or its operation or the revenues or rents received therefrom (whether directly or indirectly through the use of a franchise, margin or other similar tax and whether or not such taxes allow for the deduction of expenses in calculating the base amount on which the tax is levied) but excluding, however, federal and state taxes on income (except to the extent that same, upon their initial implementation have the effect of reducing Taxes or act as a replacement or substitute for a present method of taxation that is included in Taxes as of the Effective Date) (collectively, "**Taxes**"); provided, however, that if at any time during the Term, new taxes, assessments, levies, impositions or charges are imposed on the rents received from the Complex or the rents reserved herein or any part thereof (whether directly or indirectly through the use of a franchise, margin or other similar tax), or the present method of taxation or assessment shall be so changed that the whole or any part of the taxes, assessments, levies, impositions or charges now levied, assessed or imposed on real estate and the improvements thereof shall be discontinued and as a substitute therefor, or in lieu of an increase to the tax rate thereof, taxes, assessments, levies, impositions or charges shall be levied, assessed and/or imposed wholly or partially as a capital levy or otherwise on the rents received from the Complex or the rents reserved herein or any part thereof (whether directly or indirectly through the use of a franchise, margin or similar tax and whether or not such taxes allow for the deduction of expenses in calculating the base amount on which the tax is levied), then such substitute or additional taxes, assessments, levies, impositions or charges, to the extent so levied, assessed or imposed, shall be deemed to be included within Operating Expenses to the extent that such substitute or additional tax would be payable if the Complex were the only property of the Landlord subject to such tax. It is agreed that Tenant will also be responsible for ad valorem taxes on its personal property.

(7) Amortization of the cost of installation of capital investment items that have been or are hereafter installed for the purpose of reducing Operating Expenses or which may be required by any laws, ordinances, orders, rules, regulations and requirements which impose any duty with respect to or otherwise relate to the use, condition, occupancy, maintenance or alteration of the Complex, whether now in force or hereafter enacted. All such costs which relate to the installation of such capital investment items shall be amortized over the reasonable life of the capital investment item, with the reasonable life and amortization schedule being determined in accordance with generally accepted accounting principles as reasonably determined by Landlord.

(8) The property management fees incurred by Landlord.

(9) Cost of repairs and general maintenance (excluding repairs and general maintenance paid by proceeds of insurance or by Tenant or other third parties) for the Complex.

(10) The reasonable rental value of the Building management office.

(11) All costs incurred by Landlord for the purpose of reducing Operating Expenses, including, without limitation, the cost of all tax protests.

C. Notwithstanding anything contained in this Lease Agreement to the contrary, the following shall not be included in or considered as Operating Expenses:

(1) Except as set forth in Section 6.B(7) above, expenditures classified as capital expenditures, including without limitation, capital improvements, capital repairs, capital equipment and capital tools, under generally accepted accounting principles consistently applied, including rental payments with respect to capital items, or any non-cash charges such as depreciation or amortization. All costs incurred for the acquisition and renovation, construction and improving of the Complex and Garage, and readying same for occupancy and use, including without limitation tap fees or other one-time utility charges and initial installation of landscaping improvements, light fixtures and other items, even if the replacement thereof is permitted to be included in Operating Expenses shall be excluded from Operating Expenses.

(2) Advertising, promotional expenses, leasing commissions, attorneys fees, costs and disbursements and other expenses incurred in connection with the leasing of the Complex or negotiations or disputes relating to leasing and lease interpretations with tenants or prospective tenants or other occupants of the Complex. Personnel costs of persons on-site and off-site to the extent same are engaged in leasing activities shall be excluded from Operating Expenses. Gifts, meals and entertainment expenses incurred with tenants, tenant prospects and brokers shall be excluded from Operating Expenses.

(3) The cost of repairs or other work occasioned by any casualty which is covered by insurance or coverable by standard all risk property insurance available in Texas, or by the exercise of the right of eminent domain or otherwise reimbursed to Landlord from another source, net of deductibles carried by Landlord, and reasonable out-of-pocket cost of adjustment.

(4) Landlord's cost of HVAC, electricity, water, janitorial and other services or benefits sold or provided to tenants in the Complex and for which Landlord is entitled to be reimbursed by such tenants as a separate additional charge or rental over and above the base rent or additional rent payments payable under the lease agreement with such tenant. The cost of providing HVAC services to other tenants at times or in quantities in excess of that made available to Tenant without special charge under this Lease Agreement, and the cost of providing electricity, water, janitorial or other services to other tenants in quantities or at specifications in excess of that made available to Tenant without special charge under this Lease Agreement, shall be excluded from Operating Expenses regardless of whether Landlord offers such services to other tenants without special charge under the terms of such other tenants' leases.

(5) All costs (including permit, license and inspection fees), however paid, in demolishing, removing, completing, fixturing, furnishing, renovating, decorating or otherwise altering or improving space for tenants or other occupants of the Complex or for vacant space, or for any management office, including space planning, interior design and engineering work.

(6) Except as set forth in Section 6.B(7) above, all costs incurred by Landlord in connection with the design or construction of the Complex or any equipment therein and related facilities, the correction of defects in design, construction or in the discharge of Landlord's obligations under **Exhibit G** attached to this Lease Agreement.

(7) Except as set forth in Section 6.B(7) above, all costs of removing, remediating, encapsulating and/or monitoring any hazardous waste, substance or material, including, without limitation, asbestos containing materials, but excluding automotive fuels discharged in driving and parking areas of the Complex. Notwithstanding Section 6.B(7) above, all operating and capital costs required by or incurred in connection with (i) the installation of any capital improvement required by any law, ordinance or regulation enacted before the Effective Date, including, without limitation, the Americans with Disabilities Act, the Texas Architectural Barriers Act, the Houston Life Safety Ordinance, but excluding any changes in interpretations, enforcement or ruling thereon after the Effective Date, (ii) the existence of chlorofluorocarbons (freon) in the Complex heating ventilation and air conditioning system or variable air volume system, or (iii) any future asbestos abatement of the Complex shall be excluded from Operating Expenses.

(8) All costs, including without limitation fines, penalties and legal fees, incurred or imposed in connection with any legal violation by Landlord or the property manager or any breach or default by Landlord under any loan or mortgage instrument or any lease or license agreement. All costs, including without limitation interest, late charges, penalties and legal fees, incurred in connection with any late payment by Landlord.

(9) Except as otherwise provided in Section 6.B(6) above, federal and state taxes on income and inheritance, estate and gift taxes of Landlord, the property manager and their respective affiliates, and all taxes imposed on or calculated on the basis of any mortgage encumbering the Complex or Garage or in connection with any transfer of ownership of the Complex or Garage or beneficial interests therein.

(10) Ad valorem taxes attributable to the leasehold improvements of Tenant and the other tenants of the Complex in excess of Complex standard but only to the extent (a) Landlord is reimbursed directly by such other tenants for any ad valorem taxes attributable to the above Building standard leasehold improvements of such other tenants or (b) a separate allocation is made by the applicable taxing authority.

(11) All payments to any affiliate of Landlord for services in excess of the costs of arms-length, third-party providers for services of comparable quality and scope.

(12) Compensation paid to clerks, attendants or other persons in commercial concessions operated by Landlord or the property manager.

(13) All costs incurred in connection with the operation, maintenance or repair of any antennae or satellite facilities, unless such services are being provided to all tenants of the Complex, including Tenant.

(14) Except as otherwise provided in Section 6.B(6) above, other costs (including consulting fees and related disbursements) incurred in connection with Landlord's ownership of the Complex to the extent not directly related to the operation, maintenance and repair thereof, including without limitation, costs of any disputes between Landlord and its employees or the property manager and costs of selling, syndicating, financing, mortgaging or hypothecating any of the Landlord's interest in the Complex and/or common areas, costs of defending Landlord's title or interest in and to said property.

(15) All contributions to charitable organizations.

(16) All contributions to reserves for Operating Expenses.

(17) Except as otherwise provided in Section 6.B(6) above, any special assessments of taxes from any city, county, state or federal governmental agency, including, but not limited to, such items as parking income taxes.

(18) Costs of repair or replacement for any item which Landlord is reimbursed pursuant to a warranty.

(19) Costs which Landlord is reimbursed by its insurance carrier or by any tenant's insurance carrier or by any other entity.

(20) Any fines, costs, penalties or interest resulting from the negligence or willful misconduct of the Landlord or its agents, contractors or employees.

(21) Any bad debt loss, rent loss or reserves for bad debt or rent loss.

(22) All payments of principal, interest or other charges of any kind incurred in connection with any indebtedness secured by the Complex, and any payments under any ground lease or other underlying lease.

(23) The cost of any additional casualty insurance premium for the Complex in excess of the standard rate payable by Landlord, which additional cost is attributable to: (a) the tenancy of a particular tenant or tenants in the Complex other than Tenant or (b) the use of any part of the Complex by Landlord other than for purposes of providing general services to the Complex.

(24) Accounting costs and audit fees attributable to Landlord's ownership (as opposed to the operation) of the Complex, including in connection with Landlord's income tax returns.

D. If the Term of this Lease Agreement commences or terminates on other than the first day of a calendar year, Tenant's Additional Rent shall be prorated for such commencement or termination year, as the case may be, by multiplying each by a fraction, the numerator of which shall be the number of days of the Term during the commencement or termination year, as the case may be, and the denominator of which shall be 365, and the calculation described in Section 6.F below shall be made as soon as reasonably possible after the termination of this Lease Agreement, Landlord and Tenant hereby agreeing that the provisions relating to said calculation shall survive the termination of this Lease Agreement.

E. On or about January 1 of each calendar year after the Base Year during the Term, Landlord shall endeavor to deliver to Tenant Landlord's good faith estimate of Tenant's Additional Rent (the "**Estimated Additional Rent**") for such year. The Estimated Additional Rent shall be paid in equal installments in advance on the first day of each month. If Landlord does not deliver an estimate to Tenant for any year by January 1 of that year, Tenant shall continue to pay Estimated Additional Rent based on the prior year's estimate until Landlord's estimate is delivered to Tenant. From time to time during any calendar year, Landlord may revise its estimate of the Additional Rent for that year based on either actual or reasonably anticipated increases in Operating Expenses, and the monthly installments of Estimated Additional Rent shall be appropriately adjusted for the remainder of that year in accordance with the revised estimate so that by the end of the year, the total payments of Estimated Additional Rent paid by Tenant shall equal the amount of the revised estimate.

F. Within one hundred fifty (150) days after the end of each calendar year during the Term, or as soon as reasonably practicable thereafter, Landlord shall provide Tenant a statement showing the Operating Expenses for said calendar year, prepared in accordance with generally accepted accounting practices, and a statement prepared by Landlord comparing Estimated Additional Rent paid by Tenant with actual Additional Rent. If the Estimated Additional Rent paid by Tenant, if any, exceeds the actual Additional Rent for said calendar year, Landlord shall pay Tenant an amount equal to such excess at Landlord's option, by either giving a credit against rentals next due, if any, or by direct payment to Tenant within thirty (30) days of the date of such statement. If the actual Additional Rent exceeds Estimated Additional Rent for said calendar year, Tenant shall pay the difference to Landlord within thirty (30) days of receipt of the statement. The provisions of this paragraph shall survive the expiration or termination of this Lease Agreement. Any amount due to the Landlord as shown on Landlord's statement described above, whether or not disputed by Tenant as provided herein shall be paid by Tenant when due as provided above, without prejudice to any subsequent written exception made pursuant to Section 6.I. The Base Rent, Additional Rent and all other sums of money that become due and payable under this Lease Agreement shall collectively be referred to herein as "**Rent**".

G. Notwithstanding any other provision herein to the contrary, it is agreed that if less than ninety-five percent (95%) of the Net Rentable Area of the Building is occupied during any calendar year or if less than ninety-five percent (95%) of the Net Rentable Area of the Building is being provided with Building standard services during any calendar year, an adjustment shall be made in computing each component of the Operating Expenses for that year which varies with the rate of occupancy of the Building (such as, but not limited to, utilities, management fees and janitorial) so that the total Operating Expenses shall be computed for such year as though the Building had been ninety-five percent (95%) occupied during such year and as though ninety-five percent (95%) of the Building had been provided with Building standard services during that year; provided however, in no event shall Landlord be entitled to recover from all of the tenants of the Project an amount greater than its actual Operating Expenses in any given year or period.

H. All Additional Rent shall be paid by Tenant to Landlord contemporaneously with the required payment of Base Rent on the first day of each calendar month, monthly in advance, for each month of the Term, in lawful money of the United States at the address of the Landlord's property manager specified in Section 31 below (or such other address as may be designated by Landlord in writing from time to time). No payment by Tenant or receipt by Landlord of an amount less than the amount of Rent herein stipulated to be paid shall be deemed to be other than on account of the stipulated Rent, nor shall any endorsement on any check or any letter accompanying such payment of Rent be deemed an accord and satisfaction, but Landlord may accept such payment without prejudice to his rights to collect the balance of such Rent.

I. Landlord shall maintain full and complete records of Operating Expenses and exclusions therefrom in accordance with generally accepted accounting principles and good commercial practice and sufficient to enable Tenant to audit Operating Expenses to confirm that Operating Expenses are being charged in accordance with this Lease Agreement. Not more than once per calendar year, and only on or before the ninetieth (90th) day following the date Landlord delivered the statement described in Section 6.F above to Tenant setting out the adjustment, if any, to the Estimated Additional Rent (the Estimated Additional Rent, as adjusted by such statement, is hereinafter referred to as the "**Adjusted Additional Rent**"), Tenant shall have the right, directly or through agents or contractors, to inspect and audit Landlord's books and records pertaining to Operating Expenses and exclusions therefrom for the period covered by the statement only, upon reasonable advance notice to and coordination with Landlord; provided, however, in no event will Landlord be obligated to permit any such inspection or audit to be performed by a consultant or firm that is compensated by Tenant on a contingent fee or percentage of recovery basis. Such audit shall be conducted in Landlord's offices in Houston, Texas during normal business hours of the Building. If Tenant fails to commence such audit on or before the ninetieth (90th) day following the date Landlord delivered the statement described in Section 6.F above to Tenant or to complete such audit and deliver the auditor's report to Landlord before the ninetieth (90th) day following the delivery of such statement, then Tenant shall conclusively be deemed to have accepted the Adjusted Additional Rent specified in such statement and to have waived any right to contest such amount in the future. The cost of any such review or audit by Tenant shall be borne solely by Tenant. Notwithstanding the foregoing, if following such audit it is conclusively determined that the Adjusted Additional Rent exceeds the actual Additional Rent by more than five percent (5%) for the calendar year in question, Landlord shall reimburse Tenant for all of Tenant's reasonable out of pocket costs and expenses incurred by Tenant in connection with such audit. If following such audit, it is conclusively determined that the Adjusted Additional Rent paid by Tenant exceeds the actual Additional Rent for said calendar year, Landlord shall pay Tenant an amount equal to such excess at Landlord's option, by either giving a credit against rentals next due, if any, or by direct payment to Tenant within thirty (30) days of the date of such determination. If as a result of such audit, it is conclusively determined that the actual Additional Rent exceeds the Adjusted Additional Rent for said calendar year, Tenant shall pay to Landlord within thirty (30) days of the date of such determination, the positive difference between the amount that the actual Additional Rent exceeds the Adjusted Additional Rent for said calendar year.

J. Landlord and Tenant hereby each acknowledge and agree that they are knowledgeable and experienced in commercial transactions and further hereby acknowledge and agree that the provisions of this Lease Agreement for determining Operating Expenses and other charges are commercially reasonable and valid even though such methods may not state precise mathematical formulae for determining such Operating Expenses. **ACCORDINGLY, TENANT HEREBY VOLUNTARILY AND KNOWINGLY WAIVES ALL RIGHTS AND BENEFITS TO WHICH TENANT MAY BE ENTITLED UNDER SECTION 93.012 OF THE TEXAS PROPERTY CODE, AS ENACTED BY HOUSE BILL 2186, 77 TH LEGISLATURE, AS SUCH SECTION NOW EXISTS OR AS SAME MAY BE HEREAFTER AMENDED OR SUCCEEDED**.

SEC. 7 SERVICE AND UTILITIES:

A. Provided no Event of Default (as hereinafter defined) has occurred and is continuing hereunder, and subject to the provisions of Sections 7.B and 7.C below, Landlord shall furnish the following services and amenities (collectively, the "**Required Services**") to Tenant (and its assignees and sublessees permitted hereunder) while occupying the Leased Premises:

(1) Domestic water at those points of supply provided for general use of the tenants of the Building;

(2) Central heat, ventilation and air conditioning in season, at such times, at such temperatures and in such amounts as are considered by Landlord to be standard, but in keeping with the standards of other comparable office buildings in the vicinity of the Gulf Freeway/Clear Lake area of Houston, Texas, all as more particularly described on **Exhibit H** attached hereto and made a part hereof for all purposes;

(3) Electric lighting service for all public areas and special service areas of the Building in the manner and to the extent deemed by Landlord to be in keeping with the standards of other comparable office buildings in the vicinity of the Gulf Freeway/Clear Lake area of Houston, Texas;

(4) Janitor service on a five (5) day week basis, in the manner and to the extent deemed standard by Landlord during the periods and hours as such services are normally furnished to tenants in the Building;

(5) Electrical facilities to furnish during normal operating hours (i) power to operate typewriters, personal computers, calculating machines, photocopying machines and other equipment that operates on 120/208 volts (collectively, the "**Low Power Equipment**"); provided, however, total rated connected load by the Low Power Equipment shall not exceed an average of five (5) watts per square foot of Net Rentable Area of the Leased Premises and (ii) power to operate Tenant's lighting and Tenant's equipment that operates on 277/480 volts (collectively, the "**High Power Equipment**"); provided, however, total rated connected load by the High Power Equipment shall not exceed an average of two (2) watts per square foot of Net Rentable Area of the Leased Premises. In the event that the Tenant's connected loads for low electrical consumption (120/208 volts) and high electrical consumption (277/480 volts) are in excess of those loads stated above, and Landlord agrees to provide such additional load capacities to Tenant (such determination to be made by Landlord in its sole discretion), then Landlord may install and maintain, at Tenant's expense, electrical submeters, wiring, risers, transformers, and electrical panels, and other items required by Landlord, in Landlord's discretion, to accommodate Tenant's design loads and capacities that exceed those loads stated above, including, without limitation, the installation and maintenance thereof. If Tenant shall consume electrical current in excess of 0.75 kilowatt hours per square foot of Net Rentable Area in the Leased Premises per month, Tenant shall pay to Landlord the actual costs to Landlord to provide such additional consumption as Additional Rent. Landlord may determine the amount of such additional consumption and potential consumption by either or both: (1) a survey of standard or average tenant usage of electricity or other utilities in the Building performed by a reputable consultant selected by Landlord and paid for by Tenant; or (2) a separate meter in the Leased Premises installed, maintained, and read by Landlord at Tenant's expense. If any supplemental heating, ventilation and air conditioning unit is installed in the Leased Premises or serves the Leased Premises (the "**Supplemental HVAC Equipment**"), Landlord shall install and maintain electrical submeters, at Tenant's expense, to monitor Tenant's actual aggregate consumption of electrical power by the Supplemental HVAC Equipment. Tenant shall reimburse Landlord for such consumption as billed as Additional Rent, based on average kilowatt hour or other unit charge over the applicable billing period within thirty (30) days after such billing.

(6) All Building standard fluorescent bulb replacement in all areas and all incandescent bulb replacement in public areas outside of the Leased Premises, rest rooms and stairwells; and

(7) Non-exclusive passenger elevator service to the Leased Premises twenty-four (24) hours per day and non-exclusive freight elevator service during normal business hours of the Building.

B. The obligation of Landlord to provide the Required Services shall be subject to governmental regulation thereof (i.e., rationing, temperature control, etc.) and any such regulation that impairs Landlord's ability to provide the Required Services as herein stipulated shall not constitute an Event of Default hereunder but rather providing the applicable Required Services to the extent allowed pursuant to such regulations shall be deemed to be full compliance with the obligations and agreements of Landlord hereunder.

C. To the extent any of the Required Services require electricity, gas and water supplied by public utilities or others, Landlord's covenants hereunder shall only impose on Landlord the obligation to use its good faith efforts to cause the applicable public utilities or other providers to furnish the same. Failure by Landlord to furnish any of the Required Services to any extent, or any cessation thereof, due to failure of any public utility or other provider to furnish service to the Building, or any other cause beyond the reasonable control of Landlord, shall not render Landlord liable in any respect for damages to either person or property, nor be construed as an eviction of Tenant, nor work an abatement of Rent, nor relieve Tenant from fulfillment of any covenant or agreement hereof. As used herein, the phrase "cause beyond the reasonable control of Landlord" shall include, without limitation, acts of the public enemy, restraining of government, unavailability of materials, strikes, civil riots, floods, hurricanes, tornadoes, earthquakes and other severe weather conditions or acts of God. In the event of any failure by Landlord to furnish any of the Required Services to any extent, or any cessation thereof, due to malfunction of any equipment or machinery, or any other cause within the reasonable control of Landlord, Tenant shall have no claim for rebate of Rent or damages on account thereof, provided that Landlord utilizes its reasonable efforts to promptly repair said equipment or machinery and to restore said Required Services as soon thereafter as is reasonably practicable. Notwithstanding anything to the contrary contained in this Lease Agreement, if: (a) any Essential Required Services (as hereinafter defined) are interrupted due solely to Landlord's negligence or willful misconduct, and Tenant is unable to and does not use the Leased Premises as a result of such interruption; and (b) Tenant shall have given written notice of such interruption to Landlord, and Landlord shall have failed to cure such interruption within five (5) consecutive days after receiving such notice, Rent shall abate commencing as of the beginning of the sixth (6th) day following such notice until such Essential Required Services are restored. Furthermore, in the event any Essential Required Services are interrupted due solely to Landlord's negligence or willful misconduct and Tenant is unable to and does not use the Leased Premises as a result of such interruption and Tenant shall have given written notice of such interruption to Landlord, and Landlord shall have failed to cure such interruption within sixty (60) days after receiving such notice, Tenant may terminate the Lease Agreement at any time prior to the restoration of such Essential Required Services. Landlord in no event shall be liable for damages by reason of loss of profits, business interruption or other consequential damages. The provisions of this Section 7.C do not apply in the case of a casualty or condemnation under Sections 13 and 14 hereof, which provisions shall govern in such circumstances. As used herein, the term "**Essential Required Services**" means any one or more of the following services to the extent Landlord is required to provide such service to Tenant under this Lease Agreement: HVAC, electricity, water and elevator service.

D. Tenant hereby acknowledges and agrees that Landlord is obligated to provide only the Required Services under this Lease Agreement, and that Landlord, its agents and representatives, have made no representations whatsoever of any additional services or amenities to be provided by Landlord now or in the future under this Lease Agreement. Notwithstanding the foregoing, Tenant recognizes that Landlord may, at Landlord's sole option, elect to provide additional services or amenities for the tenants of the Building from time to time, and hereby agrees that Landlord's discontinuance of any provision of any such additional services or amenities shall not constitute a default of Landlord under this Lease Agreement nor entitle Tenant to any abatement of or reduction in Rent.

SEC. 8 MAINTENANCE, REPAIRS AND USE:

A. Landlord shall provide for the cleaning and maintenance of the public portions of the Building including painting and landscaping surrounding the Building. Unless otherwise expressly stipulated herein, Landlord shall not be required to make any improvements or repairs of any kind or character on the Leased Premises during the Term, except such repairs as may be required by normal maintenance operations to the exterior walls, corridors, windows, roof and other structural elements and equipment of the Building.

B. Landlord, its officers, agents and representatives, subject to any security regulations imposed by any governmental authority, shall have the right to enter all parts of the Leased Premises at all reasonable hours to inspect, clean, make repairs, alterations and additions to the Building or Leased Premises which it may deem necessary or desirable, or to provide any service which it is obligated to furnish to Tenant, and Tenant shall not be entitled to any abatement or reduction of Rent by reason thereof. Notwithstanding the foregoing, Tenant hereby designates its server area as a secure area (the "**Secure Area**") within the Leased Premises which will require prior notice and accompaniment by a representative of Tenant (except in case of emergency) before Landlord may enter such Secure Area. Notwithstanding anything in this Lease Agreement to the contrary, Landlord shall not be responsible for complying with any of its obligations under this Lease Agreement with respect to the Secure Area while not being provided complete and uninterrupted access to such Secure Area.

C. Tenant agrees to maintain and keep the interior of the Leased Premises in good repair and condition at Tenant's expense. Tenant agrees not to commit or allow any waste or damage to be committed on any portion of the Leased Premises, and at the termination of this Lease Agreement, by lapse of time or otherwise, to deliver up the Leased Premises to Landlord in as good condition as on the Leasehold Improvements Completion Date, ordinary wear and tear alone excepted, and upon such termination of this Lease Agreement, Landlord shall have the right to re-enter and resume possession of the Leased Premises. Tenant shall not be liable for any preexisting conditions, design defects or construction of the Building, or damage to the interior of the Leased Premises resulting from a cause occurring outside the Leased Premises, except if, and to the extent, caused by Tenant's agents, employees, invitees or licensees.

D. Tenant will not use, occupy or permit the use or occupancy of the Leased Premises for any purpose which is directly or indirectly forbidden by law, ordinance or governmental or municipal regulation or order, or which may be dangerous to life, limb or property; or permit the maintenance of any public or private nuisance; or do or permit any other thing which may unreasonably interfere with, annoy or disturb the quiet enjoyment of any other tenant of the Building; or keep any substance or carry on or permit any operation which might emit offensive odors or conditions into other portions of the Complex; or use any apparatus which might make undue noise or set up vibrations in the Complex; or permit anything to be done which would increase the fire and extended coverage insurance rate on the Building or contents and if there is any increase in such rates by reason of acts of Tenant, then Tenant agrees to pay such increase promptly upon demand therefor by Landlord. In the event Tenant fails to correct, cure or discontinue such prohibited or dangerous use within five (5) days following notice from the Landlord, such failure shall constitute an Event of Default by Tenant hereunder and Landlord shall have all of its remedies as set forth in this Lease Agreement.

SEC. 9 QUIET ENJOYMENT; RIGHTS RESERVED:

A. Tenant, on paying the said Rent and performing the covenants herein agreed to be by it performed, shall and may peaceably and quietly have, hold and enjoy the Leased Premises for the said Term.

B. Notwithstanding anything herein to the contrary, Landlord hereby expressly reserves the right in its sole discretion to (i) temporarily or permanently change the location of, close, block or otherwise alter any streets, driveways, entrances, corridors, doorways or walkways leading to or providing access to the Complex or any part thereof or otherwise restrict the use of same provided such activities do not unreasonably impair Tenant's access to the Leased Premises, (ii) improve, remodel, add additional floors to or otherwise alter the Building, (iii) construct, alter, remodel or repair one or more parking facilities (including garages) on the Land, and (iv) convey, transfer or dedicate portions of the Land. In addition, Landlord shall have the right, in its sole discretion, at any time during the Term to attach to any or all of the Building windows a glazing, coating or film or to install storm windows for the purpose of improving the Building's energy efficiency. Tenant shall not remove, alter or disturb any such glazing, coating or film. The addition of such glazing, coating or film, or the installation of storm windows or the exercise of any of Landlord's rights pursuant to this Section 9, shall in no way reduce Tenant's obligations under this Lease Agreement or impose any liability on Landlord and it is agreed that Landlord shall not incur any liability whatsoever to Tenant as a consequence thereof and such activities shall not be deemed to be a breach of any of Landlord's obligations hereunder. Landlord agrees to exercise good faith in notifying Tenant within a reasonable time in advance of any alterations, modifications or other actions of Landlord under this Section 9. Any diminution or shutting off of light, air or view by any structure which is now or may hereafter be effected on lands adjacent to the Building shall in no way affect this Lease Agreement or impose any liability on Landlord. Noise, dust or vibration or other incidents caused by or arising out of any work performed pursuant to the exercise of Landlord's rights reserved in this Section 9 or new construction of improvements on lands adjacent to the Building, whether or not owned by Landlord, or on the Land shall in no way affect this Lease Agreement or impose any liability on Landlord. Tenant agrees to cooperate with Landlord in furtherance of Landlord's exercise of any of the rights specified in this Section 9.

SEC. 10 ALTERATIONS:

A. Tenant shall not make or allow to be made (except as otherwise provided in this Lease Agreement) any alterations or physical additions (including fixtures) in or to the Leased Premises, without first obtaining the written consent of Landlord; provided, however, Landlord's consent to (i) any alterations or physical additions (including fixtures) to the Leased Premises which do not affect the HVAC, plumbing, electrical or mechanical systems or structural elements of the Leased Premises or the Building or (ii) the placement of safes, vaults or other heavy furniture or equipment within the Leased Premises shall not be unreasonably withheld, conditioned or delayed. In addition, Tenant shall not be permitted to take x-rays or core drill or penetrate the floor of the Leased Premises or any other floor of the Building without first obtaining the Landlord's consent. The cost of any consultant or engineer hired by Landlord in connection with such work undertaken by Tenant shall be paid for by Tenant as additional rent hereunder. Tenant shall submit requests for consent to make alterations or physical additions together with copies of the plans and specifications for such alterations. Subsequent to obtaining Landlord's consent and prior to commencement of construction of the alterations or physical additions, Tenant shall deliver to Landlord the building permit, a copy of the executed construction contract covering the alterations and physical additions and evidence of contractor's and subcontractor's insurance, such insurance being with such companies, for such periods and in such amounts as Landlord may reasonably require, naming the Landlord Parties (as defined on **Exhibit I**) as additional insureds. Tenant shall pay to Landlord upon demand a review fee in the amount of Landlord's actual costs incurred to compensate Landlord for the cost of review and approval of the plans and specifications and for additional administrative costs incurred in monitoring the construction of the alterations. Tenant shall deliver to Landlord a copy of the "as-built" plans and specifications for all alterations or physical additions so made in or to the Leased Premises, and shall reimburse Landlord for the cost incurred by Landlord to update its current architectural plans for the Building.

B. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties from and against all costs (including attorneys' fees and costs of suit), losses, liabilities, or causes of action arising out of or relating to any alterations, additions or improvements made by Tenant to the Leased Premises, including but not limited to any mechanics' or materialmen's liens asserted in connection therewith.

C. Tenant shall not be deemed to be the agent or representative of Landlord in making any such alterations, physical additions or improvements to the Leased Premises, and shall have no right, power or authority to encumber any interest in the Complex in connection therewith other than Tenant's leasehold estate under this Lease Agreement. However, should any mechanics' or other liens be filed against any portion of the Complex or any interest therein (other than Tenant's leasehold estate hereunder) by reason of Tenant's acts or omissions or because of a claim against Tenant or its contractors, Tenant shall cause the same to be canceled or discharged of record by bond or otherwise within ten (10) days after notice by Landlord. If Tenant shall fail to cancel or discharge said lien or liens, within said ten (10) day period, which failure shall be deemed to be an Event of Default hereunder without the necessity of any further notice, Landlord may, at its sole option and in addition to any other remedy of Landlord hereunder, cancel or discharge the same and upon Landlord's demand, Tenant shall promptly reimburse Landlord for all costs incurred in canceling or discharging such lien or liens.

D. Tenant shall cause all alterations, physical additions, and improvements (including fixtures), constructed or installed in the Leased Premises by or on behalf of Tenant to comply with all applicable governmental codes, ordinances, rules, regulations and laws. Tenant acknowledges and agrees that neither Landlord's review and approval of Tenant's plans and specifications nor its observation or supervision of the construction or installation thereof shall constitute any warranty or agreement by Landlord that same comply with such codes, ordinances, rules, regulations and laws or release Tenant from its obligations under this Section 10.D.

E. Tenant shall be wholly responsible for any accommodations or alterations that are required by applicable governmental codes, ordinances, rules, regulations and laws to be made to the Leased Premises to accommodate disabled employees and customers of Tenant, including, without limitation, compliance with the Americans with Disabilities Act (42 U.S.C. §§ 12101 et seq.) and the Texas Architectural Barriers Act (Tex.Rev.Civ.Stat. Art 9201) (collectively, the "**Accommodation Laws**"). Except to the extent provided below, Landlord shall be responsible for making all accommodations and alterations to the Common Areas of the Building necessary to comply with the Accommodation Laws. Notwithstanding the foregoing, Landlord may perform, at Tenant's sole cost and expense, any accommodations or alterations that are required by the Accommodation Laws to any area outside of the Leased Premises which are triggered by any alterations or additions to the Leased Premises and Tenant shall reimburse Landlord for such cost and expense upon demand.

SEC. 11 FURNITURE, FIXTURES AND PERSONAL PROPERTY:»

Tenant may remove its trade fixtures, office supplies and movable office furniture and equipment not attached to the Building provided: (a) such removal is made prior to the termination of this Lease Agreement; (b) Tenant is not in default of any obligation or covenant under this Lease Agreement at the time of such removal; and (c) Tenant promptly repairs all damage caused by such removal. All other property at the Leased Premises and any alterations or additions to the Leased Premises (including wall-to-wall carpeting, paneling or other wall covering) and any other article attached or affixed to the floor, wall (excluding televisions or audio visual equipment) or ceiling of the Leased Premises shall become the property of Landlord and shall remain upon and be surrendered with the Leased Premises as a part thereof at the termination of the Lease Agreement by lapse of time or otherwise, Tenant hereby waiving all rights to any payment or compensation therefor. If, however, Landlord so requests in writing within sixty (60) days prior to the termination of this Lease Agreement, Tenant will, prior to termination of this Lease Agreement, remove any and all equipment and property placed or installed by Tenant in the Leased Premises and will repair any damage caused by such removal. In addition, Tenant shall be required prior to the termination of this Lease Agreement to remove all of its telecommunications equipment, including, but not limited to, all switches, cabling, wiring, conduit, racks and boards, whether located in the Leased Premises or in the Common Areas. If Tenant does not complete all removals prior to the termination of this Lease Agreement, Landlord may remove such items (or contract for the removal of such items), Tenant shall reimburse Landlord upon demand for the costs incurred by Landlord in connection therewith and Tenant shall be deemed to be holding over pursuant to Section 26 below until such time as such items have been removed from the Leased Premises. This Section 11 shall survive the expiration or termination of this Lease Agreement.

SEC. 12 SUBLETTING AND ASSIGNMENT:

A. In the event Tenant should desire to assign this Lease Agreement or sublet the Leased Premises or any part thereof or allow same to be used or occupied by others, Tenant shall give Landlord written notice (which shall specify the duration of said desired sublease or assignment, the date same is to occur, the exact location of the space affected thereby, the proposed rentals on a square foot basis chargeable thereunder and sufficient information of the proposed sublessee or assignee regarding its intended use, financial condition and business operations) of such desire at least forty-five (45) days in advance of the date on which Tenant desires to make such assignment or sublease or allow such a use or occupancy. Landlord shall then have a period of thirty (30) days following receipt of such notice within which to notify Tenant in writing that Landlord elects:

(1) in the event such assignee or sublessee fails to meet the conditions set forth in subparagraph (3) below, to refuse to permit Tenant to assign this Lease Agreement or sublet such space, and in such case this Lease Agreement shall continue in full force and effect in accordance with the terms and conditions hereof; or

(2) to terminate this Lease Agreement as to the space so affected as of the date so specified by Tenant in which event Tenant shall be relieved of all obligations hereunder as to such space arising from and after such date; provided, however if Landlord so notifies Tenant of Landlord's intent to terminate, Tenant shall have a period of five (5) days to rescind Tenant's notice; or

(3) to permit Tenant to assign this Lease Agreement or sublet such space for the duration specified in such notice, such approval not to be unreasonably withheld if (a) the nature and character of the proposed assignee or sublessee and the principals thereof, their business and activities and intended use of the Leased Premises are in Landlord's reasonable judgment consistent with the current standards of the Building and the floor or floors on which the Leased Premises are located, (b) neither the proposed assignee or sublessee (nor any party which, directly or indirectly, controls or is controlled by or is under common control with the proposed assignee or sublessee) is a department, representative or agency of any governmental body or then an occupant of any part of the Building or a party with whom Landlord is then negotiating to lease space in the Building or in any adjacent Building owned by Landlord or an affiliate of Landlord in the vicinity of the Gulf Freeway/Clear Lake area of Houston, Texas, (c) the form and substance of the proposed sublease or instrument of assignment are acceptable to Landlord (which acceptance by Landlord shall not be unreasonably withheld) and is expressly subject to all of the terms and provisions of this Lease Agreement and to any matters to which this Lease Agreement is subject, (d) the proposed occupancy would not (1) increase Landlord's cleaning requirements, (2) impose an extra burden upon the services to be supplied by Landlord to Tenant hereunder, (3) violate the current rules and regulations of the Building, (4) violate the provisions of any other leases of tenants in the Building or (5) cause alterations or additions to be made to the Building (excluding the Leased Premises), (e) Tenant enters into a written agreement with Landlord whereby it is agreed that any rent realized by Tenant as a result of said sublease or assignment in excess of the Base Rent and Additional Rent payable to Landlord by Tenant under this Lease Agreement and any and all sums and other considerations of whatsoever nature paid to Tenant by the assignee or sublessee for or by reason of such assignment or sublease, including, but not limited to, sums paid for the sale of Tenant's fixtures, leasehold improvements, equipment, furniture, furnishings or other personal property in excess of the fair market value thereof (that is, after deducting and giving Tenant credit for Tenant's reasonable costs directly associated therewith, including reasonable brokerage fees and the reasonable cost of remodeling or otherwise improving the Leased Premises for said assignee or sublessee but excluding any free rentals or the like offered to any such sublessee or assignee) shall be payable to Landlord as it accrues as additional rent hereunder, (f) the granting of such consent will not constitute a default under any other agreement to which Landlord is a party or by which Landlord is bound and (g) the creditworthiness of the proposed assignee or sublessee and the principals thereof is acceptable to Landlord, in Landlord's sole discretion.

B. No assignment or subletting by Tenant shall be effective unless Tenant shall execute, have acknowledged and deliver to Landlord, and cause each sublessee or assignee to execute, have acknowledged and deliver to Landlord, an instrument in form and substance acceptable to Landlord in which (i) such sublessee or assignee adopts this Lease Agreement and assumes and agrees to perform jointly and severally with Tenant, all of the obligations of Tenant under this Lease Agreement, as to the space transferred to it, (ii) Tenant and such sublessee or assignee agree to provide to Landlord, at their expense, direct access from a public corridor in the Building to the transferred space, (iii) such sublessee or assignee agrees to use and occupy the transferred space solely for the purpose specified in Section 3 and otherwise in strict accordance with this Lease Agreement and (iv) Tenant acknowledges and agrees that, notwithstanding such subletting or assignment, Tenant remains directly and primarily liable for the performance of all the obligations of Tenant hereunder (including, without limitation, the obligation to pay Rent), and Landlord shall be permitted to enforce this Lease Agreement against Tenant or such sublessee or assignee, or both, without prior demand upon or proceeding in any way against any other persons. Tenant shall, upon demand, reimburse Landlord for all reasonable expenses incurred by Landlord in connection with a request made by Tenant pursuant to this Section 12, including, without limitation, any investigations as to the acceptability of the proposed assignee or sublessee, all legal costs reasonably incurred in connection with the granting of any requested consent and a charge reasonably determined by Landlord to cover in-house time spent in respect of such request.

C. Any consent by Landlord to a particular assignment or sublease shall not constitute Landlord's consent to any other or subsequent assignment or sublease, and any proposed sublease or assignment by any assignee or sublessee shall be subject to the provisions of this Section 12 as if it were a proposed sublease or assignment by Tenant. The prohibition against an assignment or sublease described in this Section 12 shall be deemed to include a prohibition against (i) except as set forth in Section 12.E below, Tenant's mortgaging or otherwise encumbering its leasehold estate, (ii) an assignment or sublease which may occur by merger or operation of law and (iii) permitting the use or occupancy of the Leased Premises, or any part thereof, by anyone other than Tenant, each of which shall be ineffective and void and shall constitute an Event of Default under this Lease Agreement unless consented to by Landlord in writing in advance. For purposes hereof, the transfer of the ownership or voting rights in a controlling interest of the voting stock of Tenant (if Tenant is a corporation) or the transfer of a general partnership interest or a majority of the limited partnership interest in Tenant (if Tenant is a partnership), at any time throughout the Term, shall be deemed to be an assignment of this Lease Agreement.

D. Notwithstanding anything to the contrary contained herein, Tenant may assign this Lease Agreement or sublet the Leased Premises or any part thereof, without the prior consent of Landlord, to (i) an Affiliate (as defined below) of Tenant, (ii) an entity into which Tenant is merged, consolidated or converted (or the resulting entity in any merger of any other entity into or with Tenant), or (iii) to an entity to which fifty percent (50%) or more of Tenant's assets are transferred; provided, however, (a) Tenant shall give Landlord written notice (which shall specify the assignee or sublessee, the duration of said assignment or sublease, the effective date of such assignment or subletting and the exact location of the space affected thereby and the rentals on a square foot basis to be charged thereunder) of such assignment or sublease at least ten (10) business days prior to such assignment or sublease, and (b) the assignee or successor entity must have a net worth as determined by generally accepted accounting principles ("**GAAP**") on the date following such sale of assets or merger at least equal to the GAAP net worth of Tenant as of the day preceding such assignment, sublease, sale or merger. As used herein, (1) the term "**Affiliate**" means any person or entity controlled by, under common control with, or which controls, the Tenant, and (2) the term " **control**" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the entity referred to, whether through ownership of voting securities, by contract or otherwise, and the terms "**controlling**" and "**controls**" have meanings correlative to the foregoing.

E. Tenant shall have the right, at any time or from time to time, to mortgage its leasehold interest under this Lease Agreement, subject, however, to the limitations hereinafter set forth. A mortgage of or deed of trust on Tenant's leasehold interest under this Lease Agreement is hereinafter referred to as a "**Leasehold Mortgage**". The holder of the Leasehold Mortgage is referred to as the "**Leasehold Mortgagee**". Any Leasehold Mortgage shall be subject and subordinate to the rights of Landlord hereunder and all matters then of record, it being agreed and understood that Landlord's right, title and interest in and to the Complex and the Leased Premises shall at all times be superior to such Leasehold Mortgage. No Leasehold Mortgagee shall be entitled to enjoy the rights or benefits mentioned herein, nor shall the provisions of this Lease Agreement pertaining to Leasehold Mortgages be binding upon Landlord, unless Landlord shall have been given written notice of the name and address of the Leasehold Mortgagee together with a true and correct copy of the Leasehold Mortgage. The Leasehold Mortgage shall provide that (i) notices of any foreclosures of the Leasehold Mortgage shall be sent to Landlord and (ii) in the event of a foreclosure of the Leasehold Mortgage, the Leasehold Mortgagee shall be subject to the terms and provisions of this Lease Agreement and have the same rights and obligations of Tenant hereunder.

SEC. 13 FIRE AND CASUALTY:

A. In the event of a fire or other casualty in the Leased Premises, Tenant shall immediately give notice thereof to Landlord. If the Leased Premises shall be partially destroyed by fire or other casualty so as to render the Leased Premises untenantable in whole or in part, Rent shall abate thereafter as to the portion of the Leased Premises rendered untenantable until such time as the Leased Premises are made tenantable as reasonably determined by Landlord and Landlord agrees to commence and prosecute such repair work promptly and with all due diligence; provided, however, in the event such destruction (i) results in total or substantial damages to or destruction of the Building and Landlord shall decide not to rebuild or (ii) results in the Leased Premises being untenantable in whole or in substantial part and the reasonable estimation of a responsible contractor selected by Landlord as to the amount of time necessary to rebuild or restore such destruction to the Leased Premises and all other portions of the Building exceeds six (6) months from the time such work is commenced, then in either event, Landlord shall have a right to terminate this Lease Agreement effective as of the date of casualty or destruction, and upon such termination, all Rent owed up to the time of such destruction or termination shall be paid by Tenant. Subject to reasonable delays for insurance adjustments, Landlord shall give Tenant written notice of its decisions, estimates or elections under this Section 13 within sixty (60) days after any such damage or destruction. If any portion of Rent is abated under this Section 13, Landlord may elect to extend the expiration date of the Term of this Lease Agreement for the period of the abatement.

B. If the Leased Premises are damaged by fire or other casualty resulting from the fault or negligence of Tenant, or the agents, employees, licensees, customers or invitees of Tenant, Rent shall continue without abatement, except to the extent Landlord receives insurance proceeds covering the same.

C. Notwithstanding anything contained in this Section 13, in no event shall Landlord be required to expend more to reconstruct, restore and repair the Building than the amount actually received by Landlord from the proceeds of the property insurance carried by Landlord and Landlord shall have no duty to repair or restore any portion of any alterations, additions, installation or improvements in the Leased Premises or the decorations thereto except to the extent that the proceeds of the insurance carried by Tenant are timely received by Landlord. If Tenant desires any other additional repairs or restoration, and if Landlord consents thereto, it shall be done at Tenant's sole cost and expense subject to all of the applicable provisions of this Lease Agreement. Tenant acknowledges that Landlord shall be entitled to the full proceeds of any insurance coverage whether carried by Landlord or Tenant, for damage to any alterations, addition, installation, improvements or decorations which would become the Landlord's property upon the termination of this Lease Agreement, but with respect to insurance carried by Tenant, unless this Lease Agreement is terminated pursuant to this Section 13, Landlord's rights to such proceeds shall be to the extent, but only to the extent, that Landlord uses such proceeds to restore the alterations, additions, installations and improvements in the Leased Premises.

SEC. 14 CONDEMNATION:»

If all of the Complex is taken or condemned, or acquired under threat of condemnation, by or at the direction of any governmental authority (a "**Taking**" or "**Taken**", as the context requires), or if so much of the Complex is Taken that, in Landlord's opinion, the remainder cannot be restored to an economically viable, quality office building, or if the awards payable to Landlord as a result of any Taking are, in Landlord's opinion, inadequate to restore the remainder to an economically viable, quality office building, Landlord may, at its election, exercisable by the giving of written notice to Tenant within thirty (30) days after the date of the Taking, terminate this Lease Agreement as of the date of the Taking or the date Tenant is deprived of possession of the Leased Premises (whichever is later). If this Lease Agreement is not terminated as a result of a Taking, Landlord shall restore the Leased Premises remaining after the Taking to a Building standard condition. During the period of restoration, Base Rent shall be abated to the extent the Leased Premises are rendered untenantable and, after the period of restoration, Base Rent and Tenant's pro rata share shall be reduced in the proportion that the area of the Leased Premises Taken or otherwise rendered untenantable bears to the area of the Leased Premises just prior to the Taking. If any portion of Base Rent is abated under this Section 14, Landlord may elect to extend the expiration date of the Term for the period of the abatement. All awards, proceeds, compensation or other payments from or with respect to any Taking of the Complex or any portion thereof shall belong to Landlord, Tenant hereby assigning to Landlord all of its right, title, interest and claim to same. Tenant shall have the right to assert a claim for and recover from the condemning authority, but not from Landlord, such compensation as may be awarded on account of Tenant's moving and relocation expenses, and depreciation to and loss of Tenant's movable personal property.

SEC. 15 DEFAULT BY TENANT:»

The occurrence of any one or more of the following shall constitute an "**Event of Default**" under this Lease Agreement:

A. The failure of Tenant to pay any Rent as and when due under this Lease Agreement such failure continuing for a period of five (5) days after Landlord provides Tenant with written notice thereof; provided, however, Landlord shall have no obligation to provide such notice more than two (2) times in any calendar year;

B. The failure of Tenant to perform, comply with or observe any of the other covenants or conditions contained in this Lease Agreement and the continuance of such failure for the period of time as may be specified elsewhere in this Lease Agreement for such specific covenant or condition, or should no period of time be specified elsewhere in this Lease Agreement with respect to such specific covenant or condition, a period of thirty (30) days after written notice to Tenant; or, if such failure cannot reasonably be cured within said thirty (30) day period despite Tenant's diligent good faith efforts, the failure of Tenant to promptly commence its diligent good faith efforts to cure such failure within said thirty (30) day period and/or continuance of such failure for a period of ninety (90) days notwithstanding Tenant's efforts to cure;

C. Tenant shall fail to execute and acknowledge or otherwise respond in good faith and in writing within ten (10) days after submission to Tenant of a request for confirmation of the subordination of this Lease Agreement pursuant to Section 24 or an estoppel certificate pursuant to Section 35.

D. The filing of a petition by or against Tenant (i) naming Tenant as debtor in any bankruptcy or other insolvency proceeding, (ii) for the appointment of a liquidator or receiver for all or substantially all of Tenant's Property or for Tenant's interest in this Lease Agreement, or (iii) to reorganize or modify Tenant's capital structure and the failure by Tenant to discharge same within sixty (60) days;

E. The admission by Tenant or any guarantor in writing of its inability to meet its obligations as they become due or the making by Tenant or any guarantor of an assignment for the benefit of its creditors;

F. The attempt by Tenant to assign this Lease Agreement or to sublet all or any part of the Leased Premises without the prior written consent of Landlord in accordance with Section 12;

G. Any holding over by Tenant not authorized by Landlord in writing in accordance with Section 26 with respect to all or any portion of the Leased Premises after the expiration or termination of the Lease Agreement; or

H. The failure by Tenant to comply with the insurance requirements set forth in **Exhibit I**.

SEC. 16 REMEDIES OF LANDLORD:»

Upon any Event of Default, Landlord may exercise any one or more of the following described remedies, in addition to all other rights and remedies provided at law or in equity:

A. Terminate this Lease Agreement by written notice to Tenant and forthwith repossess the Leased Premises and be entitled to recover forthwith as damages a sum of money equal to the total of (i) the cost of recovering the Leased Premises (including attorneys' fees and costs of suit), (ii) the cost of removing and storing any personal property, (iii) the unpaid Rent earned at the time of termination, plus interest thereon at the rate described in Section 5, (iv) the present value (discounted at the rate of eight percent (8%) per annum) of the balance of the Rent for the remainder of the Term less the present value (discounted at the same rate) of the fair market rental value of the Leased Premises for said period, taking into account the period of time the Leased Premises will remain vacant until a new tenant is obtained, and the cost to prepare the Leased Premises for occupancy and the other costs (such as leasing commissions, tenant improvement allowances and attorneys' fees) to be incurred by Landlord in connection therewith, and (v) any other sum of money and damages owed by Tenant to Landlord under this Lease Agreement.

B. Terminate Tenant's right of possession (but not this Lease Agreement) and may repossess the Leased Premises by forcible detainer suit or otherwise, without thereby releasing Tenant from any liability hereunder and without demand or notice of any kind to Tenant and without terminating this Lease Agreement. Landlord shall use reasonable efforts under the circumstances to relet the Leased Premises on such terms and conditions as Landlord in its sole discretion may determine (including a term different than the Term, rental concessions, alterations and repair of the Leased Premises); provided, however, Landlord hereby reserves the right (i) to lease any other comparable space available in the Building or in any adjacent building owned by Landlord prior to offering the Leased Premises for lease, and (ii) to refuse to lease the Leased Premises to any potential tenant which does not meet Landlord's standards and criteria for leasing other comparable space in the Building. Landlord shall not be liable for, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure or refusal to relet the Leased Premises or Landlord's inability to collect rent due in respect of such reletting. For the purpose of such reletting Landlord shall have the right to decorate or to make any repairs, changes, alterations or additions in or to the Leased Premises as may be reasonably necessary or desirable. In the event that (i) Landlord shall fail or refuse to relet the Leased Premises, or (ii) the Leased Premises are relet and a sufficient sum shall not be realized from such reletting (after first deducting therefrom, for retention by Landlord, the unpaid Rent due hereunder earned but unpaid at the time of reletting plus interest thereon at the rate specified in Section 5, the cost of recovering possession (including attorneys' fees and costs of suit), all of the costs and expenses of such decorations, repairs, changes, alterations and additions, the expense of such reletting and the cost of collection of the rent accruing therefrom) to satisfy the Rent, then Tenant shall pay to Landlord as damages a sum equal to the amount of such deficiency. Any such payments due Landlord shall be made upon demand therefor from time to time and Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this Section 16 from time to time. No delivery to or recovery by Landlord of any portion due Landlord hereunder shall be any defense in any action to recover any amount not theretofore reduced to judgment in favor of Landlord, nor shall such reletting be construed as an election on the part of Landlord to terminate this Lease Agreement unless a written notice of such intention be given to Tenant by Landlord. Notwithstanding any such termination of Tenant's right of possession of the Leased Premises, Landlord may at any time thereafter elect to terminate this Lease Agreement. In any proceedings to enforce this Lease Agreement under this Section 16, Landlord shall be presumed to have used its reasonable efforts to relet the Leased Premises, and Tenant shall bear the burden of proof to establish that such reasonable efforts were not used.

C. Alter any and all locks and other security devices at the Leased Premises, and if it does so Landlord shall not be required to provide a new key or other access right to Tenant unless Tenant has cured all Events of Default; provided, however, that in any such instance, during Landlord's normal business hours and at the convenience of Landlord, and upon the written request of Tenant accompanied by such written waivers and releases as Landlord may require, Landlord will escort Tenant or its authorized personnel to the Leased Premises to retrieve any personal belongings or other property of Tenant. The provisions of this Section 16.C are intended to override and control any conflicting provisions of the Texas Property Code.

D. All agreements and provisions to be performed by Tenant under any of the terms of this Lease Agreement shall be at Tenant's sole cost and expense and without any abatement of Rent except as otherwise provided herein. If Tenant, subject to the notice and cure provisions herein provided, shall fail to pay any sum of money, other than Base Rent, required to be paid by it hereunder or shall fail to cure any default, then Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations, make any such payment or perform any such act on Tenant's part. All sums so paid by Landlord and all costs incurred by Landlord in taking such action shall be deemed Additional Rent hereunder and shall be paid to Landlord on demand, and Landlord shall have (in addition to all other rights and remedies of Landlord) the same rights and remedies in the event of the non-payment thereof by Tenant as in the case of default by Tenant in the payment of Rent.

E. In connection with the exercise by Landlord of its rights and remedies in respect of any Event of Default on the part of Tenant, to the extent (but no further) that Landlord is required herein or by applicable Texas law to mitigate damages, or to use efforts to do so, Tenant agrees in favor of Landlord that Landlord shall not be deemed to have failed to mitigate damages, or to have used the efforts required by law to do so, because:

(1) Landlord leases other space in the Building prior to re-letting the Leased Premises;

(2) Landlord refuses to relet the Leased Premises to any affiliate of Tenant, or any principal of Tenant, or any affiliate of such principal (for purposes of this Lease, "affiliate" shall mean and refer to any person or entity controlling, under common control with, or controlled by, the party in question);

(3) Landlord refuses to relet the Leased Premises to any person or entity whose creditworthiness Landlord in good faith deems unacceptable;

(4) Landlord refuses to relet the Leased Premises to any person or entity because the use proposed to be made of the Leased Premises by such prospective tenant is not of a type and nature consistent with that of the other tenants in the Building or the floor where the Leased Premises are situated as of the date Tenant defaults under this Lease Agreement, or because such use would, in the good faith opinion of Landlord, impose unreasonable or excessive demands upon the Building;

(5) Landlord refuses to relet the Leased Premises to any person or entity, or any affiliate of such person or entity, who has been engaged in litigation with, or who has threatened litigation against, Landlord or any of its affiliates, or whom Landlord in good faith deems to be unreasonably or excessively litigious;

(6) Landlord refuses to relet the Leased Premises because the tenant or the terms and provisions of the proposed lease are not approved by the holders of any liens or security interests in the Building or any part thereof, or would cause Landlord to breach or be in default of, or to be unable to perform any of its covenants under, any agreements between Landlord and any third party;

(7) Landlord refuses to relet the Leased Premises because the proposed tenant is unwilling to execute and deliver Landlord's standard lease form without substantial tenant-oriented modifications or such tenant requires improvements to the Leased Premises to be paid at Landlord's cost and expense; or

(8) Landlord refuses to relet the Leased Premises to a person or entity whose character or reputation, or the nature of whose business, Landlord in good faith deems unacceptable;

and it is further agreed that each and all of the grounds for refusal set forth in clauses (1) through (8) above, both inclusive, of this sentence are reasonable grounds for Landlord's refusal to relet the Leased Premises, or (as to all other provisions of this Lease Agreement) for Landlord's refusal to issue any approval, or take any other action, of any nature whatsoever under this Lease Agreement. In the event the waiver set forth in this Section 16.E shall be ineffective, Tenant further agrees in favor of Landlord, to the maximum extent to which it may lawfully and effectively do so, that the following efforts to mitigate damages if made by Landlord (and without obligating Landlord to render such efforts) shall be conclusively deemed reasonable, and that Landlord shall be conclusively deemed to have used the efforts to mitigate damages required by applicable law if: Landlord places the Leased Premises on its inventory of available space in the Building; Landlord makes such inventory available to brokers who request same; and Landlord shows the Leased Premises to prospective tenants (or their brokers) who request to see it.

SEC. 17 LIEN FOR RENT:»

Landlord hereby waives any and all contractual, statutory and/or constitutional liens, whether express or implied, granted, accorded, reserved or otherwise provided to landlords against any and all property of Tenant. Landlord will, upon request of Tenant, execute and deliver a separate written notice of such waiver for the benefit of any of Tenant's lenders requiring same.

SEC. 18 NON-WAIVER:»

Neither acceptance of Rent by Landlord nor failure by Landlord or Tenant to exercise available rights and remedies, whether singular or repetitive, shall constitute a waiver of any of such party's rights hereunder. Waiver by Landlord or Tenant of any right for any Event of Default of the other shall not constitute a waiver of any right for either a subsequent Event of Default of the same obligation or any other Event of Default. No act or thing done by Landlord or its agent shall be deemed to be an acceptance or surrender of the Leased Premises and no agreement to accept a surrender of the Leased Premises shall be valid unless it is in writing and signed by a duly authorized officer or agent of Landlord.

SEC. 19 LAWS AND REGULATIONS; RULES AND REGULATIONS:»

Tenant shall comply with, and Tenant shall cause its visitors, employees, contractors, agents, invitees and licensees to comply with, all laws, ordinances, orders, rules and regulations of any state, federal, municipal and other agencies or bodies having any jurisdiction thereof relating to the use, condition or occupancy of the Leased Premises. Such reasonable rules and regulations applying to all tenants in the Building as may be hereafter adopted by Landlord for the safety, care and cleanliness of the premises and the preservation of good order thereon, are hereby made a part hereof for all purposes and Tenant agrees to comply with all such rules and regulations. Landlord shall have the right at all times to change such rules and regulations or to amend them in any reasonable manner as may be deemed advisable by Landlord, all of which changes and amendments will be sent by Landlord to Tenant in writing and shall be thereafter carried out and observed by Tenant. The current rules and regulations of the Building are set forth in **Exhibit D** attached hereto and made a part hereof for all purposes. Landlord covenants and agrees to use commercially reasonable efforts to uniformly apply all rules and regulations with respect to all tenants in the Building.

SEC. 20 ASSIGNMENT BY LANDLORD; LIMITATION OF LANDLORD'S LIABILITY:»

Landlord shall have the right to transfer and assign, in whole or in part, all its rights and obligations hereunder and in the Complex, and in such event and upon such transfer no further liability or obligation shall thereafter accrue against Landlord hereunder so long as such transferee or assignee assumes the obligations of Landlord hereunder. Furthermore, Tenant specifically agrees to look solely to Landlord's interest in the Complex for the recovery of any judgment from Landlord, it being agreed that the Landlord Parties shall never be personally liable for any such judgment. The foregoing shall in no way preclude, prohibit or prevent access by Tenant to the proceeds of any insurance carried by Landlord to the extent entitled thereto under this Lease Agreement.

SEC. 21 SEVERABILITY:»

This Lease Agreement shall be construed in accordance with the laws of the State of Texas. If any clause or provision of this Lease Agreement is illegal, invalid or unenforceable, under present or future laws effective during the Term hereof, then it is the intention of the parties hereto that the remainder of this Lease Agreement shall not be affected thereby, and it is also the intention of both parties that in lieu of each clause or provision that is illegal, invalid or unenforceable, there be added as part of this Lease Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

SEC. 22 SIGNS:»

No signs of any kind or nature, symbol or identifying mark shall be put on the Building, in the halls, elevators, staircases, entrances, parking areas or upon the doors or walls, whether plate glass or otherwise, of the Leased Premises or within the Leased Premises so as to be visible from the public areas or exterior of the Building without prior written approval of Landlord. All signs or lettering shall conform in all respects to the sign and/or lettering criteria established by Landlord. Landlord shall install one (1) Building standard strips containing a listing of Tenant's name and its officers on the Building's directory board located on the ground floor of the Building. Landlord shall promptly update, at Tenant's expense, Tenant's listings in the Building directory from time to time upon Tenant's written request (but no more than once quarterly).

SEC. 23 SUCCESSORS AND ASSIGNS:»

A. Landlord and Tenant agree that all provisions hereof are to be construed as covenants and agreements as though the words imparting such covenants were used in each separate paragraph hereof, and that, except as restricted by the provisions of Section 12, this Lease Agreement and all the covenants herein contained shall be binding upon the parties hereto, their respective heirs, legal representatives, successors and assigns.

B. Subject to the limitations and conditions set forth elsewhere herein, this Lease shall bind and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto. The term "Landlord", as used in this Lease, so far as the performance of any covenants or obligations on the part of Landlord under this Lease are concerned, shall mean only the owner of the Building at the time in question, so that in the event of any transfer of title to the Building, the party by whom any such transfer is made shall be relieved of all liability and obligations of Landlord arising under this Lease from and after the date of such transfer so long as the party to whom any such transfer is made assumes the obligations of Landlord hereunder. If Tenant is composed of more than one party, then all such parties shall be jointly and severally liable.

SEC. 24 SUBORDINATION:

A. »

Tenant covenants and agrees with Landlord that this Lease Agreement is subject and subordinate to any mortgage, deed of trust, ground lease and/or security agreement which may now or hereafter encumber the Complex or any interest of Landlord therein and/or the contents of the Building, and to any advances made on the security thereof and to any and all increases, renewals, modifications, consolidations, replacements and extensions thereof; provided, however, Landlord shall use its good faith efforts to obtain within thirty (30) days from the Effective Date a subordination, non-disturbance and attornment agreement from the holder of such existing deed of trust in the lender's standard form. This clause shall be self-operative and no further instrument of subordination need be required by any owner or holder of any such ground lease, mortgage, deed of trust or security agreement. In confirmation of such subordination, however, at Landlord's request Tenant shall execute promptly any appropriate certificate or instrument that Landlord may request. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificate or instrument for and on behalf of Tenant; provided, however, that Landlord shall not exercise this power of attorney unless Tenant fails to execute and deliver such instruments or certificates within ten (10) days after being requested by Landlord to do so. In the event of the enforcement by the ground lessor, the trustee, the beneficiary or the secured party under any such ground lease, mortgage, deed of trust or security agreement of the remedies provided for by law or by such ground lease, mortgage, deed of trust or security agreement, Tenant, upon request of the ground lessor or any person or party succeeding to the interest of Landlord as a result of such enforcement, will automatically become the Tenant of such ground lessor or successor in interest without any change in the terms or other provisions of this Lease Agreement; provided, however, that such ground lessor or successor in interest shall not be (a) bound by any payment of Rent for more than one month in advance except prepayments in the nature of security for the performance by Tenant of its obligations under this Lease Agreement, (b) bound by any amendment or modification of this Lease Agreement made without the written consent of such ground lessor or such successor in interest (c) liable for any previous act or omission of the Landlord, (d) subject to any credit, demand, claim, counterclaim, offset or defense which theretofore accrued to Tenant against the Landlord, (e) required to account for any security deposit of Tenant other than any security deposit actually delivered to lender by Landlord and (f) responsible for any monies owing by Landlord to Tenant. Upon request by such ground lessor or successor in interest, whether before or after the enforcement of its remedies, Tenant shall execute and deliver an instrument or instruments confirming and evidencing the attornment herein set forth, and Tenant hereby irrevocably appoints Landlord as Tenant's agent and attorney-in-fact for the purpose of executing, acknowledging and delivering any such instruments and certificates; provided, however, that Landlord shall not exercise this power of attorney unless Tenant fails to execute and deliver such instruments or certificates within ten (10) business days after being requested by Landlord to do so. Notwithstanding anything contained in this Lease Agreement to the contrary, in the event of any default by Landlord in performing its covenants or obligations hereunder which would give Tenant the right to terminate this Lease Agreement, Tenant shall not exercise such right unless and until (a) Tenant gives written notice of such default (which notice shall specify the exact nature of said default and how the same may be cured) to the lessor under any such land or ground lease and the holder(s) of any such mortgage or deed of trust or security agreement who has theretofore notified Tenant in writing of its interest and the address to which notices are to be sent, and (b) said lessor and holder(s) fail to cure or cause to be cured said default within thirty (30) days from the receipt of such notice from Tenant. This Lease Agreement is further subject to and subordinate to all matters of record in Harris County, Texas.

B. Notwithstanding anything to the contrary set forth above, any beneficiary under any deed of trust may at any time subordinate its deed of trust to this Lease Agreement in whole or in part, without any need to obtain Tenant's consent, by execution of a written document subordinating such deed of trust to the Lease Agreement to the extent set forth in such document and thereupon the Lease Agreement shall be deemed prior to such deed of trust to the extent set forth in such document without regard to their respective dates of execution, delivery and/or recording. In that event, to the extent set forth in such document, such deed of trust shall have the same rights with respect to this Lease Agreement as would have existed if this Lease Agreement had been executed, and a memorandum thereof, recorded prior to the execution, delivery and recording of the deed of trust.

SEC. 25 TAX PROTEST:»

Tenant waives all rights under the Texas Property Tax Code, now or hereafter in effect, including all rights under Section 41.413 thereof, granting to tenants of real property or lessees of tangible personal property the right to protest the appraised value, or receive notice of reappraisal, of all or any part of the Complex, irrespective of whether Landlord has elected to protest such appraised value. To the extent such waiver is prohibited, Tenant appoints Landlord as its attorney-in-fact, coupled with an interest, to appear and take all actions on behalf of Tenant which Tenant may take under the Texas Property Tax Code.

SEC. 26 HOLDING OVER:»

In the event of holding over by Tenant with respect to all or any portion of the Leased Premises after the expiration or termination of the Lease Agreement, such holding over shall constitute a tenancy at sufferance relationship between Landlord and Tenant and all of the terms and provisions of this Lease Agreement shall be applicable during such period, except that as monthly rental, Tenant shall pay to Landlord for each month (or any portion thereof) during the period of such hold over an amount equal to 150% of the Rent payable by Tenant for the month immediately preceding the holdover period. The rental payable during such hold over period shall be payable to Landlord on demand. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease Agreement except as herein provided. In the event of any unauthorized holding over, Tenant shall also indemnify, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties (as defined on **Exhibit I**) against all claims for damages against the Landlord Parties as a result of Tenant's possession of the Leased Premises, including, without limitation, claims for damages by any other party to which Landlord may have leased, or entered into an agreement to lease, all or any part of the Leased Premises effective upon the termination of this Lease Agreement.

SEC. 27 INDEPENDENT OBLIGATION TO PAY RENT:

A. It is the intention of the parties hereto that the obligations of Landlord and Tenant hereunder shall be separate and independent covenants and agreements, that the Rent and all other sums payable by Tenant hereunder shall continue to be payable in all events and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease Agreement.

B. Except as otherwise expressly provided herein, Tenant waives the right (a) to quit, terminate or surrender this Lease Agreement or the Leased Premises or any part thereof, or (b) to any abatement, suspension, deferment or reduction of the rent or any other sums payable under this Lease Agreement.

SEC. 28 INDEMNITY; RELEASE AND WAIVER:

A. Tenant hereby agrees to indemnify, protect, defend and hold the Landlord Parties harmless from and against any and all liabilities, claims, causes of action, fines, damages, suits and expenses, including attorneys' fees and necessary litigation expenses (collectively, the "**Claims**"), arising from Tenant's use, occupancy or enjoyment of the Leased Premises and its facilities for the conduct of its business or from any activity, work or thing done, permitted, omitted or suffered by Tenant and its partners, officers, directors, employees, agents, servants, contractors, customers, licensees and invitees ("**Tenant Parties**") in or about the Complex, and Tenant further agrees to indemnify, protect, defend and hold the Landlord Parties harmless from and against any and all Claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease Agreement or arising from any negligence or willful misconduct of Tenant or any of its partners, officers, directors, employees, agents, servants, contractors, customers, licensees and invitees. In case any action or proceeding shall be brought against the Landlord Parties by reason of any such Claim, Tenant, upon notice from Landlord, shall provide a separate defense to same at Tenant's sole cost and expense by counsel reasonably satisfactory to Landlord. The indemnity obligations of Tenant under this Section 28 shall survive the expiration or earlier termination of this Lease Agreement.

B. Landlord hereby agrees to indemnify, protect, defend and hold the Tenant Parties harmless from and against any and all Claims incurred by Tenant to third parties, to the extent arising from any breach or default in the performance of any obligation on Landlord's part to be performed under the terms of this Lease Agreement or to the extent arising from any negligence or willful misconduct of Landlord or any of its partners, officers, directors, employees, agents, servants, contractors and licensees. In case any action or proceeding shall be brought against Tenant by reason of any such Claim, Landlord, upon notice from Tenant, shall provide a separate defense to same at Landlord's sole cost and expense by counsel reasonably satisfactory to Tenant. The indemnity obligations of Landlord under this Section shall survive the expiration or earlier termination of this Lease Agreement. The liability of Landlord to indemnify Tenant as set forth in this Section 28 shall not extend to any matter against which Tenant shall be effectively protected by insurance; provided, however, that if any such liability shall exceed the amount of the effective and collectable insurance in question, or a reasonable amount of insurance for Tenant to have carried, whichever shall be higher, the liability of Landlord shall apply to such excess. The indemnity set forth in this Section 28 shall not be deemed or construed to make Landlord liable for any matter that Tenant is obligated to do or omit by this Lease Agreement, by law, by an obligation to a third party, or otherwise, so long as Tenant is not obligated as a result of a breach or default of this Lease Agreement by Landlord.

C. Landlord and Tenant each hereby releases the other from any and all claims or causes of action whatsoever which such releasing party might otherwise now or hereafter possess resulting in or from or in any way associated with any loss covered or which should have been covered by insurance, **REGARDLESS OF CAUSE OR ORIGIN OF SUCH LOSS OR DAMAGE, INCLUDING, WITHOUT LIMITATION, SOLE, JOINT, OR CONCURRENT NEGLIGENCE OF THE LANDLORD PARTIES**, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by such party pursuant to this Lease Agreement.

D. Landlord and Landlord's agents and employees shall not be liable to Tenant or any other person or entity whom may claim by or through or subject to the Tenant for any injury to person or damage to property caused by the Premises or other portions of the Building becoming out of repair or damaged or by defect in or failure of equipment, pipes or wiring, or broken glass, wind damage, rain damage, floods, rising water or fires or by the backing up of drains or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Premises, nor shall Landlord be liable to Tenant or any other person or entity whomsoever for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Building or of any other persons or entities whomsoever, excepting only duly authorized employees and agents of Landlord. Furthermore, Landlord shall not be responsible for lost or stolen personal property, equipment, money or jewelry from the Premises or from the public areas of the Building, regardless of whether such loss occurs when the area is locked against entry. Landlord shall not be liable to Tenant or Tenant's employees, customers or invitees for any damages or losses caused by theft, burglary, assault, vandalism or other crimes. Landlord strongly recommends that Tenant provide its own security systems and services and secure Tenant's own insurance in excess of the amounts required elsewhere in this Lease, to protect against the above occurrences if Tenant desires additional protection or coverage for such risks. Tenant shall give Landlord prompt notice of any criminal or suspicious conduct within or about the Premises or the Building, and/or any personal injury or property damage caused thereby**.** Landlord may, but is not obligated to, enter into agreements with third parties for the provision, monitoring, maintenance and repair of any courtesy patrols or similar services or fire protective systems and equipment and, to the extent same is provided in Landlord's sole discretion, Landlord shall not be liable to Tenant for any damages, costs or expenses which occur for any reason in the event any such system or equipment is not properly installed, monitored or maintained or any such services are not properly provided.

E. Landlord shall not be liable or responsible to Tenant for (a) any loss or damage to any property or person occasioned by theft, criminal act, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition or order of governmental body or authority, or any cause beyond Landlord’s control, or (b) any damage or inconvenience which may arise through repair or alteration of any part of the Building made necessary by virtue of any such cause; provided, however, Landlord shall use commercially reasonable efforts to minimize such damage or inconvenience to Tenant.

SEC. 29 INSURANCE:»

Landlord and Tenant shall satisfy the insurance requirements as more particularly described on **Exhibit I** attached hereto and made a part hereof for all purposes. In no event shall Tenant’s liability under this Lease Agreement be limited by the amount of insurance required to be carried under **Exhibit I**.

SEC. 30 ENTIRE AGREEMENT:»

This instrument and any attached addenda or exhibits signed by the parties constitute the entire agreement between Landlord and Tenant; no prior written or prior or contemporaneous oral promises or representations shall be binding. This Lease Agreement shall not be amended, changed or extended except by written instrument signed by both parties hereto. Section captions herein are for Landlord’s and Tenant’s convenience only, and neither limit nor amplify the provisions of this instrument. Tenant agrees, at Landlord’s request, to execute a recordable memorandum of this Lease Agreement.

SEC. 31 NOTICES:»

Whenever in this Lease Agreement it shall be required or permitted that notice, notification or demand be given or served by either party to this Lease Agreement to or on the other, such notice or demand shall be given or served and shall not be deemed to have been given or served unless in writing and (i) delivered personally, (ii) forwarded by facsimile, (iii) sent by Certified or Registered Mail, postage prepaid, with a copy also sent by facsimile or (iv) sent by a reputable common carrier guaranteeing next-day delivery, addressed as follows:

To the Landlord: c/o BGK Texas Property Management, L.L.C.
1235 North Loop West, Suite 1025
Houston, Texas 77008

Attention: J. Peter Mehlert
Telephone: (713) 862-3333
Facsimile: (713) 861-8989

To the Tenant: At the address noted for Tenant on the signature page hereof until the Commencement Date, at which time it shall become the Address of the Leased Premises.

In addition, following written notice to Tenant of Landlord's selection of a property manager, Tenant shall simultaneously deliver copies of all notices required to be delivered to Landlord under this Lease Agreement to such property manager. Such addresses may be changed from time to time by either party by serving written notice as above provided. Any such notice or demand shall be deemed to have been given on the date of receipted delivery, refusal to accept delivery or when delivery is first attempted but cannot be made due to a change of address for which no notice is given, five (5) days after it shall have been mailed as provided in this Section 31 or if sent by facsimile, upon electronic or telephonic confirmation of receipt from the receiving facsimile machine, whichever is earlier.

SEC. 32 COMMENCEMENT DATE:»

Tenant shall, if requested by Landlord and if true and correct at the time of such request, execute and deliver to Landlord within ten (10) days of Landlords' request an Acceptance of Premises Memorandum of the Leased Premises, the form of which is attached as **Exhibit E** attached hereto and made a part hereof for all purposes.

SEC. 33 RELOCATION OF TENANT:»

Intentionally Deleted.

SEC. 34 BROKERS:»

Tenant warrants that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease Agreement, excepting only Dan F. Boyles, Jr. of NAI Houston and Coy Davidson of Colliers International ("**Broker**") and that it knows of no other real estate broker(s) or agent(s) who is(are) or might be entitled to a commission in connection with this Lease Agreement. Landlord shall agree to pay all real estate commissions due in connection with this Lease Agreement only to the broker(s) named herein, provided Landlord and such broker have entered into a separate commission agreement. Tenant agrees to indemnify, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties from and against any liability from all other claims for commissions, finder's fee or other compensation arising from the negotiation of this Lease Agreement by, through or under Tenant. Landlord agrees to indemnify, defend (with counsel reasonably acceptable to Tenant) and hold harmless the Tenant Parties from and against any liability from claims for payment of commissions to Broker and from all other claims for commissions, finder's fee or other compensation arising from the negotiation of this Lease Agreement by, through or under Landlord..

SEC. 35 ESTOPPEL CERTIFICATES:»

From time to time after Tenant accepts the Leased Premises, within ten (10) days after request in writing therefor from Landlord, Tenant agrees to execute and deliver to Landlord, or to such other addressee or addresses as Landlord may designate (and Landlord and any such addressee may rely thereon), a statement in writing in the form of **Exhibit F** or in such other form and substance satisfactory to Landlord (herein called "**Tenant's Estoppel Certificate**"), certifying to all or any part of the information provided for in **Exhibit F** as is requested by Landlord and any other information reasonably requested by Landlord.

SEC. 36 NAME CHANGE:»

Landlord and Tenant mutually covenant and agree that Landlord hereby reserves and shall have the right at any time and from time to time to change the name of the Building or the address of the Building as Landlord may deem advisable, and Landlord shall not incur any liability whatsoever to Tenant as a consequence thereof.

SEC. 37 BANKRUPTCY:»

If a petition is filed by or against Tenant for relief under Title 11 of the United States Code, as amended (the "**Bankruptcy Code**"), and Tenant (including for purposes of this Section Tenant's successor in bankruptcy, whether a trustee or Tenant as debtor in possession) assumes and proposes to assign, or proposes to assume and assign, this Lease Agreement pursuant to the provisions of the Bankruptcy Code to any person or entity who has made or accepted a bona fide offer to accept an assignment of this Lease Agreement on terms acceptable to Tenant, then notice of the proposed assignment setting forth (a) the name and address of the proposed assignee, (b) all of the terms and conditions of the offer and proposed assignment, and (c) the adequate assurance to be furnished by the proposed assignee of its future performance under the Lease Agreement, shall be given to Landlord by Tenant no later than twenty (20) days after Tenant has made or received such offer, but in no event later than ten (10) days prior to the date on which Tenant applies to a court of competent jurisdiction for authority and approval to enter into the proposed assignment. Landlord shall have the prior right and option, to be exercised by notice to Tenant given at any time prior to the date on which the court order authorizing such assignment becomes final and non-appealable, to receive an assignment of this Lease Agreement upon the same terms and conditions, and for the same consideration, if any, as the proposed assignee, less any brokerage commissions which may otherwise be payable out of the consideration to be paid by the proposed assignee for the assignment of this Lease Agreement. If this Lease Agreement is assigned pursuant to the provisions of the Bankruptcy Code, Landlord: (i) may require from the assignee a deposit or other security for the performance of its obligations under the Lease Agreement in an amount substantially the same as would have been required by Landlord upon the initial leasing to a tenant similar to the assignee; and (ii) shall receive, as additional rent, the sums and economic consideration described in Section 12.A(3)(e). Any person or entity to which this Lease Agreement is assigned pursuant to the provisions of the Bankruptcy Code shall be deemed, without further act or documentation, to have assumed all of the Tenant's obligations arising under this Lease Agreement on and after the date of such assignment. Any such assignee shall, upon demand, execute and deliver to Landlord an instrument confirming such assumption. No provision of this Lease Agreement shall be deemed a waiver of Landlord's rights or remedies under the Bankruptcy Code to oppose any assumption and/or assignment of this Lease Agreement, to require a timely performance of Tenant's obligations under this Lease Agreement, or to regain possession of the Leased Premises if this Lease Agreement has neither been assumed or rejected within sixty (60) days after the date of the order for relief or within such additional time as a court of competent jurisdiction may have fixed. Notwithstanding anything in this Lease Agreement to the contrary, all amounts payable by Tenant to or on behalf of Landlord under this Lease Agreement, whether or not expressly denominated as rent, shall constitute rent for the purposes of Section 502(b)(6) of the Bankruptcy Code.

SEC. 38 TELECOMMUNICATIONS PROVIDERS:»

In the event Tenant wishes to use, at anytime during the Term of this Lease Agreement, the services of a telecommunications provider whose equipment or service is not then in the Building, no such provider shall be entitled to enter the Building or commence providing such service without first obtaining the prior written consent of Landlord. Landlord may condition its consent on such matters as Landlord deems appropriate including, without limitation, (i) such provider agreeing to an easement or license agreement in form and substance satisfactory to Landlord, (ii) Landlord having been provided and approved the plans and specifications for the equipment to be installed in the Building, (iii) Landlord having received, prior to the commencement of such work, such indemnities, bonds or other financial assurances as Landlord may require, (iv) the provider agreeing to abide by all Building rules and regulations, and agreeing to provide Landlord an "as built" set of plans and specifications, (v) the provider agreeing to pay Landlord such compensation as Landlord determines to be reasonable, and (vi) Landlord having determined that there is adequate space in the Building for the placement of all of such provider's lines and equipment.

SEC. 39 HAZARDOUS SUBSTANCES:

A. Tenant shall not cause or permit any Hazardous Substance (as hereinafter defined) to be used, stored, generated, contained or disposed of on or in the Complex by Tenant, Tenant's agents, employees, contractors or invitees in violation of Environmental Laws (as hereinafter defined). If Hazardous Substances are used, stored, generated, contained or disposed of on or in the Complex by Tenant, Tenant's agents, employees, contractors or invitees, or if the Complex becomes contaminated in any manner due to the actions or omissions of Tenant or its agents, employees, contractors or invitees, Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold the Landlord Parties harmless from any and all claims, damages, fines, judgments, penalties, costs, liabilities and losses (including, without limitation, a decrease in value of the Complex, damages caused by loss or restriction of rentable or usable space or any damages caused by adverse impact on marketing of the space and any and all sums paid for settlement of claims, attorneys' fees, consultant and expert fees) arising during or after the Term and as a result of such use, storage, generation, disposal or contamination in violation of Environmental Laws. This indemnification includes, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal or restoration mandated by a federal, state or local agency or political subdivision. Without limitation of the foregoing, if Tenant causes or permits the presence of any Hazardous Substance on the Complex in violation of Environmental Laws that results in contamination, Tenant shall promptly, at its sole expense, take any and all necessary actions to return the Complex to the condition existing prior to the presence of any such Hazardous Substance on the Complex; provided, however, Tenant must obtain Landlord's prior written approval for any such remedial action. Tenant shall be responsible for the application for and maintenance of all required permits, the submittal of all notices and reports, proper labeling, training and record keeping, and timely and appropriate response to any release or other discharge by Tenant of a Hazardous Substance under Environmental Laws. The indemnity obligations of Tenant under this Section 39 shall survive the expiration or earlier termination of this Lease Agreement.

B. As used herein, "**Hazardous Substance**" means any substance (i) that is toxic, ignitable, reactive or corrosive or that is regulated by any local, state or federal law, and includes any and all material or substances that are defined as "hazardous waste", "extremely hazardous waste", "hazardous substance" or a "hazardous material" pursuant to any such laws and includes, but is not limited to, asbestos, polychlorobiphenyls and petroleum and any fractions thereof, (ii) any substance which is now or hereafter considered a biological contaminant or which could adversely impact air quality, including mold, fungi and other bacterial agents and (iii) all biohazardous, infectious and medical waste. Notwithstanding anything in this Section 39 to the contrary, "Hazardous Substances" shall not include materials commonly used in the ordinary operations of a general office building, provided that (1) such materials are used and properly stored in the Leased Premises in quantities ordinarily used and stored in comparable office space, (2) such materials are not introduced into the Building's plumbing systems or are not otherwise released or discharged in the Leased Premises or the Building and (3) such materials are in strict compliance with local, state or federal law. As used herein, "**Environmental Laws**" means all applicable federal, state or local laws, regulations, orders, judgments and decrees regarding health, safety or the environment.

SEC. 40 NO MONEY DAMAGES FOR FAILURE TO CONSENT; WAIVER OF CERTAIN DAMAGES:»

Wherever in this Lease Agreement Landlord's consent or approval is required, if Landlord refuses to grant such consent or approval, whether or not Landlord expressly agreed that such consent or approval would not be unreasonably withheld, Tenant shall not make, and Tenant hereby waives, any claim for money damages (including any claim by way of set-off, counterclaim or defense) based upon Tenant's claim or assertion that Landlord unreasonably withheld or delayed its consent or approval. Tenant's sole remedy shall be an action or proceeding to enforce such provision, by specific performance, injunction or declaratory judgment. **IN NO EVENT SHALL THE LANDLORD PARTIES BE LIABLE FOR, AND TENANT HEREBY WAIVES ANY CLAIM FOR, ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING LOSS OF PROFITS OR BUSINESS OPPORTUNITY, ARISING UNDER OR IN CONNECTION WITH THIS LEASE AGREEMENT**.

SEC. 41 ACKNOWLEDGMENT OF NON-APPLICABILITY OF DTPA:»

It is the understanding and intention of the parties that Tenant's rights and remedies with respect to the transactions provided for and contemplated in this Lease Agreement (collectively, this "**Transaction**") and with respect to all acts or practices of Landlord, past, present or future, in connection with this Transaction, are and shall be governed by legal principles other than the Texas Deceptive Trade Practices - Consumer Protection Act (the "**DTPA**"). Accordingly, Tenant hereby (a) agrees that under Section 17.49(f) of the DTPA this Transaction is not governed by the DTPA and (b) certifies, represents and warrants to Landlord that (i) Tenant has been represented by legal counsel in connection with this Transaction who has not been directly or indirectly identified, suggested or selected by the Landlord and Tenant has conferred with Tenant's counsel concerning all elements of this Lease Agreement (including, without limitation, this Section 41) and this Transaction and (ii) the Leased Premises will not be occupied by Tenant as Tenant's family residence. Tenant expressly recognizes that the total consideration as agreed to by Landlord has been predicated upon the inapplicability of the DTPA to this Transaction and that Landlord, in determining to proceed with the entering into of this Lease Agreement, has expressly relied on the inapplicability of the DTPA to this Transaction.

SEC. 42 ATTORNEYS' FEES:»

In the event either party defaults in the performance of any of the terms, agreements or conditions contained in this Lease Agreement and the other party places the enforcement of this Lease Agreement, or any part thereof, or the collection of any rent due or to become due hereunder, or recovery of the possession of the Leased Premises, in the hands of an attorney who files suit upon the same, and should such non-defaulting party prevail in such suit, the defaulting party agrees to pay the other party's reasonable attorneys' fees.

SEC. 43 AUTHORITY OF TENANT:»

If Tenant is a corporation, partnership or other entity, Tenant warrants and represents unto Landlord that (a) Tenant is a duly organized and existing legal entity, in good standing in the State of Texas, (b) Tenant has full right and authority to execute, deliver and perform this Lease Agreement, (c) the person executing this Lease Agreement was authorized to do so and (d) upon request of Landlord, such person will deliver to Landlord satisfactory evidence of his or her authority to execute this Lease Agreement on behalf of Tenant.

SEC. 44 INABILITY TO PERFORM:»

Whenever a period of time is prescribed for the taking of an action by either party, the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist attacks (including bio-chemical attacks), civil disturbances and other causes beyond the reasonable control of the Landlord ("**Force Majeure**"). However, events of Force Majeure shall not extend any period of time for the payment of sums payable by either party or any period of time for the written exercise of an option or right by either party.

SEC. 45 JOINT AND SEVERAL TENANCY:»

If more than one person executes this Lease Agreement as Tenant, their obligations hereunder are joint and several, and any act or notice of or to, or refund to, or the signature of, any one or more of them, in relation to the renewal or termination of this Lease Agreement, or under or with respect to any of the terms hereof shall be fully binding on each and all of the persons executing this Lease Agreement as a Tenant.

SEC. 46 EXECUTION OF THIS LEASE AGREEMENT:»

The submission of an unsigned copy of this Lease Agreement to Tenant for Tenant's consideration does not constitute an offer to lease the Leased Premises or an option to or for the Leased Premises. This Lease Agreement shall become effective and binding only upon the execution and delivery of this Lease Agreement by both Landlord and Tenant.

SEC. 47 WAIVER OF TRIAL BY JURY; COUNTERCLAIM:»

Landlord and Tenant hereby waive trial by jury in any action, proceeding or counterclaim brought by either party against the other on any matters in any way arising out of or connected with this Lease Agreement, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Leased Premises, or the enforcement of any remedy under any applicable law, rule, statute, order, code or ordinance. If Landlord commences any summary proceeding against Tenant, Tenant shall not interpose any counterclaim of any nature or description in any such proceeding (unless failure to impose such counterclaim would preclude Tenant from asserting in a separate action the claim which is the subject of the counterclaim), and will not seek to consolidate any such proceeding with any other action which may have been or will be brought in any other court by Tenant.

SEC. 48 CALCULATION OF TIME PERIODS:»

Should the calculation of any of the various time periods provided for herein result in an obligation becoming due on a Saturday, Sunday or legal holiday, then the due date of such obligation or scheduled time of occurrence of such event shall be delayed until the next business day.

SEC. 49 EXHIBITS:»

Exhibits A through **J** are attached hereto and made a part of this Lease Agreement for all purposes.

SEC. 50 ANTI-TERRORISM»

: Tenant represents and warrants to and covenants with Landlord that (i) neither Tenant nor any of its owners or affiliates currently are, or shall be at any time during the Term, in violation of any laws relating to terrorism or money laundering (collectively, the "Anti-Terrorism Laws"), including without limitation Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and regulations of the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) related to Specially Designated Nationals and Blocked Persons (SDN's OFAC Regulations), and/or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (the " USA Patriot Act"); (ii) neither Tenant nor any of its owners, affiliates, investors, officers, directors, employees, vendors, subcontractors or agents is or shall be during the term hereof a "Prohibited Person" which is defined as follows: (1) a person or entity owned or controlled by, affiliated with, or acting for or

on behalf of, any person or entity that is identified as an SDN on the then-most current list published by OFAC at its official website, http://www.treas.gov/offices/eotffc/ofac/sdn/t11sdn.pdf, or at any replacement website or other replacement official publication of such list, and (2) a person or entity who is identified as or affiliated with a person or entity designated as a terrorist, or associated with terrorism or money laundering pursuant to regulations promulgated in connection with the USA Patriot Act; and (iii) Tenant has taken appropriate steps to understand its legal obligations under the Anti-Terrorism Laws and has implemented appropriate procedures to assure its continued compliance with such laws. Tenant hereby agrees to defend, indemnify, and hold harmless the Landlord Parties from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing representations, warranties and covenants. At any time and from time-to-time during the Term, Tenant shall deliver to Landlord within ten (10) days after receipt of a written request therefor, a written certification or such other evidence reasonably acceptable to Landlord evidencing and confirming Tenant's compliance with this Section 50.

SEC. 51 RENEWAL OPTIONS»

: Tenant shall have, and is hereby granted, the options (the "**Renewal Options**") to extend the Term of this Lease Agreement for two (2) additional periods of five (5) years each (as applicable, the "**Extended Term**") upon and subject to the following terms, conditions and provisions:

A. The Renewal Options may only be exercised by Tenant giving irrevocable written notice thereof to Landlord no earlier than twelve (12) months nor later than six (6) months prior to the expiration of the then current Term of this Lease Agreement. If Tenant fails to give Landlord such written notice of exercise of such Renewal Option within such specified time period, Tenant shall be deemed to have elected not to exercise, and to have waived, such Renewal Option and the Renewal Option shall automatically terminate and expire and be of no further force and effect. It is expressly agreed that Tenant shall not have the option to extend the Term of this Lease Agreement beyond the Extended Term. If Tenant exercises either of the Renewal Options, such Extended Term shall commence immediately upon the expiration of the then current Term of this Lease Agreement (as applicable, the "**Extended Term Commencement Date**").

B. If Tenant exercises either of the Renewal Options (in accordance with and subject to the provisions of this Section 51), the Extended Term shall be upon, and subject to, all of the terms, covenants and conditions provided in this Lease Agreement except for any terms, covenants and conditions that are expressly or by their nature inapplicable to the Extended Term (including, without limitation, the right to renew the Term of this Lease Agreement beyond the Extended Term) and except that (i) the annual Base Rent and other economic considerations during the Extended Term shall be equal to the Prevailing Market Rental Rate (as defined in accordance with Section 51.D below and determined by Landlord at the time Tenant exercises such Renewal Option and (ii) the Leased Premises and all leasehold improvements relating thereto will be provided in the condition they exist (i.e., "AS IS" and "WITH ALL FAULTS") on the Extended Term Commencement Date, and this Lease Agreement shall be deemed to have been automatically amended as of the Extended Term Commencement Date in accordance with this Section 51. Tenant and Landlord shall promptly (but in no event longer than fifteen (15) days after Landlord's submission of the amendment to Tenant) execute and deliver an appropriate amendment of this Lease Agreement to evidence such terms following commencement of the Extended Term.

C. Notwithstanding any provision herein to the contrary, Tenant shall not have the right to extend the Term of this Lease Agreement pursuant to this Section 51 and such right shall automatically terminate and be of no further force and effect if, at the time Tenant exercises such Renewal Option or on the Extended Term Commencement Date, Tenant is in default under this Lease Agreement beyond any applicable grace period. Tenant shall not have the right to assign the Renewal Options to any sublessee or assignee of the Leased Premises, nor may any such sublessee or assignee exercise the Renewal Options.

D. As used in this Lease Agreement, the term "**Prevailing Market Rental Rate**" means, as to any space subject to this Lease Agreement for which it is being determined (the "**Subject Premises**"), the annual amount of "gross" rental that a willing tenant would pay in a similar type transaction (i.e., renewal) and a willing landlord would accept in arm's length, bona fide negotiations for lease of the Subject Premises to be executed at the time of determination and to commence on the commencement of the subject lease term, based upon other lease transactions made in the Building and other comparable office buildings in the Gulf Freeway/Clear Lake area of Houston, Texas, taking into consideration all relevant terms and conditions of any comparable leasing transactions, including, without limitation: (i) location, quality and age of the building (taking into consideration renovations); (ii) use and size of the space in question; (iii) location and/or floor level within the building; (iv) extent of leasehold improvement allowances (considering existing improvements); (v) the amount of any abatement of rental or other charges; (vi) parking charges or inclusion of same in rental; (vii) lease takeovers/assumptions; (viii) club memberships; (ix) relocation allowances; (x) refurbishment and repainting allowances; (xi) any and all other concessions or inducements; (xii) extent of services provided or to be provided; (xiii) distinction between "gross" and "net" lease; (xiv) base year or dollar amount for escalation purposes (both operating costs and ad valorem/real estate taxes); (xv) any other adjustments (including by way of indexes) to base rental; (xvi) credit standing and financial stature of the tenant or subtenant; and (xvii) length of term.

SEC. 52 RIGHT OF FIRST REFUSAL:

A. Subject only to the renewal options, expansion options, rights of first offer and rights of first refusal of other tenants in the Building granted by Landlord prior to the Effective Date or which are included in any lease executed after the Effective Date as to which Tenant failed or elected not to exercise its right of refusal under this Section 52, Tenant shall have a continuing right of first refusal (the "**Right of First Refusal**") during the Term with respect to any available space on the third (3rd) floor of the Building that is contiguous to the Leased Premises ("**ROFR Space**").

B. In the event Landlord desires to accept an offer to lease any of the ROFR Space from any third party (a "**Lease Offer**"), as evidenced by a term sheet or letter of intent, signed by the third party prospect (subject to any confidentiality requirements of such third party prospect prohibiting disclosure of its name), Landlord shall give Tenant written notice thereof (the "**Availability Notice**"), which notice shall include the Lease Offer. If such Availability Notice is delivered to Tenant, Tenant shall have ten (10) days from the date of receipt of the Availability Notice to either (i) irrevocably elect to lease said space under the Terms of the Lease Offer, by delivering written notice thereof (the "**Election Notice**") to Landlord within such ten (10) day period, or (ii) notify Landlord that it does not desire to lease said space. In the event Tenant (i) notifies Landlord that it does not desire to lease said space or (ii) fails to deliver the Election Notice to Landlord within said ten (10) day period, Tenant shall be deemed to have elected not to lease said space, and Landlord shall have a period of ninety (90) days thereafter to lease such ROFR Space to such third party tenant prospect upon the terms set forth in the Availability Notice, except that (i) the space actually leased may be ten percent (10%) greater or less than that set forth in the Lease Offer, and (ii) the lease may be different from the Lease Offer in other immaterial respects. If Landlord does not enter into such a lease of such ROFR Space with such third party tenant prospect within said ninety (90) day period, or if Landlord desires to enter into a lease of the ROFR Space with another party or with such third party tenant prospect in which (i) the space actually leased is more than ten percent (10%) greater or less than the square footage specified in the Availability Notice or (ii) the lease terms vary in respects that are material (such as the addition of an early termination provision) or decrease the rent or other economic obligations of the tenant reflected in the Lease Offer, Tenant shall again have a right of refusal on such ROFR Space as set forth in this Section 52.

C. If Tenant exercises a Right of First Refusal, then effective as of the date that is the earlier to occur of (1) the date Tenant occupies all or any portion of the ROFR Space for the purpose of conducting its business therein and (2) sixty (60) days following the date Landlord delivers possession of the ROFR Space to Tenant (the "**ROFR Space Delivery Date**"), such ROFR Space shall become a part of the Leased Premises, the annual Base Rent per square foot of Net Rentable Area for such ROFR Space shall be equal to the Base Rent stated in the Lease Offer, and such ROFR Space shall be subject to all of the terms, provisions and conditions of this Lease Agreement, except for any terms, covenants and conditions that are expressly or by their nature inapplicable to such ROFR Space, except that (i) Base Rent and Tenant's Additional Rent with respect to such ROFR Space shall commence to accrue on the earlier to occur of (1) the date Tenant occupies all or any portion of such ROFR Space for the purpose of conducting its business therein and (2) sixty (60) days after Landlord's delivery of the ROFR Space to Tenant, (ii) such ROFR Space and any and all leasehold improvements therein will be provided in the condition they exist (*i.e*. "AS IS" and "WITH ALL FAULTS") on such delivery date; and (iii) the Term of this Lease Agreement insofar as it relates to such ROFR Space shall be equal to the longer of (i) the Term with respect to the Leased Premises or (ii) the term set forth in the Availability Notice. This Lease Agreement shall be deemed to have been automatically amended in accordance with this Section 52.C as of the date of the Election Notice, and Tenant and Landlord shall thereafter promptly (but in no event longer than fifteen (15) days after Landlord's submission of the amendment to Tenant) execute and deliver an appropriate amendment of this Lease Agreement to evidence the foregoing.

D. Notwithstanding any provision herein to the contrary, Tenant shall not have the right to lease the ROFR Space pursuant to this Section 52 if, at the time Tenant exercises such Right of First Refusal or on the applicable ROFR Space Delivery Date, Tenant is in default under this Lease Agreement beyond any applicable notice and cure period. Any termination of this Lease Agreement shall also terminate the Right of First Refusal. Tenant shall not have the right to assign the Right of First Refusal to any subtenant of the Leased Premises or assignee of this Lease Agreement, nor may any such subtenant or assignee exercise such Right of First Refusal.

SEC. 53 BACK UP GENERATOR:

A. Tenant shall be permitted, at its sole cost and expense, to install, connect to the Building, operate and maintain a back-up electrical generator and all related equipment such as above-ground fuel tanks, switching gear, conduit and equipment mounts ("**Generator**") screened from public view to be located on the Leased Premises in a location mutually agreed upon by Landlord and Tenant. The installation of the Generator shall be subject to all conditions and requirements as provided for in Section 10 hereof. So long as Tenant's back-up power is not interrupted, Landlord reserves the right to relocate the Generator from time to time at Landlord's cost and expense.

B. The installation, maintenance, repair, replacement, removal and repair of any damage relating thereto, and all related costs, shall be the sole responsibility of Tenant, subject to Landlord's reasonable direction and control. Landlord shall have no obligation to provide fuel or any utilities to the Generator. Notwithstanding anything to the contrary contained herein, in no event shall Tenant be permitted to install or maintain on or about the Leased Premises or the Building any underground storage tanks. Upon the expiration or termination of this Lease Agreement, Tenant shall be obligated to remove the Generator and all related or ancillary equipment, wiring, and the like, and Tenant shall repair any damage caused by such removal in a manner and method reasonably satisfactory to Landlord.

C. The Generator shall be used solely for the generation of emergency power in the event of and only for the duration of a power outage, or interruption of electrical service to the Building. Tenant shall be permitted to periodically test the Generator to confirm that it is in good working order and that it complies with all applicable laws. The Generator shall be used solely for purposes of Tenant's business at the Building. The use and operation of the Generator shall comply with all applicable provisions of this Lease Agreement. In no event shall the use and operation of the Generator interfere with any of the systems of the Building. Tenant shall comply with all laws applicable to the use and operation of the Generator. Tenant shall be responsible for obtaining all licenses, permits and approvals for the use and operation of the Generator.

D. Tenant shall not be required to pay rent for the right to install, connect, operate and maintain the Generator on the Leased Premises.

E. Tenant shall defend, indemnify and hold the Landlord Parties harmless from and against all claims and liabilities of every kind or nature related to the existence and operation of the Generator and/or the Landlord Generator, except to the extent that such claims and liabilities are the result of the negligence or willful misconduct of any of the Landlord Parties.

SEC. 54 SATELLITE ANTENNA»

: Tenant shall have the right to install antenna equipment on the roof of the Building in accordance with the terms and conditions set forth in **Exhibit J** attached hereto and made a part hereof for all purposes.

SEC. 55 MONUMENT SIGNAGE»

: Provided that (i) Tenant is originally named herein, (ii) Tenant is leasing and actually occupies at least 10,983 square feet of Net Rentable Area in the Building, and (iii) no Event of Default has occurred and is continuing (collectively, the "**Monument Sign Conditions**"), Tenant, at Tenant's sole cost and expense, shall install one (1) sign panel in a location reasonably acceptable to the Landlord on the existing monument sign of the Building ("**Tenant's Monument Sign**"). Tenant's Monument Sign shall be subject to and in compliance with all laws, applicable conditions, covenants and restrictions affecting the Building. Thereafter, Tenant shall be solely responsible for the cost and expense of obtaining and maintaining any necessary permits for Tenant's Monument Sign and any sign licenses related thereto, and for the cost and expense of maintenance and utilities for Tenant's Monument Sign (including all metered electrical usage). Additionally, Tenant shall maintain Tenant's Monument Sign in a first class manner, at Tenant's sole cost and expense. Tenant's Monument Sign shall be installed in accordance with all applicable laws, codes, ordinances, covenants, conditions and restrictions relating to the Building. All rights and remedies of Landlord under the Lease Agreement (including, without limitation, Landlord's self-help remedies) shall apply in the event Tenant fails to maintain Tenant's Monument Sign as herein required. Upon the expiration or earlier termination of the Lease Agreement or in the event Landlord elects to remove Tenant's Monument Sign as a result of Tenant's failure at any time to satisfy the Monument Sign Conditions, Tenant shall pay all costs associated with the removal of Tenant's Monument Sign and repair or restoration to the Building's monument sign. The terms and provisions of this Section 55 shall survive the expiration or earlier termination of this Lease Agreement.

IN WITNESS WHEREOF, Landlord and Tenant, acting herein by duly authorized individuals, have caused these presents to be executed in multiple counterparts, each of which shall have the force and effect of an original on this 14th day of May, 2009 (the "**Effective Date**").

LANDLORD:

Aerospace Operating Associates, LP, a New Mexico limited partnership

By: BGK Aerospace, LLC, a New Mexico limited liability company, its general partner

By: /s/ J. Peter Meilert
Name: J. Peter Meilert
Title: President
BGK Texas Property Mgmt, LLC
As Agent For

TENANT:

Orion Marine Group, Inc.

By: /s/ J. Michael Pearson
J. Michael Pearson
President and Chief Executive Officer

ADDRESS:

12550 Fuqua Street
Houston, Texas 77034
Attention: J. Cabell Acree, III
Telephone: 713-852-6505
Facsimile: 713-852-6594
Email: cacree@orionmarinegroup.com

HOU:2916584.5

EXHIBIT A

FLOOR PLAN OF THE LEASED PREMISES

See Attached

EXHIBIT B

LEGAL DESCRIPTION OF THE LAND

Leasehold estate only in and to the following:

Being a tract of land containing 7.2696 acres, being part of and out of that certain tract of land conveyed to the United States of America and commonly known as part of Ellington Air Force Base, in the Luke Hemenway Survey, Abstract 801, Harris County, Texas, and being more particularly described as follows: (All bearings referenced to the Texas Coordinate System, South Central Zone and based on City of Houston Monument 5851 – 1617. Ellington 1952 Tri Station X=3215019.21, Y=662268.83, using a combined scale factor of .9998723).

COMMENCING at a found bronze rod in concrete, Number 444, said rod being in the northerly line of the Galveston Houston and Henderson Railroad Company Tract and the west line of Ellington Air Force Base Tract, 50 feet northerly and perpendicular to the centerline of the main railroad tract;

THENCE South 41 degrees 15'; 12": East, 1075.65 feet along said common line of G.H. & H.R.R. Company Tract and Ellington Air Force Base Tract, 50 feet northerly and parallel with the main railroad tract to a found 5/8-inch rod, from which said City of Houston Monument 5851-1617 bears South 45 degrees 22' 16" East, 196.22 feet.

THENCE North 48 degrees 44' 48" East, 408.00 feet to an "X" in concrete for the POINT OF BEGINNING of the herein described tract;

THENCE continuing North 48 degrees 44' 48" East, 417.00 feet to a ½ inch iron rod marking the beginning of a curve to the right;

THENCE 39.27 feet along the arch of said curve to the right, having a central angle of 90 degrees 00' 00", a radius of 25.00 feet and a chord bearing South 86 degrees 15' 12" East, 35.36 feet to a set ½ inch iron rod marking the end of said curve;

THENCE South 41 degrees 15' 12" East, 158.01 feet to a set ½ inch iron rod marking the beginning of a curve to the left;

THENCE 130.90 feet along the arch of said curve to the left, having a central angle of 30 degrees 00' 00", a radius of 250.00 feet and a chord bearing South 56 degrees 15' 12" East, 129.41 feet to a set ½ inch iron rod marking the end of said curve;

THENCE South 71 degrees 15' 12" East, 84.02 feet t a set ½ inch iron rod marking the beginning of a curve to the right;

THENCE 22.78 feet along the arc of said curve to the right, having a central angle of 90 degrees 00' 00" a radius of 14.50 feet and a chord bearing South 26 degrees 15' 12" East, 20.51 feet to a set ½ inch iron rod marking the end of said curve;

THENCE South 18 degrees 44' 48" West, 65.22 feet to a set ½ inch iron rod marking the beginning of a curve to the right;

THENCE 36.39 feet along the arc of said curve to the right, a central angle of 30 degrees 00'))", a radius of 69.50 feet and a chord bearing South 33 degrees 44' 48" West, 35.98 feet to a set ½ inch iron rod marking the end of said curve;

THENCE South 48 degrees 44' 48" West, 6.96 feet to a set ½ inch iron rod marking the beginning of a curve to the right;

THENCE 38.48 feet along the arc of said curve to the right, a central angle of 90 degrees 00' 00" a radius of 24.50 feet and a chord bearing North 86 degrees 15' 12" West, 34.65 feet to a set ½ inch iron rod marking the end of said curve.

THENCE South 48 degrees 44' 48" West, 25.00 feet to a set ½ inch iron rod;

THENCE South 41 degrees 15' 12" East, 255.50 feet to a set ½ inch iron rod marking the beginning of a curve to the right;

THENCE 77.75 feet along the arc of said curve to the right, a central angle of 90 degrees 00' 00", a radius of 49.50 feet and a chord bearing South 3 degrees 44' 48" West, 70.00 feet to a set ½ inch iron rod marking the end of said curve.

THENCE South 48 degrees 44' 48" West, 348.50 feet to a set ½ inch iron rod;

THENCE North 41 degrees 15' 12" West, 359.00 feet to a set ½ inch iron rod;

THENCE North 48 degrees 44' 48" East, 33.49 feet to a set ½ inch iron rod;

THENCE North 41 degrees 15' 12" West, 364.00 feet to the POINT OF BEGINNING and containing 316.665 square feet or 7.2696 acres of land, more or less.

EXHIBIT C

PARKING AGREEMENT

Landlord hereby agrees to make available to Tenant and Tenant hereby agrees to pay for and take, during the full Term of this Lease Agreement, twelve (12) covered reserved parking spaces and thirty two (32) unreserved parking spaces (hereinafter collectively referred to as the "**Parking Spaces**") on the Building surface parking lot (hereinafter referred to as the "**Surface Lot**"), upon the following terms and conditions:

1. Tenant shall pay as rental for the Parking Spaces the rates charged from time to time by the Landlord, plus all taxes applicable thereto. The initial monthly rate for each of the Parking Spaces for covered reserved parking shall be $0.00 plus taxes and for unreserved parking shall be $0.00 plus taxes. Said rentals shall be due and payable to Landlord or its parking manager, as designated in writing by Landlord at the address specified in Section 31 of this Lease Agreement (or such other address as may be designated by Landlord in writing from time to time), as additional rent on the first day of each calendar month during the Term.

2. Intentionally Deleted.

3. Landlord will issue to Tenant parking tags, stickers or access cards for the Parking Spaces, or will provide a reasonable alternative means of identifying and controlling vehicles authorized to park on the Surface Lot. Tenant shall surrender each such tag, sticker or other identifying device to Landlord upon termination of the Parking Space related thereto.

4. Landlord, at its discretion, shall have the right from time to time and upon written notice to Tenant to designate the area(s) within which vehicles may be parked. Tenant agrees that although Landlord shall mark with signage Tenant's reserved Parking Spaces, Landlord shall have no obligation to enforce such reservation by ticketing, towing or affixing a notice to cars parked in Tenant's reserved Parking Spaces by those who are not Tenant's customers, guests, invitees and employees.

5. If for any reason Landlord fails or is unable to provide any of the Parking Spaces to Tenant at any time during the Term or any renewals or extensions hereof, and such failure continues for five (5) business days after Tenant gives Landlord written notice thereof, Tenant's obligation to pay rental for any Parking Space which is not provided by Landlord shall be abated for so long as Tenant does not have the use thereof and Landlord shall use its diligent good faith efforts to provide alternative parking arrangements for the number of vehicles equal to the number of Parking Spaces not provided by Landlord. Tenant shall pay the same rate for any alternative parking provided by Landlord as Tenant normally pays for the Parking Spaces so long as Tenant is not paying rent for the Parking Spaces. This abatement and good faith effort to provide alternative parking arrangements shall be in full settlement of all claims that Tenant might otherwise have against Landlord by reason of Landlord's failure or inability to provide Tenant with such Parking Space.

6. If the Term commences on other than the first day of a calendar month or terminates on other than the last day of a calendar month, then rentals for the Parking Spaces shall be prorated on a daily basis.

7. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord) and hold harmless the Landlord Parties from and against all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including court costs and reasonable attorneys' fees) resulting directly or indirectly from the use of the Parking Spaces by Tenant or its employees.

8. Landlord may provide free parking on the Surface Lot for visitors to the Building in an area designated by Landlord and in a capacity determined by Landlord to be appropriate for the Building.

9. Upon the occurrence of an Event of Default under the Lease Agreement, Landlord shall have the right (in addition to all other rights, remedies and recourse hereunder and at law) to terminate Tenant's use of the Parking Spaces only if Landlord has also terminated the Lease Agreement.

10. Intentionally Deleted.

A condition of any parking shall be compliance by the parker with Surface Lot rules and regulations, including any sticker or other identification system established by Landlord. The following rules and regulations are in effect until notice is given to Tenant of any change. Landlord reserves the right to modify and/or adopt such other reasonable rules and regulations for the Surface Lot as it deems necessary for the operation of the Surface Lot. Landlord may refuse to permit any person who violates the rules to park on the Surface Lot, and any violation of the rules shall subject the car to removal.

PARKING RULES AND REGULATIONS

1. Cars must be parked entirely within the stall lines painted on the floor.

2. All directional signs and arrows and signs designating wheelchair accessible parking spaces must be observed.

3. The speed limit shall be five (5) miles per hour.

4. Parking prohibited:

   (a) in areas not striped for parking
   (b) in aisles
   (c) where "no parking" signs are posted
   (d) on ramps where indicated
   (e) in cross-hatched areas
   (f) in spaces reserved for exclusive use by designated Lessees
   (g) in such other areas as may be designated by Landlord or Landlord's agent(s).

5. Parking stickers or any other device or form of identification supplied by Landlord shall remain the property of Landlord and shall not be transferable. There will be a replacement charge payable by Tenant equal to the amount posted from time to time by Landlord for loss of any parking card or parking sticker.

6. Surface Lot managers and attendants are not authorized to make or allow any exceptions to these Rules and Regulations.

7. Every parker is required to park and lock his own car. All responsibility for loss or damage to cars and contents, property or persons is assumed by the parker.

8. Tenant is required to give Landlord, on a quarterly basis, a list of employees parking on the Surface Lot which shall include year, make and model of car and license number.

9. In order to protect Landlord's property, Landlord shall have the right, but not the obligation, to install cameras on the Surface Lot.

10. Landlord is entitled to limit the size of the parked vehicles by weight, height or width without constituting a breach of its obligation to provide parking hereunder so long as Landlord permits vehicles manufactured primarily for carrying passengers (other than buses).

Failure to promptly pay the rent required hereunder or persistent failure on the part of Tenant or Tenant's designated parkers to observe the Rules and Regulations above shall give Landlord the right to terminate Tenant's right to use the parking structure. No such termination shall create any liability on Landlord or be deemed to interfere with Tenant's right to quiet possession of its Leased Premises.

EXHIBIT D

RULES AND REGULATIONS

The following standards shall be observed by Tenant for the common safety, cleanliness and convenience of all occupants of the Building. These rules are subject to change from time to time, as specified in the Lease Agreement. Landlord agrees to use its commercially reasonable efforts to uniformly enforce the rules and regulations with respect to all tenants and other occupants of the Building.

1. All tenants will refer all contractors' representatives and installation technicians who are to perform any work within the Building to Landlord for Landlord's supervision, approval and control before the performance of any such work. This provision shall apply to all work performed in the Building including, but not limited to, installations of telephones, computer equipment, electrical devices and attachments, and any and all installations of every nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment and any other physical portion of the Building. Tenant shall not mark, paint, drill into, or in any way deface any part of the Building or the Leased Premises, except with the prior written consent of the Landlord, and as the Landlord may direct.

2. The work of the janitorial or cleaning personnel shall not be hindered by Tenant after 5:30 p.m., and such work may be done at any time when the offices are vacant. The windows, doors and fixtures may be cleaned at any time. Tenant shall provide adequate waste and rubbish receptacles, cabinets, book cases, map cases, etc., necessary to prevent unreasonable hardship to Landlord in discharging its obligations regarding cleaning service.

3. Prior to the commencement of any construction in the Leased Premises, Tenant shall deliver evidence of its contractor's and subcontractor's insurance, such insurance being with such companies, for such periods and in such amounts as Landlord may reasonably require, naming the Landlord Parties as additional insureds.

4. No sign, advertisement or notice shall be displayed, painted or affixed by Tenant, its agents, servants or employees, in or on any part of the outside or inside of the Building or Leased Premises without prior written consent of Landlord, and then only of such color, size, character, style and material and in such places as shall be approved and designated by Landlord. Signs on doors and entrances to the Leased Premises shall be placed thereon by Landlord.

5. Tenant shall not place, install or operate on the Leased Premises or in any part of the Building any engine, refrigerating, heating or air conditioning apparatus, stove or machinery, or conduct mechanical operations, or place or use in or about the Leased Premises any inflammable, explosive, hazardous or odorous solvents or materials without the prior written consent of Landlord. No portion of the Leased Premises shall at any time be used for cooking, sleeping or lodging quarters. Tenant may use coffee pots, refrigerators and microwaves in Leased Premises.

6. Tenant shall not make or permit any loud or improper noises in the Building or otherwise interfere in any way with other tenants.

7. Landlord will not be responsible for any lost or stolen personal property or equipment from the Leased Premises or public areas, regardless of whether such loss occurs when the area is locked against entry or not.

8. Tenant, or the employees, agents, servants, visitors or licensees of Tenant, shall not, at any time or place, leave or discard rubbish, paper, articles, plants or objects of any kind whatsoever outside the doors of the Leased Premises or in the corridors or passageways of the Building or attached Parking Areas. No animals, bicycles or vehicles of any description shall be brought into or kept in or about the Building.

9. No additional lock or locks shall be placed by Tenant on any door in the Building unless written consent of Landlord shall have first been obtained. Two (2) keys will be furnished by Landlord for the Leased Premises, and any additional key required must be obtained from Landlord. A charge will be made for each additional key furnished. All keys shall be surrendered to Landlord upon termination of tenancy.

10. None of the entries, passages, doors, hallways or stairways in the Building shall be blocked or obstructed.

11. Landlord shall have the right to determine and prescribe the weight and proper position of any unusually heavy equipment, including computers, safes, large files, etc., that are to be placed in the Building, and only those which in the exclusive judgment of the Landlord will not do damage to the floors, structure and/or elevators may be moved into the Building. Any damage caused by installing, moving or removing such aforementioned articles in the Building shall be paid for by Tenant.

12. All Christmas and other decorations must be constructed of flame retardant materials. Live Christmas trees are not permitted in the Leased Premises.

13. Tenant shall provide Landlord with a list of all personnel authorized to enter the Building after hours (6:00 p.m. to 7:00 a.m. Monday through Thursday, 6:00 p.m. Friday to 8:00 a.m. Saturday, 12:00 noon to 12:00 midnight Saturday and 24 hours a day

on Sundays and Holidays).

14. After hours air conditioning/heating (6:00 p.m. to 7:00 a.m. Monday through Thursday; 6:00 p.m. Friday to 8:00 a.m. Saturday; 12:00 noon to 12:00 midnight Saturday; and 24 hours a day Sunday and Holidays) must be requested in writing by noon of the day for which additional air conditioning is requested, or if Tenant so requires after hours air conditioning/heating on a regular basis during the Term of this Lease Agreement, Tenant shall have the right to deliver to Landlord a written notice specifying the hours Tenant so requires such air conditioning/heating. Tenant shall be charged the prevailing hourly rate during such after hours period more particularly described on **Exhibit H**.

15. The following dates shall constitute "**Holidays**" as said term is used in this Lease Agreement: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and the Friday following Thanksgiving Day and Christmas and any other holiday recognized and taken by tenants cumulatively occupying at least one-half of the Net Rentable Area of office space of the Building.

16. The following hours shall constitute the normal business hours of the Building: between 7:00 a.m. and 6:00 p.m. from Monday through Friday and between 8:00 a.m. and 12:00 noon on Saturdays, all exclusive of Holidays.

17. Movement of furniture or office equipment in or out of the Building, or dispatch or receipt by Tenant of any heavy equipment, bulky material or merchandise which requires use of elevators or stairways, or movement through the Building's service dock or lobby entrance shall be restricted to such hours as Landlord shall designate. All such movement shall be in a manner to be agreed upon between Tenant and Landlord in advance. Such prior arrangements shall be initiated by Tenant. The time, method and routing of movement and limitations for safety or other concern which may prohibit any article, equipment or other item from being brought into the Building shall be subject to Landlord's discretion and control. Any hand trucks, carryalls or similar appliances used for the delivery or receipt of merchandise or equipment shall be equipped with rubber tires, side guards and such other safeguards as the Building shall require. Although Landlord or its personnel may participate in or assist in the supervision of such movement, Tenant assumes full responsibility for all risks as to damage to articles moved and injury to persons or property engaged in such movement, including equipment, property and personnel of Landlord if damaged or injured as a result of acts in connection with carrying out this service for Tenant, from the time of entering the property to completion of work. Landlord shall not be liable for the acts of any person engaged in, or any damage or loss to any of said property or persons resulting from any act in connection with such service performed for Tenant.

18. Tenant shall notify Landlord of furniture or equipment to be removed from the Building after hours. Description and serial numbers shall be provided if requested by Landlord.

19. Landlord shall designate one elevator to be the freight elevator to be used to handle packages and shipments of all kinds. The freight elevator shall be available to handle such deliveries from 9:00 a.m. to 11:00 a.m. and 2:00 p.m. to 3:30 p.m. weekdays. Parcel Post, express, freight or merchants' deliveries can be made anytime within these hours. No furniture or freight shall be handled outside the above hours, except by previous arrangement.

20. Any additional services as are routinely provided to tenants, not required by the Lease Agreement to be performed by Landlord, which Tenant requests Landlord to perform, and which are performed by Landlord, shall be billed to Tenant at Landlord's cost plus fifteen percent (15%).

21. All doors leading from public corridors to the Leased Premises are to be kept closed when not in use.

22. Canvassing, soliciting or peddling in the Building is prohibited and Tenant shall cooperate to prevent same.

23. Tenant shall give immediate notice to the Building Manager in case of accidents in the Leased Premises or in the Building or of defects therein or in any fixtures or equipment, or of any known emergency in the Building.

24. Tenant shall not use the Leased Premises or permit the Leased Premises to be used for photographic, multilith or multigraph reproductions, except in connection with its own business.

25. The requirements of Tenant will be attended to only upon application to the Building Manager. Employees of Landlord shall not perform any work or do anything outside of their regular duties, unless under special instructions from the Building Manager.

26. Tenant shall place or have placed solid pads under all rolling chairs such as may be used at desks or tables. Any damages caused to carpet by not having same shall be repaired or replaced at the expense of Tenant.

27. Tenant, or the employees, agents, servants, visitors or licensees of Tenant shall abide by the rules and regulations for the Parking Areas included in the Parking Agreement attached hereto as **Exhibit C**.

28. Landlord reserves the right to rescind any of these Rules and Regulations of the Building, and to make such other and further rules and regulations as in its reasonable judgment shall from time to time be needful for the safety, protection, care and cleanliness of the Building, the Leased Premises and the Parking Areas, the operation thereof, the preservation of good order therein and the protection and comfort of the other tenants in the Building and their agents, employees and invitees, which

rules and regulations, when made and written notice thereof is given to Tenant, shall be binding upon Tenant in like manner as if originally herein prescribed.

29. Landlord will provide forty-five (45) cardkey(s) or other access devices to Tenant and Tenant agrees to return all of these cardkeys and other access devices to Landlord upon expiration or termination of this Lease Agreement. All others will be furnished to Tenant at a cost of Twenty and 00/100 Dollars ($20.00) per card or a mutually agreed upon price for each other access device. Any future increase in the cost of cardkeys and other access devices will be passed on to Tenant for any additional cardkeys and other access devices required.

30. Tenant, or its employees, agents, servants, visitors, invitees or licensees of Tenant, shall not smoke or permit to be smoked cigarettes, cigars or pipes within the Leased Premises or Building or possess any lighted tobacco products. Smoking shall be confined to area(s) designated by Landlord but shall in no event be closer than twenty-five feet (25') to any entrance to the Building. Landlord shall have no obligation to Tenant for failure of another tenant, its employees, agents, servants, visitors, invitees or licensees to comply with this paragraph.

31. Tenant shall not attempt to adjust wall-mounted thermostats in the Building. If there is any damage to wall-mounted thermostats due to attempts by Tenant to adjust thermostats, Landlord may repair such damage at the sole cost and expense of the Tenant.

32. The carrying of firearms of any kind in the Leased Premises or the Building is strictly prohibited.

EXHIBIT E

ACCEPTANCE OF PREMISES MEMORANDUM

This Memorandum is an amendment to the Lease Agreement for space in 12000 Aerospace Ave., Houston, Harris County, Texas 77034, executed on the _____ day of _____ , 200__ between Aerospace Operating Associates, LP, a New Mexico limited partnership, as Landlord and _____, as Tenant.

Landlord and Tenant hereby agree that:

1. The Leased Premises consists of square feet of Net Rentable Area.

2. Except for those items shown on the attached "punch list", if any, which Landlord will remedy within ____ days hereof, Landlord has fully completed the construction work required under the terms of the Lease Agreement.

3. The Leased Premises are tenantable, the Landlord has no further obligation for construction (except as specified above), and Tenant acknowledges that both the Building and the Leased Premises are satisfactory in all respects, subject to any latent defects.

4. The Commencement Date of the Lease Agreement is hereby agreed to be the _____ day of _____, 200__.

5. The Expiration Date of the Lease Agreement is hereby agreed to be the _____ day of _____, 200__.

All other terms and conditions of the Lease Agreement are hereby ratified and acknowledged to be unchanged.

Agreed and Executed this _____ day of _____, 200___.

Landlord:

Aerospace Operating Associates, LP, a New Mexico limited partnership

By: BGK Aerospace, LLC, a New Mexico limited liability company, its general partner

By:
Name:
Title:

Tenant:

Orion Marine Group, Inc.

By:
Name:
Title:

EXHIBIT F

TENANT'S ESTOPPEL CERTIFICATE

(Addressee)

RE: Houston , Texas

Gentlemen:

The undersigned ("**Tenant**") has executed and entered into that certain lease agreement ("**Lease Agreement**") attached hereto as Exhibit "A" and made a part hereof for all purposes with respect to those certain premises ("**Leased Premises**") which are located in the above-referenced project ("**Project**") and are more fully described in the Lease Agreement. Tenant understands that the entity to whom this letter is addressed ("**Addressee**") has committed to loan or invest a substantial sum of money in reliance upon this certification by the undersigned, which certification is a condition precedent to making such loan or investment, or that Addressee intends to take some other action in reliance upon this certification.

With respect to the Lease Agreement, Tenant certifies to you the following, with the intention that you may rely fully thereon:

1. A true and correct copy of the Lease Agreement, including any and all amendments and modifications thereto, is attached hereto as Exhibit "A";

2. The original Lease Agreement is dated , 200__, and has been assigned, modified, supplemented or amended only in the following respects:

   (Please write "None" above or, on a separate sheet of paper, state the effective date of and describe any oral or written modifications, supplements or amendments to the Lease Agreement and attach a copy of such modifications, supplements or amendments, with the Lease Agreement as Exhibit A);

3. Tenant is in actual occupancy of the Leased Premises under the Lease , of the Project; and the Leased Premises square feet; Agreement; the Leased Premises are known as Suite contain approximately

4. The intial term of the Lease Agreement commenced on , 200 , and ends at 11:59 pm on , 200 , at a monthly base rent of $, and no rentals or other payments in advance of the current calendar month have been paid by Tenant, except as follows:

   (Please write "None" above or describe such payments on a separate sheet of paper);

5. Base Rent with respect to the Lease Agreement has been paid , 200__; all additional rents and other charges have been paid by Tenant through for the current periods;

6. There are no unpaid concessions, bonuses, free months' rent, rebates or other matters affecting the rent for Tenant, except as follows:

   (Please write "None" above or describe such matters on a separate sheet of paper);

7. No security or other deposit has been paid by Tenant with respect to the Lease Agreement, except as follows:

   (Please write "None" above or describe such deposits on a separate sheet of paper);

8. The Lease Agreement is in full force and effect and there are no events or conditions existing which, with notice or the lapse of time or both, could constitute a monetary or other default of the Landlord under the Lease Agreement, or entitle Tenant to any offset or defense against the prompt current payment of rent or constitute a default by Tenant under the Lease Agreement, except as follows:

   (Please write "None" above or describe such default on a separate sheet of paper);

9. All improvements required to be made by Landlord under the terms of the Lease Agreement have been satisfactorily completed and accepted by Tenant as being in conformity with the Lease Agreement, except as follows:

(Please write "None" above or describe such improvements on a separate sheet of paper);

10. Tenant has no option to expand or rent additional space within the Project or any right of first refusal with regard to any additional space within the Project, other than the Leased Premises, except as follows:

(Please write "None" above or describe such right or option on a separate sheet of paper);

11. Tenant has no right or option to renew the Lease Agreement for any period of time after the expiration of the initial term of the Lease Agreement, except as follows:

(Please write "None" above or describe such right on a separate sheet of paper);

12. To the best of Tenant's knowledge, any and all broker's leasing and other commissions relating to and/or resulting from Tenant's execution of the Lease Agreement and occupancy of the Leased Premises have been paid in full and no broker's leasing or other commissions will be or become due or payable in connection with or as a result of either Tenant's execution of a new Lease Agreement covering all or any portion of the Leased Premises or any other space within the Project or Tenant's renewal of the Lease Agreement, except as follows:

(Please write "None" above or describe such right on a separate sheet of paper);

13. To the best of Tenant's knowledge, the use, maintenance or operation of the Leased Premises complies with, and will at all times comply with, all applicable federal, state, county or local statutes, laws, rules and regulations of any governmental authorities relating to environmental, health or safety matters (being hereinafter collectively referred to as the "Environmental Laws");

14. The Leased Premises have not been used and Tenant does not plan to use the Leased Premises for any activities which, directly or indirectly, involve the use, generation, treatment, storage, transportation or disposal of any petroleum product or any toxic or hazardous chemical, material, substance, pollutant or waste;

15. Tenant has not received any written notices of violation of any Environmental Law or of any allegation which, if true, would contradict anything contained herein and there are not writs, injunctions, decrees, orders or judgments outstanding, no lawsuits, claims, proceedings or investigations pending or threatened, relating to the use, maintenance or operation of the Leased Premises, nor is Tenant aware of a basis for any such proceeding;

16. There are no actions, whether voluntary or otherwise, pending against Tenant under the bankruptcy or insolvency laws of the United States or of any state, except as follows:

(Please write "None" above or describe such actions on a separate sheet of paper)

17. Tenant has no right of refusal or option to purchase the Leased Premises or the Project, except as follows:

(Please write "None" above or describe such actions on a separate sheet of paper)

18. Tenant understands that the Lease Agreement may be assigned to Addressee and Tenant agrees to attorn to Addressee in all respects in accordance with the Lease Agreement so long as Addressee assumes the obligations of Landlord under the Lease Agreement.

Dated: , 200__.

Very truly yours,

By:
Name:
Title:

EXHIBIT G

LEASEHOLD IMPROVEMENTS

1. Work by Landlord. Landlord shall cause to be constructed and/or installed in the Leased Premises the permanent leasehold improvements and tenant finish desired by Tenant and approved by Landlord (the "**Leasehold Improvements**"). The leasehold construction will be performed by a general contractor of Landlord's choice.

2. Planning and Construction. Landlord and Tenant shall cooperate in good faith in the planning and construction of the Leasehold Improvements. Landlord and Landlord's architect and contractor shall promptly prepare and submit plans and respond to Tenant's request and questions regarding any particular aspect of the planning and construction of the Leasehold Improvements, and Tenant shall respond promptly to any request from Landlord or Landlord's architect or contractor for Tenant's approval of any particular aspect thereof, it being agreed and understood that it is the intent and desire of the parties that the Leased Premises be ready for Tenant's occupancy on or before the Estimated Leased Premises Delivery Date. In the event Tenant fails to respond promptly to any request from Landlord or Landlord's architect and/or contractor in connection with the design and/or construction of the Leasehold Improvements, Landlord, upon ten (10) days' prior written notice to Tenant, shall have the right to terminate this Lease Agreement.

3. Quality of Work. Landlord shall supervise the construction of the Leasehold Improvements and shall use its diligent good faith efforts to cause same to be constructed and installed in a good and workmanlike manner in accordance with good industry practice.

4. Completion of Construction. The "**Leasehold Improvements Completion Date**" shall mean the date upon which the Leasehold Improvements are substantially complete. The phrase "**substantially complete**" shall mean that all construction debris has been removed from the Leased Premises and the Leased Premises are reasonably clean, the Leased Premises may reasonably be used and occupied for the purposes intended by the Tenant and the progress of the construction of the Leasehold Improvements to date is such that final completion of the Leasehold Improvements can occur within a reasonable period of time and without undue interference to the Tenant's use of the Leased Premises. If the Leased Premises are not ready for occupancy by the Estimated Leased Premises Delivery Date for any reason, Landlord shall not be liable or responsible for any claims, damages or liabilities in connection therewith or by reason thereof.

5. Tenant Delay. As used herein, "**Tenant Delay**" shall mean the sum of (i) the number of days of delay in responding to Landlord's request for approval of any documentation in connection with the Leasehold Improvements beyond five (5) days after Landlord's request, (ii) the number of days of delay in preparing any of such documentation caused by changes requested by Tenant to any aspect of the Leasehold Improvements which were reflected in the documentation theretofore approved by Tenant, and (iii) the positive difference, if any, between the increase and decrease in the number of days required to complete the Leasehold Improvements caused by changes requested by Tenant to the working drawings after Tenant's approval thereof.

6. Disclaimer of Warranty. **TENANT ACKNOWLEDGES THAT THE CONSTRUCTION AND INSTALLATION OF THE LEASEHOLD IMPROVEMENTS WILL BE PERFORMED BY AN UNAFFILIATED CONTRACTOR OR CONTRACTORS AND THAT ACCORDINGLY LANDLORD HAS MADE AND WILL MAKE NO WARRANTIES TO TENANT WITH RESPECT TO THE QUALITY OF CONSTRUCTION THEREOF OR AS TO THE CONDITION OF THE LEASED PREMISES, EITHER EXPRESS OR IMPLIED, AND THAT LANDLORD EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY THAT THE LEASED PREMISES ARE OR WILL BE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE. AS SET FORTH IN SECTION 27 OF THIS LEASE, TENANT'S OBLIGATION TO PAY BASE AND ADDITIONAL RENTAL HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE LEASED PREMISES OR THE BUILDING OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND TENANT SHALL CONTINUE TO PAY THE BASE AND ADDITIONAL RENT WITHOUT ABATEMENT, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.** However, Landlord agrees that in the event that any defect in the construction of the Leasehold Improvements are discovered, Landlord will diligently pursue and seek to enforce any warranties of the contractor(s) and/or the manufacturer of any defective materials incorporated therein.

7. Cost of Leasehold Improvements. Landlord shall pay all costs and expenses of the Leasehold Improvements (including labor, materials, architectural and engineering costs) up to the aggregate amount of $296,541.00 (the "**Improvement Allowance**"). In the event that the cost and expense of constructing and installing any portion of the Leasehold Improvements exceeds the Improvement Allowance (the "**Excess Cost**"), Tenant shall pay said Excess Cost as provided below. Prior to Landlord's awarding of the construction contract with respect to the Leasehold Improvements or, as applicable, Landlord performing any change order work, and in any event, within five (5) days following Landlord's demand, Tenant shall deposit with Landlord, one hundred percent (100%) of the amount of Landlord's good faith, reasonable estimate of any Excess Cost, with a final reconciliation being made between the Landlord and Tenant as to such actual Excess Costs as soon as reasonably possible after the Commencement Date.

8. Construction Management Fee. Tenant acknowledges and agrees to pay Landlord a construction management fee equal to five percent (5%) of the total costs and expenses of the Leasehold Improvements, that exceed the Improvement Allowance. Such construction management fee may be paid for by Tenant out of the Improvement Allowance.

EXHIBIT H

AIR CONDITIONING AND HEATING SERVICES

Landlord will furnish Building standard air conditioning and heating between 7:00 a.m. and 6:00 p.m. from Monday through Friday and, if requested, between 8:00 a.m. and 12:00 noon on Saturdays, all exclusive of Holidays (as defined above). Upon request of Tenant made in accordance with the rules and regulations for the Building, Landlord will use its good faith efforts to furnish air conditioning and heating at other times (that is, at times other than the times specified above), in which event Tenant shall reimburse Landlord for the incremental costs (including a reasonable charge for additional wear and tear resulting from such additional use) incurred in connection therewith, as such cost may be adjusted from time to time, for furnishing such services. Landlord represents that the current charge for furnishing such services is $35.00 per hour per air handler.

EXHIBIT I

INSURANCE REQUIREMENTS

1. Tenant's Insurance.

a. Tenant, at its expense, shall obtain and keep in full force and effect during the Term:

i. a policy of commercial general liability insurance on an occurrence basis against claims for personal injury, bodily injury, death and/or property damage occurring in or about the Complex, under which Tenant is named as the insured and (a) Landlord, (b) any lender whose loan is secured by a lien against the Complex, (c) the property manager for the Complex, (d) their respective shareholders, members, partners, affiliates and subsidiaries, successors and assigns, and (e) any directors, officers, employees, agents, or contractors of such persons or entities are named as additional insureds (collectively, the "**Landlord Parties**"). Such insurance shall provide primary coverage without contribution from any other insurance carried by or for the benefit of the Landlord Parties, and Tenant shall obtain blanket broad-form contractual liability coverage to insure its indemnity obligations set forth in Section 28 of the Lease Agreement. The minimum limits of liability applying exclusively to the Leased Premises shall be a combined single limit with respect to each occurrence in an amount of not less than $5,000,000 inclusive of an excess coverage; provided, however, that Landlord shall retain the right to require Tenant to increase such coverage from time to time to that amount of insurance which in Landlord's reasonable judgment is then being customarily required by landlords for similar office space in buildings comparable to the Building. The deductible or self insured retention amount for such policy shall be reasonable with respect to the Tenant's business and customary practices for tenants having similar net worth to the Tenant;

ii. insurance against loss or damage by fire, and such other risks and hazards as are insurable under then available standard forms of "Special Form Causes of Loss" or "All Risk" property insurance policies with extended coverage, insuring Tenant's movable fixtures and movable partitions, telephone and other equipment, computer systems, trade fixtures, furniture, furnishings, and other items of personal property which are removable without material damage to the Building ("**Tenant's Property**") and all alterations and improvements to the Leased Premises (including the Leasehold Improvements constructed pursuant to **Exhibit G** to the Lease Agreement) to the extent such alterations and improvements exceed the cost of the improvements typically performed in connection with the initial occupancy of tenants in the Building ("**Building Standard Installations**"), for the full insurable value thereof or replacement cost thereof, having a deductible amount (or self-insured retention amount), that is reasonable with respect to the Tenant's business and customary practices for tenants having similar net worth to the Tenant;

iii. during the performance of any alteration, until completion thereof, Builder's Risk insurance on an "all risk" basis and on a completed value form including a Permission to Complete and Occupy endorsement, for full replacement value covering the interest of Landlord and Tenant (and their respective contractors and subcontractors) in all work incorporated in the Building and all materials and equipment in or about the Leased Premises;

iv. Workers' Compensation Insurance, as required by law; and

v. such other insurance in such amounts as the Landlord Parties may reasonably require from time to time.

b. All insurance required to be carried by Tenant (i) shall contain a provision that (x) no act or omission of Tenant shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained, and (y) it shall be noncancellable and/or no material change in coverage shall be made thereto unless the Landlord Parties receive thirty (30) days' prior notice of the same, by certified mail, return receipt requested, and (ii) shall be effected under valid and enforceable policies issued by reputable insurers permitted to do business in the State of Texas and rated in Best's Insurance Guide, or any successor thereto as having a "Best's Rating" of at least "A-" and a "Financial Size Category" of at least "X" or, if such ratings are not then in effect, the equivalent thereof or such other financial rating as Landlord may at any time consider appropriate.

c. On or prior to the Commencement Date, Tenant shall deliver to Landlord appropriate policies or certificates of insurance, including evidence of waivers of subrogation required to be carried pursuant to this **Exhibit I** and that the Landlord Parties are named as additional insureds (the "**Policies**"). Evidence of each renewal or replacement of the Policies shall be delivered by Tenant to Landlord at least ten (10) days prior to the expiration of the Policies. In lieu of the Policies, Tenant may deliver to Landlord a certification from Tenant's insurance company (on the form currently designated "Acord 27" (Evidence of Property Insurance) and "Acord 25-S" (Certificate of Liability Insurance), or the equivalent, provided that attached thereto is an endorsement to Tenant's commercial general liability policy naming the Landlord Parties as additional insureds) which shall be binding on Tenant's insurance company, and which shall expressly provide that such certification (i) conveys to the Landlord Parties all the rights and privileges afforded under the Policies as primary insurance, and (ii) contains an unconditional obligation of the insurance company to advise all Landlord Parties in writing at least thirty (30) days in advance of any termination or change to the Policies that would affect the interest of any of the Landlord Parties.

2. Landlord's Insurance.

a. Landlord shall keep the Building insured against damage and destruction by fire, vandalism, and other perils in the amount of the full replacement value of the Building (as determined for insurance purposes) as the value may exist from time to time, exclusive of foundations and footings, or such lesser amount as will avoid co-insurance.

b. Landlord shall maintain contractual and commercial general liability insurance, including bodily injury and property damage, with a minimum combined single limit of liability of $1,000,000 for bodily injury or death of any person occurring in or about the Building and $3,000,000 for injury, death, or damages resulting to more than one person in any one occurrence.

c. Notwithstanding the foregoing, in the event Landlord is an institutional owner, then Landlord may elect to self-insure with respect to the insurance coverages required by the terms of the Lease Agreement.

3. Waiver of Subrogation.

Landlord and Tenant shall each procure an appropriate clause in or endorsement to any property insurance covering the Complex and personal property, fixtures and equipment located therein, wherein the insurer waives subrogation or consents to a waiver of right of recovery, and Landlord and Tenant agree not to 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 hazards to the extent covered by the property insurance that was required to be carried by that party under the terms of the Lease Agreement. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for, (i) damage to any alterations or improvements exceeding Building Standard Installations, (ii) Tenant's Property, and (iii) any loss suffered by Tenant due to interruption of Tenant's business

EXHIBIT J

ROOFTOP SATELLITE ANTENNA

1. Satellite Antenna. Landlord hereby grants a non-exclusive license to Tenant for the Term of this Lease Agreement and any renewals and extensions thereof, to install, operate, maintain, repair, replace and remove up to one (1) satellite antenna or dish, which may not exceed eighteen inches (18") in diameter unless required for a reasonable technical purpose (whether one or more, the "**Antenna**"), along with the reasonably necessary conduit, wiring, sleeving, amplifiers and other equipment related to the installation, operation, maintenance, repair, replacement and removal of the Antenna (the "**Auxiliary Equipment**"), at Tenant's sole cost and expense, in a location on the roof of the Building designated by Landlord; provided, however, in no event will Tenant be entitled to use more than its pro rata share of such roof-top space. Tenant shall be entitled to use such roof-top space at reasonable rental amount, which amount will be agreed upon prior to the installation of the Antenna and Auxiliary Equipment.

2. General Terms and Conditions. The following terms and conditions shall apply to Tenant's installation, operation and maintenance of the Antenna pursuant to this **Exhibit J**:

(a) Not less than thirty (30) days prior to the date on which Tenant desires to commence installation of the Antenna, Tenant shall submit for Landlord's approval (which approval shall not be unreasonably withheld, conditioned or delayed) detailed drawings and specifications for the proposed Antenna, Tenant's proposed method of attachment thereof to the roof of the Building and the routing of the cable from the Antenna to the Leased Premises. Landlord's approval shall extend to all aspects of the design and installation of the Antenna, the cables and the Auxiliary Equipment (including, without limitation, the materials utilized, the exact location of the Antenna on the roof of the Building, and the aesthetic appearance thereof), other than the aesthetic appearance of the portions thereof which are located within the Leased Premises.

(b) The installation, operation, maintenance, repair, replacement and removal of the Antenna and the Auxiliary Equipment shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and rules, and Tenant shall obtain and maintain in full force and effect all required permits, licenses and approvals with respect thereto.

(c) The delivery of the Antenna and the Auxiliary Equipment to the roof of the Building, and the installation thereof, shall be subject to Landlord's supervision and control, and Tenant agrees to comply, and to cause its contractors to comply, with all reasonable requirements of Landlord with respect thereto.

(d) Tenant's contractors for the installation, maintenance, repair, replacement and removal of the Antenna and the Auxiliary Equipment shall be approved in advance by Landlord, which approval shall not be unreasonably withheld or delayed, but may be conditioned upon such contractors' agreeing to indemnify Landlord and maintain insurance in a manner satisfactory to Landlord. Tenant's approved contractors shall have access to portions of the roofs and core of the Building as necessary for purposes of installing, operating, maintaining and repairing, replacing and removing the Antenna and the Auxiliary Equipment.

(e) Once installed, Tenant shall maintain the Antenna and the Auxiliary Equipment in a good and operable condition, repair and appearance, and shall promptly remove any debris and other loose materials placed on the roof by Tenant or its representatives. Tenants shall notify Landlord in advance of all maintenance, repair, replacement and removal work on the Antenna and the Auxiliary equipment, and same shall be scheduled in advance with Landlord, and shall be subject to Landlord's supervision and control, except in the event of an emergency (including equipment malfunction) requiring attention of such an immediate nature as to render such scheduling, supervision and/or control impractical.

(f) The Antenna may not interfere with the operation of any other antenna, microwave system or communication equipment existing in or on the roof of the Building. In the event of any such interference, Tenant shall, at Tenant's sole cost and expense, cure same (including removal of the Antenna, if necessary). Landlord agrees to use its good faith efforts to obtain for Tenant all relevant information pertaining to the interference and such other equipment as may be helpful to Tenant in its attempt to cure the interference.

(g) Landlord agrees that Landlord will use its good faith efforts to not allow the installation of any other antenna on the Building subsequent to the installation of the Antenna which interferes with the reception or the installation, operation, maintenance, repair, replacement and removal of the Antenna or the Auxiliary Equipment. In the event of mutual interference between the Antenna and one or more other antennas, Landlord will use its good faith efforts to cooperate with Tenant and the affected tenants to find a means to resolve the interference.

(h) Upon expiration or earlier termination of this Lease Agreement as to all of the Leased Premises, Tenant shall remove the Antenna and the Auxiliary Equipment from the Building. In the event Tenant shall fail to promptly remove the Antenna and the Auxiliary Equipment, Landlord shall have the right to remove same at Tenant's expense, and Landlord shall have no duty or obligation to account to Tenant for any proceeds received by Landlord from the disposal of the Antenna

and the Auxiliary Equipment, or to share same with Tenant.

(i) The Antenna and the Auxiliary Equipment shall be used solely by Tenant in the ordinary course of its business in the Leased Premises; in no event shall Tenant resell, lease or license any use of same to other tenants of the Building or to any third party.

(j) Tenant agrees that in the event of loss of the Antenna or the Auxiliary Equipment as a result of condemnation or casualty, or a change in applicable federal, state and local laws, ordinances, codes, regulations and rules of any governmental authority, Tenant shall have no claim for rebate or abatement of Rent or for damages against Landlord on account thereof.

(k) Tenant shall install and maintain, in a good and workmanlike manner, appropriate waterproofing materials around any penetrations of the roof of the Building which are made during the installation, maintenance, repair, replacement and removal of the Antenna and the Auxiliary Equipment, and shall provide waterproofing certification with respect to all such penetrations from Landlord's roofing contractor so that Landlord is assured that such penetrations do not void, limit or reduce any roof warranty in effect from time to time. Upon final removal of the Antenna and the Auxiliary Equipment, Tenant shall repair and restore all roof penetrations and provide such waterproofing certification.

(l) Tenant shall defend, indemnify and hold Landlord Parties harmless from and against all claims and liabilities of every kind or nature related to the existence and operation of the Antenna and Auxiliary Equipment.

FIRST AMENDMENT TO LAND SUBLEASE AGREEMENT

This First Amendment to the Land Sublease Agreement made between Signet Maritime Corporation (hereinafter called "LESSOR") and Orion Construction LP. ("LESSEE") as of May 1, 2007 (as amended hereby the "Agreement") is entered into by LESSOR and LESSEE as of the 8th day of April, 2009.

The Agreement is hereby amended as follows:

1. Recital A. of the Agreement is deleted in its entirety, and the following is inserted in lieu thereof:
   "A. Lessor is the current owner of certain property located at 1500 Main Street on Farm Road 1069 in Ingleside, San Patricio County, State of Texas, described on Exhibit "A" attached hereto and referred to herein as the "Leased Premises".
2. In Section 1 of the Agreement, the second sentence is deleted in its entirety and the following is inserted in lieu thereof:
   "Lessor covenants with Lessee that the Lessor is vested with the title to the Leased Premises and has full right and lawful authority to sublease the Leased Premises to Lessee."
3. LESSEE hereby exercises the options granted in Section 2 of the Agreement for both one (1) year extension periods, extending the term of the Agreement through May 1, 2011.
4. Effective May 1, 2009, in Section 3(a) of the Agreement, line 2, the words "Six Thousand Dollars ($6,000) per month," are amended to read "Six Thousand Three Hundred Dollars per month inclusive of monthly mowing and land maintenance costs".
5. There are no other changes to the Agreement and all terms and conditions thereof shall remain in full force and effect except as expressly amended hereby.

IN WITNESS WHEREOF, the parties have executed and delivered this First Amendment as of the date and year first above written.

ORION CONSTRUCTION L.P.
/s/ Rob Lewis, VP

SIGNET MARITIME CORPORATION
/s/ J. Barry Snyder, President

Exhibit 10.26

Orion Marine Group, Inc.
Non-employees Director Compensation

In November 2008, the Orion Marine Group, Inc. (the "Company") Board of Directors adopted the annual non-employee director compensation program (effective for 2009) summarized below:

A. Board of Directors

1. Cash Compensation

a. Annual Retainer: $35,000

b. Additional Chairman Retainer: $25,000
c. Meeting Fee: $1,000 per regular meeting; no separate compensation for special meetings.

d. Reimbursement of travel and related business expenses.

2. Equity Compensation

a. At the particular director's option, annual grants to each independent director of Company restricted stock or stock options with an economic value of $35,000 at the time of grant to each director.

b. Grants for 2009 to occur 30 days after the Company's 2009 Stockholder' Meeting (May 14, 2009)

B. Audit Committee

1. Chair Annual Retainer: $12,500.
2. Member Annual Retainer: $ 7,000.

3. Meeting Fee: $1,000 per regular meeting; no separate compensation for special meetings .

C. Compensation Committee

1. Chair Annual Retainer: $7,000.
2. Member Annual Retainer: $5,000.

3. Meeting Fee: $1,000 per regular meeting; no separate compensation for special meetings.

D. Nominating & Governance Committee

1. Chair Annual Retainer: $7,000
2. Member Annual Retainer: $5,000.

3. Meeting Fee: $1,000 per regular meeting; no separate compensation for special meetings.

The grants to each independent director were issued on June 22, 2009.

EXHIBIT 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO RULE 13a – 14(a)/15d – 14(a)
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, J. Michael Pearson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Orion Marine Group, Inc.;

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

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

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

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of 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.

By:/s/ J. Michael Pearson

August 6, 2009

J. Michael Pearson
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO RULE 13a – 14(a)/15d – 14(a)
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Mark R. Stauffer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Orion Marine Group, Inc.;

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

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

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

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of 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.

By:/s/ Mark R. Stauffer
Mark R. Stauffer
Executive Vice President and Chief Financial Officer

August 6, 2009

EXHIBIT 32.1

SECTION 1350 CERTIFICATIONS
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Orion Marine Group, Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, J. Michael Pearson and Mark R. Stauffer, Chief Executive Officer and Chief Financial Officer , respectively, of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to our knowledge:

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

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

August 6, 2009

By:/s/ J. Michael Pearson
J. Michael Pearson
President and Chief Executive Officer

August 6, 2009

By:/s/ Mark R. Stauffer
Mark R. Stauffer
Executive Vice President and Chief Financial Officer