

# ORE PHARMACEUTICAL HOLDINGS INC. (ORXE)

## 10-Q

Quarterly report pursuant to sections 13 or 15(d)

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549  
**FORM 10-Q**

(Mark One)

**Quarterly Report Pursuant To Section 13 Or 15(d) Of The  
SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended 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 \_\_\_\_\_**

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Commission File Number: 0-23317

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**ORE PHARMACEUTICALS INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**06-1411336**  
(I.R.S. Employer  
Identification No.)

**610 Professional Drive, Suite 101  
Gaithersburg, Maryland 20879**  
(Address of principal executive offices)  
**(240) 361-4400**

(Registrant's phone number, including area code)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files): YES  NO

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

Large accelerated filer       Accelerated filer       Non-accelerated filer       Smaller reporting company   
(Do not check if 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

The number of shares outstanding of the Registrant's Common Stock, \$.01 par value, was 5,473,519 as of July 31, 2009.

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ORE PHARMACEUTICALS INC.

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PART I FINANCIAL INFORMATION

Item 1. Financial Statements

ORE PHARMACEUTICALS INC.

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

	June 30, 2009 (unaudited)	December 31, 2008
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 4,650	\$ 10,784
Prepaid expenses	279	200
Notes receivable, net	3,747	3,252
Other current assets	31	70
Total current assets	8,707	14,306
Property and equipment, net	42	483
Other intangibles, net	619	573
Note receivable, net	-	338
Other assets	25	-
Total assets	<u>\$ 9,393</u>	<u>\$ 15,700</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Liabilities:		
Accounts payable	\$ 794	\$ 623
Accrued compensation and employee benefits	184	1,185
Other accrued expenses	1,454	1,267
Current portion of long-term debt	450	477
Total liabilities	2,882	3,552
Commitments and contingencies	-	-
Stockholders' equity:		
Preferred stock, \$.01 par value; 10,000,000 shares authorized; and no shares issued and outstanding as of June 30, 2009 and December 31, 2008	-	-
Common stock, \$.01 par value; 60,000,000 shares authorized; 5,483,519 shares issued and outstanding as of June 30, 2009 and December 31, 2008	55	55
Additional paid-in-capital	384,978	384,922
Accumulated deficit	(378,522)	(372,829)
Total stockholders' equity	6,511	12,148
Total liabilities and stockholders' equity	<u>\$ 9,393</u>	<u>\$ 15,700</u>

See accompanying notes.

**ORE PHARMACEUTICALS INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF OPERATIONS**  
(in thousands, except per share data)  
(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Services revenue	\$ 25	\$ 1,000	\$ 25	\$ 1,750
Expenses:				
Research and development	639	3,364	1,580	6,206
Selling, general and administrative	2,016	2,505	4,305	7,669
Total expenses	2,655	5,869	5,885	13,875
Loss from operations	(2,630)	(4,869)	(5,860)	(12,125)
Interest (income), net	(81)	(186)	(167)	(502)
Net loss	\$ (2,549)	\$ (4,683)	\$ (5,693)	\$ (11,623)
Basic and diluted net loss per share	\$ (0.47)	\$ (0.86)	\$ (1.04)	\$ (1.99)
Shares used in computing basic and diluted net loss per share	5,474	5,477	5,474	5,841

See accompanying notes.

**ORE PHARMACEUTICALS INC.**  
**CONSOLIDATED CONDENSED STATEMENTS OF CASH FLOWS**  
(in thousands)  
(unaudited)

	<b>Six Months Ended</b>	
	<b>June 30,</b>	
	<b>2009</b>	<b>2008</b>
Cash flows from operating activities:		
Loss from operations	\$ (5,693)	\$ (11,623)
Adjustments to reconcile loss from operations to net cash flows from operating activities:		
Depreciation and amortization	105	593
Non-cash stock-based compensation expense	56	229
Other non-cash items	184	182
Changes in operating assets and liabilities:		
Prepays and other assets	(65)	1,953
Accounts payable	171	(599)
Accrued expenses	(814)	(1,716)
Deferred revenue	-	(1,500)
Net cash flows from operating activities	<u>(6,056)</u>	<u>(12,481)</u>
Cash flows from investing activities:		
Purchases of property and equipment	(16)	(152)
Proceeds from sale of property and equipment	70	-
Purchases of licenses and patent costs	(105)	(187)
Proceeds from sale of marketable securities available-for-sale	-	6,522
Purchase of marketable securities available-for-sale	-	(4,003)
Net proceeds received from sale of Genomics Assets	-	501
Net proceeds received from sale of Preclinical Division	-	272
Net cash flows from investing activities	<u>(51)</u>	<u>2,953</u>
Cash flows from financing activities:		
Purchase of common stock	-	(2,991)
Repayments of an equipment loan	(27)	(12)
Net cash flows from financing activities	<u>(27)</u>	<u>(3,003)</u>
Net decrease in cash and cash equivalents	<u>(6,134)</u>	<u>(12,531)</u>
Cash and cash equivalents, beginning of period	10,784	26,323
Cash and cash equivalents, end of period	<u>\$ 4,650</u>	<u>\$ 13,792</u>
Supplemental disclosure:		
Interest paid	<u>\$ -</u>	<u>\$ 1</u>

See accompanying notes.

**ORE PHARMACEUTICALS INC.**

**Notes to Consolidated Condensed Financial Statements**  
**June 30, 2009**  
**(in thousands, except share and per share data)**  
**(unaudited)**

**Note 1 • Organization and summary of significant accounting policies**

*Description of Business*

Ore Pharmaceuticals Inc. (the "Company") is a pharmaceutical asset management company. The Company acquires interests in pharmaceutical assets whose value, it believes, it can significantly enhance through targeted development, with the goal of then monetizing these assets through a sale or out-licensing. Initially, the Company will focus on developing and monetizing its current portfolio, which includes four clinical-stage compounds in-licensed from major pharmaceutical companies. The Company's four compounds in its development portfolio are: ORE1001, its lead compound, ORE10002, ORE5002 (tiapamil) and ORE5007 (romazarit).

*Basis of Presentation*

The accompanying unaudited consolidated condensed financial statements have been prepared in accordance with United States Generally Accepted Accounting Principles ("GAAP") for interim financial information and the instructions to Form 10-Q and Article 8-03 of Regulation S-X. The consolidated condensed balance sheet as of June 30, 2009, consolidated condensed statements of operations for the three and six months ended June 30, 2009 and 2008 and the consolidated condensed statements of cash flows for the six months ended June 30, 2009 and 2008 are unaudited, but include all adjustments (consisting of normal recurring adjustments) that the Company considers necessary for a fair presentation of the financial position, operating results and cash flows, respectively, for the periods presented. Although the Company believes that the disclosures in these financial statements are adequate to make the information presented not misleading, certain information and footnote information normally included in financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to the rules and regulations of the United States Securities and Exchange Commission ("SEC"). All material intercompany accounts and transactions have been eliminated in consolidation.

In 2008, the Company sold its wholly owned subsidiary, DioGenix Inc., its molecular diagnostics business. The results of operations for the Company's molecular diagnostic business are not considered material and, therefore, have not been classified as a discontinued operation. There was no revenue from the Company's molecular diagnostics business.

Results for any interim period are not necessarily indicative of results for any future interim period or for the entire year. The accompanying unaudited consolidated condensed financial statements should be read in conjunction with the consolidated financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008.

*Use of Estimates*

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

*Fair Value Measurements*

The Company adopted Statement of Financial Accounting Standards ("SFAS") No. 157 "Fair Value Measurements" ("SFAS 157") for financial assets and liabilities on January 1, 2008. The Company adopted SFAS 157 for non-financial assets and liabilities on January 1, 2009.

SFAS No. 157 discusses valuation techniques, such as the market approach (comparable market prices), the income approach (present value of future income or cash flow) and the cost approach (cost to replace the service capacity of an asset or replacement cost). The statement utilizes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value into three broad levels. The following is a brief description of those three levels:

- Level 1: Observable inputs such as quoted prices (unadjusted) in active markets for identical assets or liabilities.
- Level 2: Inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly. These include quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active.

- Level 3: Unobservable inputs that reflect the reporting entity's own assumptions.

The Company's recurring financial assets and liabilities subject to fair value measurements and the necessary disclosures are as follows:

	Fair Value as of June 30, 2009	Fair Value Measurements at June 30, 2009 Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Cash and cash equivalents	\$ 4,650	\$ 4,650	\$ -	\$ -
Total	\$ 4,650	\$ 4,650	\$ -	\$ -

The amounts in the Company's Consolidated Condensed Balance Sheets for notes receivable, accounts payable and long-term debt approximate fair value due to their short-term nature.

There were no required fair value measurements for non-financial assets and liabilities in the second quarter of 2009.

#### Comprehensive Loss

The Company accounts for comprehensive loss as prescribed by SFAS No. 130, "Reporting Comprehensive Income." Comprehensive income (loss) is the total net income (loss) plus all changes in equity during the period except those changes resulting from investment by and distribution to owners. Total comprehensive loss was \$2,549 and \$4,683 for the three months ended June 30, 2009 and 2008, respectively, and \$5,693 and \$11,577 for the six months ended June 30, 2009 and 2008, respectively.

#### New Accounting Pronouncements

In June 2009, the Financial Accounting Standards Board ("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 168"), which establishes the FASB Accounting Standards Codification as the source of authoritative accounting principles recognized by the FASB to be applied in the preparation of financial statements in conformity with GAAP. SFAS 168 explicitly recognizes rules and interpretive releases of the SEC under federal securities laws as authoritative GAAP for SEC registrants. SFAS 168 is effective for financial statements issued for interim and annual reporting periods ending after September 15, 2009 (the quarter ending September 30, 2009 for the Company) and will not have an impact on the Company's final position or results of operations.

In May 2009, the FASB issued SFAS No. 165, "Subsequent Events," ("SFAS 165"), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date, but before financial statements are issued or are available to be issued. SFAS 165 is effective for financial statements issued for interim and annual reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). The adoption of SFAS 165 did not have an impact on the Company's financial position or results of operations.

In April 2009, the FASB issued FSP No. FAS 107-1 and Accounting Principles Board ("APB") Opinion No. 28-1, "Interim Disclosures about Fair Value of Financial Instruments" ("FSP FAS 107-1" and "APB 28-1"). FSP FAS 107-1 and APB 28-1 amend SFAS No. 107, "Disclosures about Fair Value of Financial Instruments," to require disclosures, in interim reporting periods and in financial statements for annual reporting periods, regarding the fair value of all financial instruments for which it is practicable to estimate that value, whether recognized or not on the company's balance sheet. FSP FAS 107-1 and APB 28-1 also amend FASB APB Opinion No. 28, "Interim Financial Reporting," to require entities to disclose the methods and significant assumptions used to estimate the fair value of financial instruments and describe changes in methods and significant assumptions, in both interim and annual financial statements. FSP FAS 107-1 and APB 28-1 are effective for interim reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). While the adoption of FSP FAS 107-1 and APB 28-1 impacts the Company's disclosures, it does not have an impact on the Company's financial position or results of operations.

In April 2009, the FASB issued FSP SFAS 115-2 and SFAS 124-2, "Recognition and Presentation of Other-Than-Temporary Impairments," which modify the recognition requirements for other-than-temporary impairments of debt securities and enhances existing disclosures with respect to other-than-temporary impairments of debt and equity securities. FSP SFAS 115-2 and SFAS 124-2 are effective for interim and annual reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). The adoption of FSP SFAS 115-2 and SFAS 124-2 had no impact on the Company's financial position or results of operations.

In February 2008, the FASB issued a one-year deferral for non-financial assets and liabilities to comply with SFAS No. 157. The Company adopted SFAS No. 157 for financial assets and liabilities effective January 1, 2008 (see Note 1, *Fair Value Measurements*). The Company adopted SFAS No. 157 as it pertains to non-financial assets and liabilities effective January 1, 2009 and the adoption had no impact on the Company's financial position or results of operations.

In December 2007, the FASB issued SFAS No. 141 Revised, "Business Combinations" ("SFAS 141R"). SFAS 141R requires an acquirer to determine the fair value of the consideration exchanged as of the acquisition date (i.e. the date the acquirer obtains control). Previously, an acquisition was valued as of the date the parties agreed upon the terms of the transaction. SFAS 141R also modifies, among other things, the accounting for direct costs associated with an acquisition, contingencies acquired and contingent consideration. The Company adopted SFAS 141R effective January 1, 2009 for business combinations occurring after the effective date.

In December 2007, the FASB ratified Emerging Issues Task Force No. 07-1, "Accounting for Collaborative Agreements" ("EITF 07-1"). EITF 07-1 provides guidance regarding financial statement presentation and disclosure of collaborative arrangements, as defined therein. The Company adopted EITF 07-1 effective January 1, 2009 and the adoption had no impact on the Company's financial position or results of operations.

#### Note 2 – Liquidity and management's plans

Since inception, the Company has incurred, and continues to incur, significant losses from operations. At June 30, 2009, the Company had \$4,650 in cash and cash equivalents. The Company has realigned its corporate resources and as a result significantly reduced its workforce from 71 employees on December 31, 2007 to 7 employees as of June 30, 2009. In addition, the Company assigned its Cambridge, Massachusetts lease and leased new space at a lower cost. The Company believes that its existing cash and cash equivalents, continuing cash savings resulting from its ongoing realignment and cash conservation efforts and proceeds from the collection of its outstanding notes receivable, will be sufficient to allow the Company to operate through late 2010, including the costs of initiating and completing the Phase Ib/IIa clinical trial for ORE1001, which is expected to be completed in the third quarter of 2010. However, there can be no assurance that the Company will be successful in its continuing realignment and cash conservation efforts, the collection of its outstanding notes receivable or, if necessary, attracting additional financing to allow the Company to complete the clinical trial. Furthermore, there is no assurance if the Company completes its Phase Ib/IIa clinical trial, that the results will be satisfactory or will enable the Company to successfully outlicense its compound. If the Company is not successful in achieving its objectives, it might be necessary to liquidate the Company in late 2010. The balance sheet at June 30, 2009 does not include any adjustments relating to recoverability and classification of recorded asset amounts or the amounts and classifications of liabilities that might be necessary in the event of such liquidation.

#### Note 3 • Stock-based compensation

At June 30, 2009, the Company has the following stock-based compensation plans: the 1997 Equity Incentive Plan (the "Stock Plan") and the 1997 Non-Employee Directors' Stock Option Plan (the "Directors' Plan").

The Company recorded stock-based compensation expense of \$28 and \$70 for the three months ended June 30, 2009 and 2008, respectively, and \$56 and \$229 for the six months ended June 30, 2009 and 2008, respectively.

#### Stock Option Awards

The Company determined the fair value of each option grant on the date of grant using the Black-Scholes option pricing model for the indicated periods, with the following assumptions:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Weighted average fair value of grants	\$0.34	\$0.96	\$0.28	\$0.97
Expected volatility	79%	65%	79%	63%
Risk-free interest rate	1.38%	2.53 % to 2.57%	1.31 % to 1.38%	2.53 % to 3.04%
Expected lives	5 years	3 years	5 years	3 years
Dividend rate	0%	0%	0%	0%

The following is a summary of option activity for the six months ended June 30, 2009:

	Number of Shares	Per Share Weighted- Average Exercise Price	Aggregate Intrinsic Value
<b>Outstanding at January 1, 2009</b>	683,847	\$ 24.10	
Options granted	786,300	\$ 0.44	
Options exercised	-	\$ -	
Options cancelled	(353,020)	\$ 19.40	
<b>Outstanding at June 30, 2009</b>	<u>1,117,127</u>	<u>\$ 8.93</u>	<u>\$ 103</u>
<b>Exercisable at June 30, 2009</b>	<u>348,898</u>	<u>\$ 27.17</u>	<u>\$ 8</u>

The aggregate intrinsic value in the table above represents the total intrinsic value (the excess of the Company's closing stock price on the last trading day of June 2009 over the exercise price, multiplied by the number of in-the-money options) that would have been received by the option holders had all option holders exercised their options on June 30, 2009. This amount is subject to change based on changes to the fair market value of the Company's Common Stock.

*Restricted Stock Awards*

The Committee had previously approved grants for shares of restricted stock under the Stock Plan subject to certain performance- or time-based vesting conditions which, if not met, would result in forfeiture of the shares and the reversal of any previously recognized related stock-based compensation expense.

The following is a summary of restricted stock awards activity for the six months ended June 30, 2009:

	Number of Shares	Per Share Weighted- Average Grant-Date Fair Value
<b>Outstanding at January 1, 2009</b>	10,000	\$ 6.15
Restricted stock granted	-	-
Restricted stock vested	-	-
Restricted stock forfeited	-	-
<b>Outstanding at June 30, 2009</b>	<b>10,000</b>	<b>\$ 6.15</b>

Performance-based non-vested restricted stock awards are recognized as compensation expense over the expected vesting period based on the fair value at the date of grant and the number of shares ultimately expected to vest. The Company's outstanding restricted stock award at June 30, 2009 was forfeited in the third quarter of 2009. In 2008, the Company had reversed the previously recognized related stock-based compensation expense for this restricted stock award since the Company believed that the achievement of the performance milestones were not probable.

As of June 30, 2009, \$220 of total unrecognized compensation cost related to stock options is expected to be recognized over a weighted-average period of 1.9 years. This estimate does not include the impact of other possible stock-based awards that may be made during future periods.

**Note 4 • Loan and grant agreements with the State of Maryland**

During the second quarter of 2009, the Company received a notice requiring repayment of all amounts potentially due under a loan and a grant agreement with the State of Maryland that total \$710 at June 30, 2009. The Company has recorded the amounts due under the loan and grant agreement within current portion of long-term debt and other accrued expenses. The Company is in discussions with the State of Maryland concerning the terms of potential repayment of this amount.

**Note 5 • Ocimum Biosolutions Inc. promissory note and related agreements**

In connection with the sale of the Company's Genomics business pursuant to a certain Asset Purchase Agreement with Ocimum Biosolutions Limited, as parent, and Ocimum Biosolutions Inc., a Delaware corporation ("Ocimum"), as Purchaser, which was completed on December 14, 2007, and previously reported, the Company had received as partial payment for the sales price, a \$3,000 secured promissory note from Ocimum and Ocimum Biosolutions Limited, guaranteed by Coramandel Prestrete Private Limited, a company incorporated in the Republic of India. The promissory note, secured by a security agreement between Ocimum and the Company, was due and payable on June 15, 2009.

In June 2009, the Company entered into a superseding \$3,000 secured promissory note ("Note") with Ocimum and its affiliate, Ocimum Biosolutions India Limited, a company incorporated in the Republic of India, which is secured pursuant to a superseding security agreement ("Security Agreement") with Ocimum and repayment of which is guaranteed by a guaranty agreement with Coramandel Infrastructure Private Limited, a company incorporated in the Republic of India, in favor of the Company. The superseding agreements are effective as of June 15, 2009, and the original promissory note, security agreement and related guarantee agreement have been cancelled and terminated.

In connection with the sale of the Genomics business, the Company had assigned its related real estate lease, but had remained primarily liable through January 2011 in the event Ocimum failed to perform its obligations under the lease. An escrow account served partially to secure Ocimum's performance. In July 2009, the landlord agreed to release the Company from liability under the lease. The escrow agreement between Ocimum and the Company was terminated and \$500 from the escrow amount was paid to the Company and applied to the outstanding principal of the Note.

Under the Note, Ocimum was required to pay at least fifty percent (50%) of the unpaid principal to the Company on or before August 1, 2009. To date, the Company has received payments of \$1,500 (including the \$500 discussed above), and the remaining balance is required to be paid on or before September 15, 2009. The Note bears interest at the rate of 15% per annum and includes an adjustment to the unpaid principal of four percent (4%) on July 15, 2009, five percent (5%) on August 15, 2009 and eight percent (8%) on September 15, 2009. The Security Agreement secures the Note with Ocimum collateral that includes, but is not limited to, the assets, properties and rights of Ocimum, its cash accounts and its receivables.

**Note 6 • Lease abandonment**

In the second quarter of 2009, the Company vacated substantially all of its Gaithersburg, Maryland facility and recorded a non-cash accelerated lease expense and write-down of leasehold improvements and other related assets of \$749, which is included in Selling, General and Administrative expenses in the Company's Consolidated Condensed Statements of Operations.

**Note 7 • Subsequent events**

In May 2009, the Company was notified by Nasdaq that it no longer met the requirement for continued listing on the Nasdaq Global Market, due to the fact that its stockholders' equity fell below the minimum of \$10,000. In response, the Company applied for, and Nasdaq approved, a transfer of the Company's listing from the Nasdaq Global Market to the Nasdaq Capital Market. This transfer occurred on August 3, 2009. The Company's Common Stock is currently trading below the \$1.00 per share price required by Nasdaq for continued listing.

The Company evaluated all events or transactions that occurred after June 30, 2009 and through August 14, 2009, the date these financial statements were issued for recognition and disclosure.

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

This Quarterly Report on Form 10-Q ("Form 10-Q") contains forward-looking statements regarding future events and the future results of Ore Pharmaceuticals Inc. ("Ore Pharmaceuticals") that are based on current expectations, estimates, forecasts and projections about the industries in which Ore Pharmaceuticals operates and the beliefs and assumptions of the management of Ore Pharmaceuticals. Words such as "expects," "anticipates," "targets," "goals," "projects," "intends," "plans," "believes," "seeks," "estimates," variations of such words, and similar expressions are intended to identify such forward-looking statements. These forward-looking statements are only predictions and are subject to risks, uncertainties and assumptions. Therefore, actual results may differ materially and adversely from those expressed in any forward-looking statements. Factors that might cause or contribute to such differences include those discussed in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 under the section entitled "Risk Factors" and in our subsequent filings with the United States Securities and Exchange Commission ("SEC"). Ore Pharmaceuticals undertakes no obligation to revise or update publicly any forward-looking statements to reflect any change in management's expectations with regard thereto or any change in events, conditions, or circumstances on which any such statements are based.

Unless the context otherwise requires, references in this Form 10-Q to "Ore Pharmaceuticals," "DioGenix," the "Company," "we," "us," and "our" refer to Ore Pharmaceuticals Inc. and its formerly wholly owned subsidiary, DioGenix Inc.

### OVERVIEW

Ore Pharmaceuticals Inc. is a pharmaceutical asset management company. We acquire interests in pharmaceutical assets whose value, we believe, we can significantly enhance through targeted development, with the goal of then monetizing these assets through a sale or out-licensing. In order to fund these activities, we intend to source third-party financing using alternative investment vehicles designed to align the investment profile of each program with the interests of its direct investors, as well as Ore shareholders.

We are establishing a business model under which Ore will earn program management advisory fees, as well as retain substantial economic interests in successful programs. Our goal is to create an investment-driven, investor returns-focused organization with the appropriate corporate structure and skill sets to execute on our strategy. To this end, we have assembled a management team with three key areas of expertise: clinical development, public- and private-market healthcare finance and pharmaceutical business development.

Initially, we will focus on developing and monetizing our current portfolio, which includes four clinical-stage compounds in-licensed from major pharmaceutical companies. Each of these compounds has been successfully tested for tolerability in human clinical trials. We are evaluating our lead compound, ORE1001, as a potential treatment for Inflammatory Bowel Disease (IDB). IDB is a severe gastrointestinal condition that is estimated to affect as many as one million patients in the United States alone. We expect to initiate a Phase Ib/Ia clinical trial in patients with ulcerative colitis – one of the two main disorders comprising IBD – in the second half of 2009.

In May 2009, we were notified by Nasdaq that we no longer met the requirement for continued listing on the Nasdaq Global Market, due to the fact that our stockholders' equity fell below the minimum of \$10 million. In response, we applied for, and Nasdaq approved, a transfer of our listing from the Nasdaq Global Market to the Nasdaq Capital Market effective August 3, 2009.

We have incurred net losses in each year since our inception, including losses of \$22.5 million in 2008 and \$34.7 million in 2007. At June 30, 2009, we had an accumulated deficit of \$378.5 million. Our losses have resulted principally from costs incurred by our ongoing business, as well as businesses we have sold. We expect to incur additional losses in the future.

### RESULTS OF OPERATIONS

#### Three Months Ended June 30, 2009 and 2008

**Revenue.** We had less than \$0.1 million of revenue for the three months ended June 30, 2009 compared to \$1.0 million for the three months ended June 30, 2008. During the three months ended June 30, 2008, our revenue resulted primarily from a licensing agreement for certain technology unrelated to our pharmaceutical asset management business.

**Research and Development Expense.** Research and development expenses, which now consist almost entirely of costs associated with the further development of ORE1001, decreased to \$0.6 million for the three months ended June 30, 2009 from \$3.4 million for the same period in 2008. The decrease is primarily a result of lower employee and facility-related costs due to our significant workforce reductions and lower third-party costs for the further development of our lead compound, ORE1001. For 2009, we expect a significant decrease in research and development expenses over 2008, primarily as a result of workforce reductions.

**Selling, General and Administrative Expense.** Selling, general and administrative expenses, which now consist primarily of accounting, legal, human resources and other general corporate expenses, decreased to \$2.0 million for the three months ended June 30, 2009 from \$2.5 million for the same period in 2008 primarily as a result of lower employee costs due to our significant workforce reductions, partially offset by \$0.7 million of facility-related lease abandonment costs (see Note 6). For 2009, we expect a significant decrease in selling, general and administrative expenses over 2008, primarily as a result of workforce reductions.

**Net Interest Income.** Net interest income decreased to \$0.1 million for the three months ended June 30, 2009 from \$0.2 million for the same period in 2008, due to the decline in the balance of our cash and cash equivalents and marketable securities available-for-sale and a decrease in our rates of return on investments.

*Six Months Ended June 30, 2009 and 2008*

**Revenue.** We had less than \$0.1 million of revenue for the six months ended June 30, 2009 compared to \$1.8 million for the six months ended June 30, 2008. During the six months ended June 30, 2008, our revenue resulted primarily from a licensing agreement for certain technology unrelated to our pharmaceutical asset management business.

**Research and Development Expense.** Research and development expenses, which now consist almost entirely of costs associated with the further development of ORE1001, decreased to \$1.6 million for the six months ended June 30, 2009 from \$6.2 million for the same period in 2008. The decrease is primarily a result of lower employee and facility-related costs due to our significant workforce reductions.

**Selling, General and Administrative Expense.** Selling, general and administrative expenses, which now consist primarily of accounting, legal, human resources and other general corporate expenses, decreased to \$4.3 million for the six months ended June 30, 2009 from \$7.7 million for the same period in 2008 primarily as a result of lower employee costs due to our significant workforce reductions, reduced professional fees relating to strategic planning and the absence of \$0.4 million of expense related to the purchase of shares from a former director that occurred in 2008, partially offset by \$0.4 million in net facility-related lease abandonment costs in 2009.

**Net Interest Income.** Net interest income decreased to \$0.2 million for the six months ended June 30, 2009 from \$0.5 million for the same period in 2008, due to the decline in the balance of our cash and cash equivalents and marketable securities available-for-sale and a decrease in our rates of return on investments.

#### **LIQUIDITY AND CAPITAL RESOURCES**

Historically, we have financed our operations through the issuance and sale of equity securities, payments from customers and sales of parts of our business and assets from time to time. As of June 30, 2009, we had approximately \$4.6 million in cash and cash equivalents, compared to \$10.8 million as of December 31, 2008.

Net cash used in operating activities decreased to a negative \$6.1 million for the six months ended June 30, 2009 from a negative \$12.5 million for the same period in 2008, primarily due to our reduced net loss for the six months ended June 30, 2009. Based on current expectations of cash usage and collection of outstanding notes, we presently anticipate that we will have sufficient cash to operate through late 2010, including the costs of initiating and completing the Phase Ib/IIa clinical trial for ORE1001, which is expected to begin in the second half 2009 and to be completed in the third quarter of 2010. We currently expect our operating cash usage for the third quarter of 2009 to be lower than that of the second quarter. We also expect our operating cash usage for the fourth quarter of 2009 to be significantly lower than in the third quarter.

For the six months ended June 30, 2009, our investing activities were not significant.

In connection with the 2008 sale of DioGenix Inc. to Nerveda, Inc., the balance of the purchase price is due pursuant to a \$0.8 million interest bearing promissory note, with receipt of two principal payments of \$0.4 million plus interest due December 2009 and June 2010, subject to acceleration in certain events.

In 2008, we assigned our lease in Cambridge, Massachusetts, but remain liable under the lease in the event of the assignee's default. The lease expires in August 2013 and at June 30, 2009, the total remaining amounts due under the lease for the balance of the term is \$4.7 million.

In connection with the 2007 sale of our Genomics business to Ocimum, the balance of the sales price is now due pursuant to a \$3 million interest bearing promissory note of which 50% was due August 1, 2009, and the remaining balance in September 2009. To date, we have received payments from Ocimum of \$1.5 million under the note.

In connection with the 2006 sale of our Preclinical Division to Bridge Pharmaceuticals, Inc. ("Bridge"), less than \$0.1 million of the sales price remains in escrow pending resolution between the parties. We continue to guarantee two leases now held by Bridge. The leases expire in February 2011 and December 2013 and at June 30, 2009, the total remaining amounts due under the leases for the balance of the terms is \$0.9 million and \$3.2 million, respectively.

Our financing activities for the six months ended June 30, 2008 consisted of the purchase of shares from a former director for \$3.0 million.

In the second quarter of 2009, we received a notice requiring repayment of all amounts potentially due under a loan and a grant agreement with the State of Maryland that total \$0.7 million. We have recorded the amounts due under the loan and grant agreement within current portion of long-term debt and other accrued expenses. We are in discussions with the State of Maryland concerning the terms of potential repayment of this amount.

We believe that existing cash and cash equivalents, the anticipated receipt of approximately \$2.3 million remaining principal relating to the promissory notes from Ocimum and Nerveda and our ongoing realignment and cash conservations efforts, will enable us to support our operations through late 2010, including the costs of initiating and completing the Phase Ib/IIa clinical trial for ORE1001, which is expected to be completed in the third quarter of 2010. However, there can be no assurance that we will be successful in our continuing realignment and cash conservation efforts, the full collection of our outstanding notes receivable or, if necessary, attracting additional financing to allow us to complete the clinical trial. Furthermore, there is no assurance if we complete our clinical trial, that the results will be satisfactory or will enable us to successfully out-license our compound. If we are not successful in achieving our objectives, it might be necessary to liquidate the Company in late 2010. We currently expect long-term support of our operations to come from possible future financings and payments from commercial arrangements from our pipeline of drug candidates. These estimates are forward-looking statements that involve risks and uncertainties. Our actual future capital requirements and the adequacy of our available funds will depend on those factors discussed above and in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 under the section entitled "Risk Factors" and in our subsequent filings with the SEC.

#### RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In June 2009, the Financial Accounting Standards Board ("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 168"), which establishes the FASB Accounting Standards Codification as the source of authoritative accounting principles recognized by the FASB to be applied in the preparation of financial statements in conformity with generally accepted accounting principles ("GAAP"). SFAS 168 explicitly recognizes rules and interpretive releases of the SEC under federal securities laws as authoritative GAAP for SEC registrants. SFAS 168 is effective for financial statements issued for interim and annual reporting periods ending after September 15, 2009 (the quarter ending September 30, 2009 for the Company) and will not have an impact on our final position or results of operations.

In May 2009, the FASB issued SFAS No. 165, "Subsequent Events," ("SFAS 165"), which establishes general standards of accounting for and disclosure of events that occur after the balance sheet date, but before financial statements are issued or are available to be issued. SFAS 165 is effective for financial statements issued for interim and annual reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). The adoption of SFAS 165 did not have an impact on our financial position or results of operations.

In April 2009, the FASB issued FSP No. FAS 107-1 and Accounting Principles Board ("APB") Opinion No. 28-1, "Interim Disclosures about Fair Value of Financial Instruments" ("FSP FAS 107-1" and "APB 28-1"). FSP FAS 107-1 and APB 28-1 amend SFAS No. 107, "Disclosures about Fair Value of Financial Instruments," to require disclosures, in interim reporting periods and in financial statements for annual reporting periods, regarding the fair value of all financial instruments for which it is practicable to estimate that value, whether recognized or not on the company's balance sheet. FSP FAS 107-1 and APB 28-1 also amend FASB APB Opinion No. 28, "Interim Financial Reporting," to require entities to disclose the methods and significant assumptions used to estimate the fair value of financial instruments and describe changes in methods and significant assumptions, in both interim and annual financial statements. FSP FAS 107-1 and APB 28-1 are effective for interim reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). While the adoption of FSP FAS 107-1 and APB 28-1 impacts our disclosures, it does not have an impact on our financial position or results of operations.

In April 2009, the FASB issued FSP SFAS 115-2 and SFAS 124-2, "Recognition and Presentation of Other-Than-Temporary Impairments," which modify the recognition requirements for other-than-temporary impairments of debt securities and enhances existing disclosures with respect to other-than-temporary impairments of debt and equity securities. FSP SFAS 115-2 and SFAS 124-2 are effective for interim and annual reporting periods ending after June 15, 2009 (the quarter ending June 30, 2009 for the Company). The adoption of FSP SFAS 115-2 and SFAS 124-2 had no impact on our financial position or results of operations.

In February 2008, the FASB issued a one-year deferral for non-financial assets and liabilities to comply with SFAS No. 157, "Fair Value Measurements" ("SFAS No. 157"). We adopted SFAS No. 157 for financial assets and liabilities effective January 1, 2008. We adopted SFAS No. 157 as it pertains to non-financial assets and liabilities effective January 1, 2009 and the adoption had no impact on our financial position or results of operations.

In December 2007, the FASB issued SFAS No. 141 Revised, "Business Combinations" ("SFAS 141R"). SFAS 141R requires an acquirer to determine the fair value of the consideration exchanged as of the acquisition date (i.e. the date the acquirer obtains control). Previously, an acquisition was valued as of the date the parties agreed upon the terms of the transaction. SFAS 141R also modifies, among other things, the accounting for direct costs associated with an acquisition, contingencies acquired and contingent consideration. We adopted SFAS 141R effective January 1, 2009 for business combinations occurring after the effective date.

In December 2007, the FASB ratified Emerging Issues Task Force No. 07-1, "Accounting for Collaborative Agreements" ("EITF 07-1"). EITF 07-1 provides guidance regarding financial statement presentation and disclosure of collaborative arrangements, as defined therein. We adopted EITF 07-1 effective January 1, 2009 and the adoption had no impact on our financial position or results of operations.

**Item 4. Controls and Procedures**

**EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES**

As of June 30, 2009, under the supervision and with the participation of our management, including the Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), an evaluation was performed of the effectiveness of the design and operation of our "disclosure controls and procedures" ("Disclosure Controls"). These are controls and procedures designed to reasonably assure that information required to be disclosed in our reports filed under the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), such as this Form 10-Q, is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC. Disclosure Controls are also designed to reasonably assure that such information is accumulated and communicated to our management, including the CEO and CFO as appropriate, to allow timely decisions regarding required disclosure. Based on that evaluation, our CEO and CFO have concluded that, as of June 30, 2009, our disclosure controls and procedures were effective to provide reasonable assurance that information required to be disclosed in our Exchange Act reports is recorded, processed, summarized and reported within the time periods specified by the SEC, and that material information relating to us is made known to management, including the CEO and CFO, particularly during the period when our periodic reports are being prepared.

Our management, including the CEO and CFO, does not expect that our Disclosure Controls or our internal control over financial reporting will prevent or detect all errors and all instances of fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system's objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake. Controls can also be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the controls. The design of any system of controls is based, in part, on certain assumptions about the likelihood of future events and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of the effectiveness of controls to future periods are subject to risks. Over time, controls may become inadequate because of changes in conditions or deterioration in the degree of compliance with policies or procedures.

**CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING**

There were no changes in our internal controls over financial reporting during the second quarter of 2009 that materially affected or are reasonably likely to materially affect our internal controls over financial reporting.

**PART II OTHER INFORMATION**

**Item 1. Legal Proceedings**

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

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

None.

**Item 3. Defaults Upon Senior Securities**

None.

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

None.

**Item 5. Other Information**

The Board of Directors of the Company has determined that the Company's 2009 Annual Meeting of Stockholders (the "2009 Annual Meeting") is currently anticipated to be held on Tuesday, October 20, 2009 at 11:00 a.m. Eastern Daylight Time at the Company's offices located at One Main Street, Cambridge, MA 02142. The record date for determining the stockholders entitled to receive notice of, and to vote at, the 2009 Annual Meeting will be the close of business on September 4, 2009.

In order to be considered timely, a stockholder proposal submitted in accordance with Rule 14a-8 under the Exchange Act, for inclusion in our proxy materials for the 2009 Annual Meeting must have been received by our Corporate Secretary no later than August 20, 2009.

Proposals shall be sent to our principal executive offices at 610 Professional Drive, Suite 101, Gaithersburg, Maryland 20879, Attention: Benjamin L. Palleiko, Corporate Secretary.

Stockholders also have the right under our Amended and Restated Bylaws (the "Bylaws") to directly nominate director candidates and make other stockholder proposals by following specified procedures. For a stockholder proposal for the 2009 Annual Meeting that is not intended to be included in our proxy statement under Rule 14a-8 of the Exchange Act, including director nominations, the stockholder must (1) provide the information required by our Bylaws and (2) give timely notice to our Corporate Secretary at the address above in accordance with our Bylaws. The notice must have been received by our Corporate Secretary not earlier than the close of business on the 120th day prior to the 2009 Annual Meeting, or June 22, 2009, and not later than the close of business on the 10th day following the day on which public announcement of the date of the 2009 Annual Meeting is first made, or August 24, 2009.

**Item 6. Exhibits**

3.2	Bylaws of Ore Pharmaceuticals Inc., as amended. (1)
10.6	Registrant's 1997 Non-Employee Directors' Stock Option Plan, as amended.
*10.55b	Amendment to Executive Severance Plan, effective April 30, 2009.
10.111	Secured Note dated as of June 15, 2009 from Ocimum Biosolutions, Inc. and Ocimum Biosolutions India Limited to Registrant. (2)
10.112	Security Agreement dated as of June 15, 2009 between Ocimum Biosolutions, Inc. and Registrant. (2)
10.113	Unconditional Guaranty Agreement dated as of June 15, 2009 from Coramandel Infrastructure Private Limited in favor of Registrant. (2)
*10.116	Consulting Agreement between Registrant and Michael J. Brennan, effective April 24, 2009.
10.117	Lease Agreement, dated June 9, 2009, between Registrant and RREEF America REIT II Corp. PPP.
31	Certifications pursuant to Rule 13a-14(a)/15d-14(a).
32	Certifications pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

\* indicates management compensatory plan, contract or arrangement.

- (1) Filed as an exhibit to Registrant's Current Report on Form 8-K with respect to the Company's amended Bylaws filed on May 28, 2009, and incorporated herein by reference.  
(2) Filed as an exhibit to Registrant's Current Report on Form 8-K with respect to the Company's restructured Ocimum Biosolutions Inc. promissory note and related agreements filed on June 29, 2009, and incorporated herein by reference.

**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.

**ORE PHARMACEUTICALS INC.**

Date: August 14, 2009

By: /s/ Benjamin L. Palleiko  
Benjamin L. Palleiko  
Senior Vice President and  
Chief Financial Officer  
*(Principal Financial and Accounting Officer)*

## Ore Pharmaceuticals Inc.

## 1997 NON-EMPLOYEE DIRECTORS' STOCK OPTION PLAN

Adopted on September 29, 1997  
Approved by Stockholders on November 11, 1997  
Corrected by the Board of Directors September 9, 1998  
Amended by the Board of Directors March 19, 1999  
Amendment Approved by Stockholders June 8, 1999  
Amended by the Board of Directors March 21, 2002  
Amendment Approved by Stockholders June 6, 2002  
Amended by the Board of Directors April 21, 2005  
Amendment Approved by Stockholders June 2, 2005  
Amended by the Board of Directors June 2, 2005  
Amended by the Board of Directors June 9, 2009

**1. PURPOSE.**

(a) The purpose of the 1997 Non-Employee Directors' Stock Option Plan (the "Plan") is to provide a means by which each director of Ore Pharmaceuticals Inc. (the "Company") who is not otherwise at the time of grant an employee of the Company or of any Affiliate of the Company (each such person being hereafter referred to as a "Non-Employee Director") will be given an opportunity to purchase stock of the Company.

(b) The word "Affiliate" as used in the Plan means any parent corporation or subsidiary corporation of the Company as those terms are defined in Sections 424(e) and (f), respectively, of the Internal Revenue Code of 1986, as amended from time to time (the "Code").

(c) The Company, by means of the Plan, seeks to retain the services of persons now serving as Non-Employee Directors of the Company, to secure and retain the services of persons capable of serving in such capacity, and to provide incentives for such persons to exert maximum efforts for the success of the Company.

**2. ADMINISTRATION.**

(a) The Plan shall be administered by the Board of Directors of the Company (the "Board") unless and until the Board delegates administration to a committee, as provided in subparagraph 2(b).

(b) The Board may delegate administration of the Plan to a committee composed of two (2) or more members of the Board (the "Committee"). If administration is delegated to a Committee, the Committee shall have, in connection with the administration of the Plan, the powers theretofore possessed by the Board, subject, however, to such resolutions, not inconsistent with the provisions of the Plan, as may be adopted from time to time by the Board. The Board may abolish the Committee at any time and revert in the Board the administration of the Plan.

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**3. SHARES SUBJECT TO THE PLAN.**

(a) Subject to the provisions of paragraph 10 relating to adjustments upon changes in stock, the stock that may be sold pursuant to options granted under the Plan shall not exceed in the aggregate One Hundred Eighty Thousand (180,000) shares of the Company's common stock. If any option granted under the Plan shall for any reason expire or otherwise terminate without having been exercised in full, the stock not purchased under such option shall again become available for the Plan.

(b) The stock subject to the Plan may be unissued shares or reacquired shares, bought on the market or otherwise.

**4. ELIGIBILITY.**

Options shall be granted only to Non-Employee Directors of the Company.

**5. NON-DISCRETIONARY GRANTS.**

(a) Each person who is first elected or appointed to the Board as a Non-Employee Director after the Adoption Date shall automatically be granted, on the date of such initial election or appointment, an option to purchase six thousand (6,000) shares of common stock of the Company on the terms and conditions set forth herein (hereinafter, an "Initial Grant"). Effective as of the date of initial election or appointment of a Non-Employee Director as the Chairman of the Board ("Non-Employee COB"), the Non-Employee COB shall automatically be granted, on the date of such election or appointment, an option to purchase ten thousand (10,000) shares of the common stock of the Company *less*, in the discretion of the Board, any unvested shares under any previous stock option received effective upon election or appointment as a Non-Employee Director under the preceding sentence, *plus* in the case of the first Non-Employee COB of the Company an additional two thousand (2,000) shares of Company common stock in recognition of transitional duties and obligations to be assumed (an "Initial COB Grant"). A person who is simultaneously elected or appointed to the Board as a Non-Employee Director and as Chairman of the Board shall receive only the Initial COB Grant and not the Initial Grant.

(b) Immediately following each annual meeting of stockholders, each person who is then a Non-Employee Director and who has continuously served as a Non-Employee Director for the six (6)-month period prior to the date of the such annual meeting of stockholders, shall automatically be granted, an option to purchase three thousand (3,000) shares of common stock of the Company on the terms and conditions set forth herein (hereinafter, an "Annual Grant"). In the case of a Non-Employee COB, instead of the Annual Grant provided in the preceding sentence, immediately following each annual meeting of stockholders the Non-Employee COB shall automatically be granted (regardless of whether the Non-Employee COB has served as a Non-Employee Director for the six (6) month period prior to the date of such annual meeting of stockholders) an option to purchase four thousand (4,000) shares of common stock of the Company which shall be subject to the same terms and conditions set forth herein as the Annual Grant provided in the preceding sentence.

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**6. OPTION PROVISIONS.**

Each option shall be subject to the following terms and conditions:

(a) The term of each option commences on the date it is granted and, unless sooner terminated as set forth herein, expires on the date ("Expiration Date") ten (10) years from the date of grant. If the optionee's service as a Non-Employee Director or employee of or consultant to the Company or any Affiliate terminates for any reason or for no reason, the option shall terminate on the earlier of the Expiration Date or the date twelve (12) months following the date of termination of all such service; *provided, however*, that if such termination of service is due to the optionee's death, the option shall terminate on the earlier of the Expiration Date or eighteen (18) months following the date of the optionee's death. In any and all circumstances, an option may be exercised following termination of the optionee's service as a Non-Employee Director or employee of or consultant to the Company or any Affiliate only as to that number of shares as to which it was exercisable as of the date of termination of all such service under the provisions of subparagraph 6(e). In no event will the options granted to a Non-Employee COB under section 5 terminate if service as a Non-Employee COB ceases, but service as a Non-Employee Director or employee of or consultant to the Company or an Affiliate continues.

(b) The exercise price of each option shall be equal to one hundred percent (100%) of the Fair Market Value of the stock (as such term is defined in subsection 9(e) of this Plan) subject to such option on the date such option is granted.

(c) The optionee may elect to make payment of the exercise price under one of the following alternatives:

(i) In cash (or check) at the time of exercise;

(ii) Provided that at the time of the exercise the Company's common stock is publicly traded and quoted regularly in *The Wall Street Journal*, payment by delivery of shares of common stock of the Company already owned by the optionee, held for the period required to avoid a charge to the Company's reported earnings, and owned free and clear of any liens, claims, encumbrances or security interest, which common stock shall be valued at its Fair Market Value on the date immediately preceding the date of exercise;

(iii) Pursuant to a program developed under Regulation T as promulgated by the Federal Reserve Board which results in the receipt of cash (or check) by the Company either prior to the issuance of shares of the Company's common stock or pursuant to the terms of irrevocable instructions issued by the optionee prior to the issuance of shares of the Company's common stock; or

(iv) Payment by a combination of the methods of payment specified in subparagraph 6(c)(i) through 6(c)(iii) above.

(d) An option shall be transferable only to the extent specifically provided in the option agreement; *provided, however*, that if the option agreement does not specifically provide for the transferability of an option, then the option shall not be transferable except by will or by the laws of descent and distribution, or pursuant to a qualified domestic relations order satisfying the requirements of Rule 16b-3 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and shall be exercisable during the lifetime of the person to whom the option is granted only by such person (or by his guardian or legal representative) or transferee pursuant to such an order. Notwithstanding the foregoing, the optionee may, by delivering written notice to the Company in a form satisfactory to the Company, designate a third party who, in the event of the death of the optionee, shall thereafter be entitled to exercise the option.

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(e) (i) An Initial Grant shall become exercisable in four (4) equal annual installments measured from the date of grant, commencing on the one (1)-year anniversary of the date of grant of the option, (ii) an Initial COB Grant shall become exercisable in three (3) equal annual installments measured from the date of grant, commencing on the one (1)-year anniversary of the date of grant of the option, and (iii) an Annual Grant shall become exercisable one (1) year from the date of grant, *provided that*, with respect to any grant under the Plan, the optionee has, during the entire period prior to such vesting installment date, continuously served as a Non-Employee Director or employee of or consultant to the Company or any Affiliate of the Company, whereupon such option shall become fully exercisable in accordance with its terms with respect to that portion of the shares represented by that installment.

(f) The Company may require any optionee, or any person to whom an option is transferred under subparagraph 6(d), as a condition of exercising any such option: (i) to give written assurances satisfactory to the Company as to the optionee's knowledge and experience in financial and business matters; and (ii) to give written assurances satisfactory to the Company stating that such person is acquiring the stock subject to the option for such person's own account and not with any present intention of selling or otherwise distributing the stock. These requirements, and any assurances given pursuant to such requirements, shall be inoperative if (x) the issuance of the shares upon the exercise of the option has been registered under a then currently-effective registration statement under the Securities Act of 1933, as amended (the "Securities Act"), or (y) as to any particular requirement, a determination is made by counsel for the Company that such requirement need not be met in the circumstances under the then applicable securities laws. The Company may require any optionee to provide such other representations, written assurances or information which the Company shall determine is necessary, desirable or appropriate to comply with applicable securities laws as a condition of granting an option to the optionee or permitting the optionee to exercise the option. The Company may, upon advice of counsel to the Company, place legends on stock certificates issued under the Plan as such counsel deems necessary or appropriate in order to comply with applicable securities laws, including, but not limited to, legends restricting the transfer of the stock.

(g) Notwithstanding anything to the contrary contained herein, an option may not be exercised unless the shares issuable upon exercise of such option are then registered under the Securities Act or, if such shares are not then so registered, the Company has determined that such exercise and issuance would be exempt from the registration requirements of the Securities Act.

#### **7. COVENANTS OF THE COMPANY.**

(a) During the terms of the options granted under the Plan, the Company shall keep available at all times the number of shares of stock required to satisfy such options.

(b) The Company shall seek to obtain from each regulatory commission or agency having jurisdiction over the Plan such authority as may be required to issue and sell shares of stock upon exercise of the options granted under the Plan; *provided however*, that this undertaking shall not require the Company to register under the Securities Act either the Plan, any option granted under the Plan, or any stock issued or issuable pursuant to any such option. If, after reasonable efforts, the Company is unable to obtain from any such regulatory commission or agency the authority which counsel for the Company deems necessary for the lawful issuance and sale of stock under the Plan, the Company shall be relieved from any liability for failure to issue and sell stock upon exercise of such options.

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**8. USE OF PROCEEDS FROM STOCK.**

Proceeds from the sale of stock pursuant to options granted under the Plan shall constitute general funds of the Company.

**9. MISCELLANEOUS.**

(a) Neither an optionee nor any person to whom an option is transferred under subparagraph 6(d) shall be deemed to be the holder of, or to have any of the rights of a holder with respect to, any shares subject to such option unless and until such person has satisfied all requirements for exercise of the option pursuant to its terms.

(b) Nothing in the Plan or in any instrument executed pursuant thereto shall confer upon any Non-Employee Director any right to continue in the service of the Company or any Affiliate in any capacity or shall affect any right of the Company, its Board or stockholders or any Affiliate, to remove any Non-Employee Director pursuant to the Company's Bylaws and the provisions of Delaware General Corporations Law.

(c) No Non-Employee Director, individually or as a member of a group, and no beneficiary or other person claiming under or through him, shall have any right, title or interest in or to any option reserved for the purposes of the Plan except as to such shares of common stock, if any, as shall have been reserved for him pursuant to an option granted to him.

(d) In connection with each option made pursuant to the Plan, it shall be a condition precedent to the Company's obligation to issue or transfer shares to a Non-Employee Director, or to evidence the removal of any restrictions on transfer, that such Non-Employee Director make arrangements satisfactory to the Company to insure that the amount of any federal, state or local withholding tax required to be withheld with respect to such sale or transfer, or such removal or lapse, is made available to the Company for timely payment of such tax.

(e) As used in this Plan, "Fair Market Value" means, as of any date, the value of the common stock of the Company determined as follows:

(i) If the common stock is listed on any established stock exchange or a national market system, including without limitation the Nasdaq National Market or The Nasdaq SmallCap, the Fair Market Value of a share of common stock shall be the closing sales price for such stock (or the closing bid, if no sales were reported) as quoted on such system or exchange (or the exchange with the greatest volume of trading in common stock) on the last market trading day prior to the day of determination, as reported in *The Wall Street Journal* or such other source as the Board deems reliable; or

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(ii) In the absence of an established market for the common stock, the Fair Market Value shall be determined in good faith by the Board.

**10. ADJUSTMENTS UPON CHANGES IN STOCK.**

(a) If any change is made in the stock subject to the Plan, or subject to any option granted under the Plan (through merger, consolidation, reorganization, recapitalization, stock dividend, dividend in property other than cash, stock split, liquidating dividend, combination of shares, exchange of shares, change in corporate structure or other transaction not involving the receipt of consideration by the Company), the Plan and outstanding options will be appropriately adjusted in the class(es) and maximum number of shares subject to the Plan and the class(es) and number of shares and price per share of stock subject to outstanding options. Such adjustments shall be made by the Board, the determination of which shall be final, binding and conclusive. (The conversion of any convertible securities of the Company shall not be treated as a "transaction not involving the receipt of consideration by the Company.")

(b) In the event of: (1) a dissolution, liquidation, or sale of all or substantially all of the assets of the Company; (2) a merger or consolidation in which the Company is not the surviving corporation; (3) a reverse merger in which the Company is the surviving corporation but the shares of the Company's common stock outstanding immediately preceding the merger are converted by virtue of the merger into other property, whether in the form of securities, cash or otherwise; or (4) the acquisition by any person, entity or group within the meaning of Section 13(d) or 14(d) of the Exchange Act, or any comparable successor provisions (excluding any employee benefit plan, or related trust, sponsored or maintained by the Company or any Affiliate of the Company) of the beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act, or comparable successor rule) of securities of the Company representing at least fifty percent (50%) of the combined voting power entitled to vote in the election of directors, then to the extent not prohibited by applicable law, the time during which options outstanding under the Plan may be exercised, and the vesting of such options, shall be accelerated prior to such event and the options terminated if not exercised after such acceleration and at or prior to such event. A transaction shall not be determined to have occurred under this Section 10(b) if all or substantially all of the individuals and entities who were the beneficial owners, respectively, of (i) the then outstanding common stock of the Company ("Outstanding Common") and (ii) the combined voting power of the then outstanding voting securities of the Company entitled to vote generally in the election of directors ("Outstanding Voting Securities") immediately prior to such transaction beneficially own, directly or indirectly, more than 50% of, respectively, the then outstanding shares of common stock and the combined voting power of the then outstanding voting securities entitled to vote generally in the election of directors, as the case may be, of the entity resulting from such transaction (including, without limitation, a corporation that as a result of such transaction owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same relative proportions as their ownership, immediately prior to such transaction, of the Outstanding Common and Outstanding Voting Securities, as the case may be.

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**11. AMENDMENT OF THE PLAN.**

(a) The Board at any time, and from time to time, may amend the Plan and/or some or all outstanding options granted under the Plan. However, except as provided in paragraph 10 relating to adjustments upon changes in stock, no amendment shall be effective unless approved by the stockholders of the Company to the extent stockholder approval is necessary for the Plan to satisfy the requirements of Rule 16b-3 promulgated under the Exchange Act or any Nasdaq or securities exchange listing requirements.

(b) Rights and obligations under any option granted before any amendment of the Plan shall not be impaired by such amendment unless (i) the Company requests the consent of the person to whom the option was granted and (ii) such person consents in writing.

(c) Notwithstanding Section 11(a) above, neither the Board nor the Committee shall have the authority to modify options granted under the Plan in a manner that will have the effect of repricing the stock options to a lower exercise price, to replace or regrant outstanding options issued under the Plan through cancellation and reissuance of options with a lower exercise price to the respective holders in exchange for the cancelled options or to buyout for a payment in cash or cash equivalents an option previously granted under the Plan, except (i) in connection with a change in capitalization pursuant to Section 10 or (ii) with stockholder approval.

**12. TERMINATION OR SUSPENSION OF THE PLAN.**

(a) The Board may suspend or terminate the Plan at any time. Unless sooner terminated, the Plan shall terminate on December 31, 2014. No options may be granted under the Plan while the Plan is suspended or after it is terminated.

(b) Rights and obligations under any option granted while the Plan is in effect shall not be impaired by suspension or termination of the Plan, except with the consent of the person to whom the option was granted.

(c) The Plan shall terminate upon the occurrence of any of the events described in Section 10(b) above.

**13. EFFECTIVE DATE OF PLAN; CONDITIONS OF EXERCISE.**

(a) The Plan shall become effective upon adoption by the Board (the "Adoption Date").

(b) No option granted under the Plan shall be exercised or become exercisable unless and until the Plan is approved by the stockholders of the Company.

**AMENDMENT OF  
ORE PHARMACEUTICALS, INC.  
EXECUTIVE SEVERANCE PLAN**

**As Amended and Restated Effective September 29, 2008**

Pursuant to action of the Compensation Committee of the Board of Directors of Ore Pharmaceuticals, Inc., the Ore Pharmaceuticals, Inc. Executive Severance Plan, As Amended and Restated Effective September 29, 2008 (the "Plan"), is hereby further amended effective as of April 30, 2009, as provided below:

I. Section 2(a) of the Plan is amended in its entirety to read as follows:

(a) **Eligible Employees.** "Eligible Employees" are those current or former employees of the Company who (i) became "Eligible Employees" under the terms and conditions of the Plan as in effect prior to April 30, 2009 and (ii) are listed on Schedule A(1) signed by the Chairman of the Compensation Committee. No other employees, officers, directors or consultants of the Company are eligible to receive benefits under the Plan and no employees, officers, directors or consultants of the Company shall become "Eligible Employees" after April 30, 2009.

II. **Exhibit A(1) "List of Eligible Employees"** is amended in its entirety to read as follows:

The following is a list of the Eligible Employees under the Ore Pharmaceuticals, Inc. Executive Severance Plan as of April 30, 2009, which replaces and supercedes in its entirety any prior written or unwritten listing or designation of such Eligible Employees:

1. Philip L. Rohrer, Jr.
2. Dr. Stephen Donahue
3. Christopher T. Dunne
4. Charles L. Dimmler

**ORE PHARMACEUTICALS, INC.**

BY: /s/ BENJAMIN L. PALLEIKO  
NAME: BENJAMIN L. PALLEIKO  
TITLE: SVP & CFO  
DATE: AUGUST 6, 2009

## CONSULTING AGREEMENT

THIS Agreement ("Agreement"), effective as of April 24, 2009 is entered into by and between Ore Pharmaceuticals, Inc. ("Ore"), with a place of business at **610 Professional Drive, Suite 101**, Gaithersburg, Maryland 20879, and Michael Brennan, whose address is at 9601 Beman Woods Way Potomac, MD 20854 ("Consultant").

In consideration of the representations and agreements contained herein, Consultant and Ore agree as follows:

- 1. Purpose:** Ore is in the business of pharmaceutical product development and financing (the "Business") and Consultant has special expertise in that field. Ore wishes to obtain advisory services from Consultant and Consultant is willing to provide services to Ore. The purpose of this Agreement is to establish the terms upon which such services will be provided.
- 2. Services.**
  - a. Subject to the terms and conditions of this Agreement, Ore hereby appoints Consultant as a consultant and Consultant hereby accepts such appointment. Consultant agrees that, during the term of this Agreement and any subsequent extension thereto, he will provide his services as requested by Ore's Chief Executive Officer ("CEO") or any other executive at Ore designated by the CEO.
  - b. As requested with respect to the Business, Consultant will,
    - i. Evaluate product development strategies;
    - ii. Recommend product development strategies;
    - iii. Critique proposed product development initiatives;
    - iv. Refer Ore to potential new business opportunities appropriate to the Business;
    - v. Advise on scientific data interpretation and presentation;
    - vi. Otherwise advise Ore with respect to the Business; and
    - vii. Provide such other services as may be mutually agreed by the parties
  - c. The services may be provided by meetings or by telephone, e-mail or other written communication. If requested, Consultant will meet or communicate with Ore representatives at times and places to be mutually agreed.
  - d. Consultant shall provide services to Ore based on the proprietary and/or confidential information provided by Ore and/or developed by Consultant in the course of providing services hereunder and shall devote such time as reasonably necessary to provide the requested services. Subject to the provisions of Section 10, Consultant agrees to perform the services in a timely and professional manner consistent with industry standards.
- 3. Compensation.**
  - a. In consideration for the services during the term of this Agreement and while this Agreement is in force, Consultant shall receive:
    - i. a retainer at a rate of \$30,000 per year payable in arrears in quarterly installments, and
    - ii. payment for specific services at a rate of one thousand dollars (\$1000.00) per day.

Consultant shall submit an invoice for his services to Ore on a monthly basis within thirty days after the end of each month in which services are provided hereunder, showing by date the days worked, the services provided and the Ore executive with or for whom the work was performed. Ore shall pay Consultant for his services within thirty (30) days of receiving each invoice. Consultant will obtain CEO's prior written approval if the hourly rate compensation for services provided in any calendar month are expected to exceed \$4,000.00, before providing services that exceed such limit.

- b. The Board of Directors has agreed that, at such time as the shareholders of Ore have approved the adoption by the Company of an equity plan allowing for the issuance of options to consultants of the Company, the Company will grant to Consultant pursuant to the terms of such plan and on the date of the meeting at which such shareholder approval occurs, an option to purchase 40,000 shares of Common Stock of Ore, with an exercise price equal to the fair market value of the Ore Common Stock on the date of the grant, exercisable in full on the first anniversary of the date of grant and exercisable for 90 days from the date of the termination of this Consulting Agreement..
- c. Consultant will also be reimbursed for all reasonable and necessary out-of-pocket expenses (including travel, lodging, and the like), which are incurred at the request of and approved in writing in advance by Ore, provided any travel expenses comply with Ore's travel policy, a copy of which is available upon request.

**4. Confidentiality.** In view of Ore's proprietary rights and interests concerning its Business, Consultant agrees that during the term of this Agreement and any subsequent extension(s) thereto and for a period of five (5) years thereafter, Consultant agrees to keep strictly confidential and not use for his own benefit or for the benefit of any third party any information which he may acquire relating to Ore's business, whether such information is disclosed or made known by Ore to Consultant or is generated by Consultant in the course of performing the services hereunder. By way of illustration and not limitation, such shall include all information, communicated by any means, relating to the business of Ore that is not available to the general public, including its technical and business information, assets, inventions, know-how, research programs, biological materials, processes, drug compound hypotheses, designs, trade secrets, contracts, improvements, discoveries, databases, software programs, development tools, budgets and unpublished financial information, licenses, and other data, both technical and non-technical, prospects, protocols, and other information associated with this Agreement.

Consultant shall not disclose such information to any third party or use such information for any purpose, except as provided herein, without the prior written approval of Ore. Consultant shall have no obligation with respect to any portion of such information which:

- a. is or later becomes generally available to the public by use publication or the like, through no fault of Consultant;
- b. is obtained from a third party who had the legal right to disclose the same to Consultant and who is not under an obligation of confidentiality to Ore; or
- c. Consultant already possesses, as evidenced by written records, predating receipt thereof from Ore provided that this exception shall not apply to any information received or developed by Consultant during his prior employment by Ore or as a Director of Ore to the extent that such information subsequently became the property of Ore and was confidential at the time it became the property of Ore.

Specific information disclosed to Consultant by Ore shall not be deemed to be available to the public or in prior possession of Consultant merely because such specific information is embraced by more general information available to the public or in prior possession of Consultant.

Consultant also acknowledges that the confidential information to which he may have access as a result of the relationship with Ore described herein may constitute material non-public information and that he may not trade in the securities of Ore or assist others to do so on the basis of such material non-public information and that he may not disclose such information to third parties who might trade on such information.

5. **New Developments.** Consultant agrees that any information, including but not limited to discoveries, inventions, innovations, suggestions, know-how, ideas and reports made by Consultant which either results from information disclosed by Ore, or is developed as a result of Consultant's services under this Agreement ("New Developments"), shall become the sole property of Ore without further compensation to Consultant and shall be promptly disclosed to Ore. Consultant will treat such new developments as information which is subject to the confidentiality provisions of Paragraph 3 herein. Ore shall own all right, title and interest in and to all New Developments under this Agreement.
6. **Patent Rights and Licenses.** If patentable subject matter results from services provided hereunder, Consultant shall assist Ore in the preparation and prosecution of appropriate patent applications and shall without further compensation execute appropriate documents acknowledging the assignment of his rights in such subject matter and applications to Ore. All expenses incidental to the filing and prosecution of any such patent applications shall be borne by Ore. The disclosure of proprietary information by Ore to Consultant shall not result in any obligation to grant Consultant any rights in and to said proprietary subject matter.
7. **Third-Party Confidential Information.** Consultant agrees that during the term of this Agreement, he will not disclose to Ore any information that is confidential or proprietary to any third party.
8. **Non-Compete/Non-Solicitation.** While this Agreement is in effect and for one year after this Agreement ends, Consultant agrees that he will not assist third parties to develop, market or sell products which would compete in the marketplace with Ore's products of which Consultant is made aware in the course of his consulting. Consultant further agrees that, during the term of this Agreement and for one (1) year after the date of termination of the Agreement regardless of the reason for termination, Consultant will not induce or solicit any employee of Ore to leave the employ of Ore or assist any third party to do so.
9. **Term and Termination.** This Agreement shall be effective for a twelve-month period beginning as of the date hereof, and may be extended in writing by mutual consent of the parties. However, either party may terminate this Agreement at any time upon sixty (60) days' prior written notice, but in no event may this agreement be terminated prior to the date that is one year from the date of this Agreement. Any rights or obligations set forth herein which are accrued prior to the termination of this Agreement as well as any sections intended by their nature to survive, including but not limited to Sections 4, 5, 6 and 8, shall survive termination or expiration of this Agreement. Upon termination or expiration of this Agreement, Consultant shall promptly return to Ore all Ore documentation, property, data and related information, along with any copies thereof.
10. **Other Employment.** Consultant is a Managing Director with Pearl Street Venture Funds ("Pearl Street"), and has and will continue to have substantial duties to Pearl Street (including its portfolio companies). Consultant confirms that he has determined that Pearl Street will not object to the services to be provided hereunder.

11. Miscellaneous:

- a. **Independent Contractor.** For the purposes of this Agreement, Consultant shall be an independent contractor without the authority to bind or act as agent for Ore or its employees for any purpose. All taxes and social security payments due with respect to any compensation paid pursuant to this Agreement shall be the sole responsibility of Consultant.
- b. **Assignment.** This Agreement is a contract for personal services by Consultant in recognition of his special expertise and experience; the performance of such personal services may not be assigned or delegated.
- c. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Maryland. Consultant hereby expressly consents to the personal jurisdiction of the state and federal courts located in Maryland for any lawsuit filed there against him/her by Ore arising from or relating to this Agreement
- d. **Warranties.** The parties warrant and represent that they have the right to enter into this Agreement. Consultant further warrants and represents that the terms of this Agreement are not inconsistent with other contractual obligations, express or implied, which he may have.
- e. **Amendments.** No modification to this Agreement shall be effective unless made in writing and duly executed by or on behalf of each party.
- f. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the services to be provided by Consultant hereunder superseding all prior agreements and understandings between the parties (whether written or oral) relating to said subject matter. However, this Agreement does not modify, waive or alter any of the obligations of the parties under prior agreements relating to the previous employment of Consultant by Ore.
- g. **Counterparts.** This Agreement may be executed in two or more counterparts, including by facsimile transmission, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

By: **Ore Pharmaceuticals Inc.**  
/s/ Mark J. Gabrielson  
Mark J. Gabrielson, President

**Michael J. Brennan**  
/s/ Michael J. Brennan

LEASE

**RREEF AMERICA REIT II CORP. PPP,**

Landlord,

and

**ORE PHARMACEUTICALS INC.,**

Tenant

Riverfront Office Park  
Cambridge, Massachusetts

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**GROSS (BY)-INS OFFICE LEASE**

**REFERENCE PAGES**

**BUILDING:** Riverfront Office Park  
One Main Street  
Cambridge, Massachusetts 02142

**LANDLORD:** **RREEF AMERICA REIT II CORP. PPP**, a Maryland corporation

**LANDLORD'S ADDRESS:** c/o RREEF Management Company  
One Main Street  
Cambridge, MA 02142

**WIRE INSTRUCTIONS AND/OR ADDRESS FOR RENT PAYMENT:** RREEF AMERICA REIT II CORP. PPP  
75 Remittance Drive  
Suite 6334  
Chicago, IL 60675-6334

**LEASE REFERENCE DATE:** **May 14, 2009**

**TENANT:** **ORE PHARMACEUTICALS INC.**, a Delaware corporation

**TENANT'S NOTICE ADDRESS:**  
(a) As of beginning of Term: One Main Street  
3rd Floor, Suite 300  
Cambridge, Massachusetts 02142

(b) Prior to beginning of Term (if different): 38 Sidney Street, 2nd Floor  
Cambridge, MA 02139

**PREMISES ADDRESS:** One Main Street  
3rd Floor, Suite 300  
Cambridge, Massachusetts 02142

**PREMISES RENTABLE AREA:** Approximately 4,077 rentable sq. ft. (for outline of Premises see Exhibit A)

**SCHEDULED COMMENCEMENT DATE:** July 1, 2009

**TERM OF LEASE:** Approximately Three (3) years beginning on the Commencement Date and ending on the Termination Date. The period from the Commencement Date to the last day of the same month is the "Commencement Month."

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Initials

TERMINATION DATE:

June 30, 2012

The last day of the thirty-sixth (36th) full calendar month after (if the Commencement Month is not a full calendar month), or from and including (if the Commencement Month is a full calendar month), the Commencement Month

ANNUAL RENT and MONTHLY INSTALLMENT OF RENT(Article 3):

Period		Rentable Square	Annual Rent	Annual Rent	Monthly Installment
from	through	Footage	Per Square Foot		of Rent
7/1/2009	6/30/2010	4,077	\$37.00	\$150,849.00	\$12,570.75
7/1/2010	6/30/2011	4,077	\$38.00	\$154,926.00	\$12,910.50
7/1/2011	6/30/2012	4,077	\$39.00	\$159,003.00	\$13,250.25

Provided that Tenant is not then in default, the Monthly Installment of Rent will be abated for the first two (2) full calendar months of the Term (with rent for any partial month to be prorated and payable with the rent for the first full calendar month for which rent is payable). The actual dates are to be confirmed per Section 2.1. All rental amounts are net of Tenant electricity but include Tenant's Proportionate Share of Base Year Expenses, Base Year Insurance and Base Year Taxes.

BASE YEAR (EXPENSES): Calendar Year 2009

BASE YEAR (INSURANCE): Calendar Year 2009

BASE YEAR (TAXES): Taxes for July 1, 2009 to June 30, 2010

TENANT'S PROPORTIONATE SHARE: 1.27% (4,077 rsf Premises / 322,274 rsf Building). The Building at One Main Street has approximately 322,274 rentable square feet.

SECURITY DEPOSIT: \$25,141.50

ASSIGNMENT/SUBLETTING FEE: \$1,000.00

AFTER-HOURS HVAC COST: \$1.00 per heat pump per hour with a minimum charge of \$30.00 per request, subject to change at any time

PARKING 4 passes at \$225.00 per month each (see Article 39)

REAL ESTATE BROKER DUE COMMISSION: Cushman & Wakefield of Massachusetts, Inc., for Landlord; Colliers Meredith & Grew, for Tenant

TENANT'S SIC CODE:

BUILDING BUSINESS HOURS: Monday through Friday 8:00 a.m. – 6:00 p.m. (excluding Massachusetts state holidays)  
Saturday 8:00 a.m. – 12:00 p.m.

AMORTIZATION RATE: 9%

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Initials

The Reference Pages information is incorporated into and made a part of the Lease. In the event of any conflict between any Reference Pages information and the Lease, the Lease shall control. This Lease includes Exhibits A through E, all of which are made a part of this Lease.

**LANDLORD:**

**RREEF AMERICA REIT II CORP. PPP**, a Maryland corporation

By: RREEF Management Company, a Delaware corporation, Authorized Agent

By: /s/ Robert Seaman

Name: Robert Seaman

Title: Vice President - District Manager

Dated: June 9, 2009

**TENANT:**

**ORE PHARMACEUTICALS INC.**, a Delaware corporation

By: /s/ Mark J. Gabrielson

Name: Mark J. Gabrielson

Title: CEO

Dated: June 4, 2009

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Initials

## LEASE

By this Lease Landlord leases to Tenant and Tenant leases from Landlord the Premises in the Building as set forth and described on the Reference Pages. The Premises are depicted on the floor plan attached hereto as Exhibit A, and the Building is depicted on the site plan attached hereto as Exhibit A-1. The Building is located on the Lot legally described on Exhibit A-2. The Reference Pages, including all terms defined thereon, are incorporated as part of this Lease.

### 1. USE AND RESTRICTIONS ON USE.

1.1 The Premises are to be used solely for general office purposes. Tenant shall not do or permit anything to be done in or about the Premises which will in any way unreasonably obstruct or interfere with the rights of other tenants or occupants of the Building or injure, annoy, or disturb them, or allow the Premises to be used for any unlawful purpose, or commit any waste. Tenant shall not do, permit or suffer in, on, or about the Premises the sale of any alcoholic liquor without the written consent of Landlord first obtained. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises and its occupancy and shall promptly comply with all governmental orders and directions for the correction, prevention and abatement of any violations in the Building or appurtenant land, caused or permitted by, or resulting from the specific use by, Tenant, or in or upon, or in connection with, the Premises, all at Tenant's sole expense. Tenant shall not do or permit anything to be done on or about the Premises or bring or keep anything into the Premises which will in any way increase the rate of, invalidate or prevent the procuring of any insurance protecting against loss or damage to the Building or any of its contents by fire or other casualty or against liability for damage to property or injury to persons in or about the Building or any part thereof. Tenant shall have access to the Premises 24 hours per day, seven days per week. Landlord acknowledges and agrees that Tenant's use of the Premises for general office purposes shall not violate this Section 1.1.

1.2 Tenant shall not, and shall not direct, suffer or permit any of its agents, contractors, employees, licensees or invitees (collectively, the "Tenant Entities") to at any time handle, use, manufacture, store or dispose of in or about the Premises or the Building any (collectively "Hazardous Materials") flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"), nor shall Tenant suffer or permit any Hazardous Materials to be used in any manner not fully in compliance with all Environmental Laws, in the Premises or the Building and appurtenant land or allow the environment to become contaminated with any Hazardous Materials. Notwithstanding the foregoing, Tenant may handle, store, use or dispose of products containing small quantities of Hazardous Materials (such as aerosol cans containing insecticides, toner for copiers, paints, paint remover and the like) to the extent customary and necessary for the use of the Premises for general office purposes; provided that Tenant shall always handle, store, use, and dispose of any such Hazardous Materials in a safe and lawful manner and never allow such Hazardous Materials to contaminate the Premises, Building and appurtenant land or the environment. Tenant shall protect, defend, indemnify and hold each and all of the Landlord Entities (as defined in Article 30) harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of Tenant to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Premises of any Hazardous Materials by Tenant or any Tenant Entity (even though permissible under all applicable Environmental Laws or the provisions of this Lease), or by reason of any actual or asserted failure of Tenant to keep, observe, or perform any provision of this Section 1.2.

1.3 The Tenant shall have, as appurtenant to the Premises, rights to use in common with others entitled thereto:

1.3.1 the common facilities included in the Building or the Lot, including common walkways, driveways, lobbies, hallways, ramps, stairways and elevators, and, subject to availability, the conference facility located on the first floor of the Building;

1.3.2 subject to Article 39, the Parking Facility (including the visitor's parking area and parking spaces reserved for the disabled), at locations which may from time to time be designated by Landlord within the Parking Facility. Use of the parking facility shall be subject to the right of the Landlord to restrict parking during snowplowing operations, and during repair, maintenance and restriping work affecting the parking area;

1.3.3 the pipes, ducts, conduits, wires and appurtenant equipment serving the Premises; and

1.3.4 if the Premises include less than the entire rentable area of any floor, the common toilets in the central core area of such floor.

Such rights shall always be subject to the Rules and Regulations set forth in Exhibit D as the same may be reasonably amended by the Landlord from time to time, and such other reasonable rules and regulations from time to time established by Landlord by suitable notice, and to the right of Landlord to designate and change from time to time areas and facilities so to be used, provided such designations and changes do not deprive Tenant of the substantive benefits of such areas and facilities.

Not included in the Premises are the ceiling, the floor and all perimeter walls of the space identified in Exhibit A, except the inner surfaces thereof and the perimeter doors and windows. Tenant agrees that Landlord shall have the right to place in the Premises (but in such manner as not unreasonably to interfere with Tenant's use of the Premises) utility lines, telecommunication lines, shafts, pipes and the like, for the use and benefit of Landlord and other tenants in the Building, and to replace and maintain and repair such lines, pipes and the like, in, over and upon the Premises. Such utility lines, pipes and the like, shall not be deemed part of the Premises under this Lease.

## 2. TERM.

2.1 The Term of this Lease shall begin on the date ("Commencement Date") which shall be the later of the Scheduled Commencement Date as shown on the Reference Pages and the date that Landlord shall tender possession of the Premises to Tenant, and shall terminate on the date as shown on the Reference Pages ("Termination Date"), unless sooner terminated by the provisions of this Lease. Landlord shall tender possession of the Premises with all the work, if any, to be performed by Landlord pursuant to Exhibit B to this Lease ("Landlord's Work") substantially completed. Tenant shall deliver a punch list of items not completed within thirty (30) days after Landlord tenders possession of the Premises and Landlord agrees to proceed with due diligence to perform its obligations regarding such items. Tenant shall, at Landlord's request, execute and deliver a memorandum agreement provided by Landlord in the form of Exhibit C attached hereto, setting forth the actual Commencement Date, Termination Date and, if necessary, a revised rent schedule. Notwithstanding the foregoing, in the event Landlord substantially completes Landlord's Work prior to the Scheduled Commencement Date, provided Landlord gives Tenant at least thirty (30) days prior notice, Landlord may tender possession of the Premises to Tenant and if Tenant in its sole discretion elects to accept early delivery of the Premises, the Commencement Date shall be the date of such early delivery of the Premises to Tenant. Landlord represents and warrants to Tenant that the Premises is not subject to any lease or occupancy agreement currently in force and effect other than this Lease.

2.2 Tenant agrees that in the event of the inability of Landlord to deliver possession of the Premises on the Scheduled Commencement Date for any reason other than the gross negligence or willful misconduct of Landlord, Landlord shall not be liable for any damage resulting from such inability, but Tenant shall not be liable for any rent until the time when Landlord can, after notice to Tenant, deliver possession of the Premises to Tenant. No such failure to give possession on the Scheduled Commencement Date shall affect the other obligations of Tenant under this Lease, except that if Landlord is unable to deliver possession of the Premises within ninety (90) days after the Scheduled Commencement Date (other than as a result of strikes, shortages of materials, holdover tenancies or similar matters beyond the reasonable control of Landlord and Tenant is notified by Landlord in writing as to such delay), Tenant shall have the option to terminate this Lease unless said delay is as a result of: (a) Tenant's failure to agree to plans and specifications and/or construction cost estimates or bids; (b) Tenant's request for materials, finishes or installations other than Landlord's standard except those, if any, that Landlord shall have expressly agreed to furnish without extension of time agreed by Landlord; (c) Tenant's change in any plans or specifications; or, (d) performance or completion by a party employed by Tenant (each of the foregoing, a "Tenant Delay"). If any delay is the result of a Tenant Delay, the Commencement Date and the payment of rent under this Lease shall be accelerated by the number of days of such Tenant Delay.

2.3 In the event Landlord permits Tenant, or any agent, employee or contractor of Tenant, to enter, use or occupy the Premises prior to the Commencement Date, such entry, use or occupancy shall be subject to all the provisions of this Lease other than the payment of rent, including, without limitation, Tenant's compliance with the insurance requirements of Article 11. Said early possession shall not advance the Termination Date.

### 3. RENT.

3.1 Tenant agrees to pay to Landlord the Annual Rent in effect from time to time by paying the Monthly Installment of Rent then in effect on or before the first day of each full calendar month during the Term, except that the first full month's rent shall be paid upon the execution of this Lease. The Monthly Installment of Rent in effect at any time shall be one-twelfth (1/12) of the Annual Rent in effect at such time. Rent for any period during the Term which is less than a full month shall be a prorated portion of the Monthly Installment of Rent based upon the number of days in such month. Said rent shall be paid to Landlord, without deduction or offset and without notice or demand, at the Rent Payment Address, as set forth on the Reference Pages, or to such other person or at such other place as Landlord may from time to time designate in writing. Unless specified in this Lease to the contrary, all amounts and sums payable by Tenant to Landlord pursuant to this Lease shall be deemed additional rent.

3.2 Tenant recognizes that late payment of any rent or other sum due under this Lease will result in administrative expense to Landlord, the extent of which additional expense is extremely difficult and economically impractical to ascertain. Tenant therefore agrees that if rent or any other sum is not paid within ten (10) days after the date such payment is due and payable pursuant to this Lease on more than two (2) occasion during any calendar year, beginning with the third (3rd) such late payment and for every subsequent late payment during such calendar year a late charge shall be imposed in an amount equal to the greater of: (a) Fifty Dollars (\$50.00), or (b) five percent (5%) of the unpaid rent or other payment. The amount of the late charge to be paid by Tenant shall be reassessed and added to Tenant's obligation for each successive month until paid. The provisions of this Section 3.2 in no way relieve Tenant of the obligation to pay rent or other payments on or before the date on which they are due, nor do the terms of this Section 3.2 in any way affect Landlord's remedies pursuant to Article 19 of this Lease in the event said rent or other payment is unpaid after date due.

3.3 Tenant hereby acknowledges and agrees that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, that rent 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. Landlord and Tenant each acknowledges and agrees that the independent nature of the obligations of Tenant hereunder represents fair, reasonable, and accepted commercial practice with respect to the type of property subject to this Lease. Such acknowledgements by Tenant are a material inducement to landlord entering into this Lease.

### 4. RENT ADJUSTMENTS.

4.1 For the purpose of this Article 3.3, the following terms are defined as follows:

4.1.1 **Lease Year:** Each fiscal year (as determined by Landlord from time to time) falling partly or wholly within the Term.

4.1.2 **Expenses:** All costs of operation, maintenance, repair, replacement and management of the Building (including the amount of any credits which Landlord may grant to particular tenants of the Building in lieu of providing any standard services or paying any standard costs described in this Section 4.1.2 for similar tenants), as determined in accordance with generally accepted accounting principles, including the following costs by way of illustration, but not limitation: water and sewer charges; utility costs, including, but not limited to, the cost of heat, light, power, steam, gas; waste disposal; the cost of janitorial services; the cost of security and alarm services (including any central station signaling system); costs of cleaning, repairing, replacing and maintaining the common areas, including parking and landscaping, window cleaning costs; labor costs; costs and expenses of managing the Building including management and/or administrative fees (such as processing charges to provide various services for the Building) not in excess of the range of such fees paid by similar buildings in the Cambridge, Massachusetts market; air conditioning maintenance costs; elevator maintenance fees and supplies; material costs; equipment costs including the cost of maintenance, repair and service agreements and rental and leasing costs; purchase costs of equipment; current rental and leasing costs of items which would be capital items if purchased; tool costs; licenses, permits and inspection fees; wages and salaries; employee benefits and payroll taxes; accounting and legal fees; any sales, use or service taxes incurred in connection therewith. Expenses, which tenants of the Building pay based on their rentable square feet, shall also include the amounts paid to subsidize the operation of any cafeterias or restaurants in Riverfront Office Park, however, if an amount for this item is included in the Base Year (Expenses) amount and subsequently during the Term the subsidy is reduced to below the amount included in the Base Year (Expenses) amount, the Base Year (Expenses) amount will be reduced accordingly. In addition, Landlord shall be entitled to recover, as additional rent (which, along with any other capital expenditures constituting Expenses, Landlord may either include in Expenses or cause to be billed to Tenant along with Expenses and Taxes but as a separate item), Tenant's Proportionate Share of: (i) an allocable portion of the cost of capital improvement items which are reasonably calculated to reduce operating expenses; (ii) the cost of fire sprinklers and suppression systems and other life safety systems; and (iii) other capital expenses which are required under any governmental laws, regulations or ordinances that occur after the date of this Lease; but the costs described in this sentence shall be amortized over the reasonable life of such expenditures in accordance with such reasonable life and amortization schedules as shall be determined by Landlord in accordance with generally accepted accounting principles, with interest on the unamortized amount at one percent (1%) in excess of the Wall Street Journal prime lending rate announced from time to time. Expenses shall not include Taxes, Insurance Costs, depreciation or amortization of the Building or equipment in the Building except as provided herein, loan principal payments, costs of alterations of tenants' premises, leasing commissions, interest expenses on long-term borrowings or advertising costs.

4.1.3 **Taxes:** Real estate taxes and any other taxes, charges and assessments which are levied with respect to the Building or the land appurtenant to the Building, or with respect to any improvements, fixtures and equipment or other property of Landlord, real or personal, located in the Building and used in connection with the operation of the Building and said land, any payments to any ground lessor in reimbursement of tax payments made by such lessor; and all fees, expenses and costs incurred by Landlord in investigating, protesting, contesting or in any way seeking to reduce or avoid increase in any assessments, levies or the tax rate pertaining to any Taxes to be paid by Landlord in any Lease Year. Taxes shall not include any corporate franchise, or estate, inheritance or net income tax, or tax imposed upon any transfer by Landlord of its interest in this Lease or the Building or any taxes to be paid by Tenant pursuant to Article 28.

4.1.4 **Insurance Costs:** Any and all insurance charges of or relating to all insurance policies and endorsements deemed by Landlord to be reasonably necessary or desirable and relating in any manner to the protection, preservation, or operation of the Building or any part thereof.

4.2 If in any Lease Year, (i) Expenses paid or incurred shall exceed Expenses paid or incurred in the Base Year (Expenses) and/or (ii) Taxes paid or incurred by Landlord in any Lease Year shall exceed the amount of such Taxes which became due and payable in the Base Year (Taxes), and/or (iii) Insurance Costs paid or incurred by Landlord in any Lease Year shall exceed the amount of such Insurance Costs which became due and payable in the Base Year (Insurance), Tenant shall pay as additional rent for such Lease Year Tenant's Proportionate Share of each such excess amount.

4.3 The annual determination of Expenses and Insurance Costs shall be made by Landlord and shall be binding upon Landlord and Tenant, subject to the provisions of this Section 4.3. During the Term, Tenant may review, at Tenant's sole cost and expense, the books and records supporting such determination in an office of Landlord, or Landlord's agent, during normal business hours, upon giving Landlord five (5) days advance written notice within sixty (60) days after receipt of such determination, but in no event more often than once in any one (1) year period, subject to execution of a confidentiality agreement acceptable to Landlord, and provided that if Tenant utilizes an independent accountant to perform such review it shall be one of national or regional standing which is reasonably acceptable to Landlord, is not compensated on a contingency basis and is also subject to such confidentiality agreement. If Tenant fails to object to Landlord's determination of Expenses and Insurance Costs within ninety (90) days after receipt, or if any such objection fails to state with specificity the reason for the objection, Tenant shall be deemed to have approved such determination and shall have no further right to object to or contest such determination. In the event that during all or any portion of any Lease Year or Base Year, the Building is not fully rented and occupied Landlord shall make an appropriate adjustment in occupancy-related Expenses for such year for the purpose of avoiding distortion of the amount of such Expenses to be attributed to Tenant by reason of variation in total occupancy of the Building, by employing consistent and sound accounting and management principles to determine Expenses that would have been paid or incurred by Landlord had the Building been one hundred percent (100%) rented and occupied, and the amount so determined shall be deemed to have been Expenses for such Lease Year or Base Year, as applicable.

4.4 Prior to the actual determination thereof for a Lease Year, Landlord may from time to time estimate Tenant's liability for Expenses, Insurance Costs and/or Taxes under Section 4.1, Article 6 and Article 28 for the Lease Year or portion thereof. Landlord will give Tenant written notification of the amount of such estimate and Tenant agrees that it will pay, by increase of its Monthly Installments of Rent due in such Lease Year, additional rent in the amount of such estimate. Any such increased rate of Monthly Installments of Rent pursuant to this Section 4.4 shall remain in effect until further written notification to Tenant pursuant hereto.

4.5 When the above mentioned actual determination of Tenant's liability for Expenses, Insurance Costs and/or Taxes is made for any Lease Year and when Tenant is so notified in writing, then:

4.5.1 If the total additional rent Tenant actually paid pursuant to Section 4.3 on account of Expenses, Insurance Costs and/or Taxes for the Lease Year is less than Tenant's liability for Expenses, Insurance Costs and/or Taxes, then Tenant shall pay such deficiency to Landlord as additional rent in one lump sum within thirty (30) days of receipt of Landlord's bill therefor; and

4.5.2 If the total additional rent Tenant actually paid pursuant to Section 4.3 on account of Expenses, Insurance Costs and/or Taxes for the Lease Year is more than Tenant's liability for Expenses, Insurance Costs and/or Taxes, then Landlord shall credit the difference against the then next due payments to be made by Tenant under this Article 3.3, or, if the Lease has terminated, refund the difference in cash. Tenant shall not be entitled to a credit by reason of actual Expenses and/or Taxes and/or Insurance Costs in any Lease Year being less than Expenses and/or Taxes and/or Insurance Costs in the Base Year (Expenses and/or Taxes and/or Insurance).

4.6 If the Commencement Date is other than January 1 or if the Termination Date is other than December 31, Tenant's liability for Expenses, Insurance Costs and Taxes for the Lease Year in which said Date occurs shall be prorated based upon a three hundred sixty-five (365) day year.

**5. SECURITY DEPOSIT.** Tenant shall deposit the Security Deposit with Landlord upon the execution of this Lease. Said sum shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants and conditions of this Lease to be kept and performed by Tenant and not as an advance rental deposit or as a measure of Landlord's damage in case of Tenant's default. If Tenant defaults with respect to any provision of this Lease, Landlord may use any part of the Security Deposit for the payment of any rent or any other sum in default, or for the payment of any amount which Landlord may spend or become obligated to spend by reason of Tenant's default, or to compensate Landlord for any other loss or damage which Landlord may suffer by reason of Tenant's default. If any portion is so used, Tenant shall within thirty (30) days after written demand therefor, deposit with Landlord an amount sufficient to restore the Security Deposit to its original amount and Tenant's failure to do so shall be a material breach of this Lease. Except to such extent, if any, as shall be required by law, Landlord shall not be required to keep the Security Deposit separate from its general funds, and Tenant shall not be entitled to interest on such deposit. If Tenant shall fully and faithfully perform every provision of this Lease to be performed by it, the Security Deposit or any balance thereof shall be returned to Tenant at such time after termination of this Lease when Landlord shall have determined that all of Tenant's obligations under this Lease have been fulfilled, but in no event more than sixty (60) days after the end of the Term of this Lease.

## **6. ALTERATIONS.**

6.1 Except for those, if any, specifically provided for in Exhibit B to this Lease, Tenant shall not make or suffer to be made any alterations, additions, or improvements, including, but not limited to, the attachment of any fixtures or equipment in, on, or to the Premises or any part thereof or the making of any improvements as required by Article 7, without the prior written consent of Landlord. When applying for such consent, Tenant shall, if requested by Landlord, furnish complete plans and specifications for such alterations, additions and improvements. Landlord's consent shall not be unreasonably withheld with respect to alterations which (i) are not structural in nature, (ii) are not visible from the exterior of the Building, (iii) do not affect or require modification of the Building's electrical, mechanical, plumbing, HVAC or other systems, and (iv) in aggregate do not cost more than \$20,000.00.

6.2 In the event Landlord consents to the making of any such alteration, addition or improvement by Tenant, the same shall be made by using either Landlord's contractor or a contractor reasonably approved by Landlord, in either event at Tenant's sole cost and expense. If Tenant shall employ any contractor other than Landlord's contractor and such other contractor or any subcontractor of such other contractor shall employ any non-union labor or supplier, Tenant shall be responsible for and hold Landlord harmless from any and all delays, damages and extra costs suffered by Landlord as a result of any dispute with any labor unions concerning the wage, hours, terms or conditions of the employment of any such labor. In any event, if Landlord is requested to provide construction management services, Landlord may charge Tenant a construction management fee not to exceed five percent (5%) of the cost of such work to cover its overhead as it relates to such proposed work, plus third-party costs actually incurred by Landlord in connection with the proposed work and the design thereof, with all such amounts being due thirty (30) days after Landlord's demand.

6.3 All alterations, additions or improvements proposed by Tenant shall be constructed in accordance with all government laws, ordinances, rules and regulations, using Building standard materials where applicable, and Tenant shall, prior to construction, provide the additional insurance required under Article 11 in such case, and also all such assurances to Landlord as Landlord shall reasonably require to assure payment of the costs thereof, including but not limited to, notices of non-responsibility, waivers of lien, surety company performance bonds and funded construction escrows and to protect Landlord and the Building and appurtenant land against any loss from any mechanic's, materialmen's or other liens. Tenant shall pay in addition to any sums due pursuant to Article 3.3, any increase in real estate taxes attributable to any such alteration, addition or improvement for so long, during the Term, as such increase is ascertainable; at Landlord's election said sums shall be paid in the same way as sums due under Article 3.3.

## **7. REPAIR.**

7.1 Landlord shall have no obligation to alter, remodel, improve, repair, decorate or paint the Premises, except as specified in Exhibit B if attached to this Lease and except that, subject to Article 4, Landlord shall repair and maintain the structural portions of the Building, including the basic plumbing, air conditioning, heating and electrical systems installed or furnished by Landlord, the roof and the common area. By taking possession of the Premises, Tenant accepts them as being in good order, condition and repair and in the condition in which Landlord is obligated to deliver them, except as set forth in the punch list to be delivered pursuant to Section 2.1. It is hereby understood and agreed that no representations respecting the condition of the Premises or the Building have been made by Landlord to Tenant, except as specifically set forth in this Lease.

7.2 Tenant shall, at all times during the Term, keep the Premises in good condition and repair excepting damage by ordinary wear and tear, fire, or other casualty, and in compliance with all applicable governmental laws, ordinances and regulations, promptly complying with all governmental orders and directives for the correction, prevention and abatement of any violations or nuisances in or upon, or connected with, the Premises, all at Tenant's sole expense.

7.3 Landlord shall not be liable for any failure to make any repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need of such repairs or maintenance is given to Landlord by Tenant.

7.4 Except as provided in Article 22, there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of any repairs, alterations or improvements in or to any portion of the Building or the Premises or to fixtures, appurtenances and equipment in the Building. Except to the extent, if any, prohibited by law, Tenant waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

**8. LIENS.** Tenant shall keep the Premises, the Building and appurtenant land and Tenant's leasehold interest in the Premises free from any liens arising out of any services, work or materials performed, furnished, or contracted for by Tenant, or obligations incurred by Tenant. In the event that Tenant fails, within twenty (20) days following the imposition of any such lien, to either cause the same to be released of record or provide Landlord with insurance against the same issued by a major title insurance company or such other protection against the same as Landlord shall reasonably accept (such failure to constitute an Event of Default), Landlord shall have the right to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith shall be payable to it by Tenant within thirty (30) days of Landlord's demand.

**9. ASSIGNMENT AND SUBLETTING.**

9.1 Tenant shall not have the right to assign or pledge this Lease or to sublet the whole or any part of the Premises whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant, and shall not make, suffer or permit such assignment, subleasing or occupancy without the prior written consent of Landlord, such consent not to be unreasonably withheld, delayed or conditioned, and said restrictions shall be binding upon any and all assignees of the Lease and subtenants of the Premises. In the event Tenant desires to sublet, or permit such occupancy of, the Premises, or any portion thereof, or assign this Lease, Tenant shall give written notice thereof to Landlord at least thirty (30) days but no more than one hundred twenty (120) days prior to the proposed commencement date of such subletting or assignment, which notice shall set forth the name of the proposed subtenant or assignee, the relevant terms of any sublease or assignment and copies of financial reports and other relevant financial information of the proposed subtenant or assignee.

9.2 Notwithstanding any assignment or subletting, permitted or otherwise, Tenant shall at all times remain directly, primarily and fully responsible and liable for the payment of the rent specified in this Lease and for compliance with all of its other obligations under the terms, provisions and covenants of this Lease. Upon the occurrence of an Event of Default, if the Premises or any part of them are then assigned or sublet, Landlord, in addition to any other remedies provided in this Lease or provided by law, may, at its option, collect directly from such assignee or subtenant all rents due and becoming due to Tenant under such assignment or sublease and apply such rent against any sums due to Landlord from Tenant under this Lease, and no such collection shall be construed to constitute a novation or release of Tenant from the further performance of Tenant's obligations under this Lease.

9.3 In addition to Landlord's right to approve of any subtenant or assignee, Landlord shall have the option, in its sole discretion, in the event of any proposed subletting or assignment, to terminate this Lease, or in the case of a proposed subletting of less than the entire Premises, to recapture the portion of the Premises to be sublet, as of the date the subletting or assignment is to be effective. The option shall be exercised, if at all, by Landlord giving Tenant written notice given by Landlord to Tenant within thirty (30) days following Landlord's receipt of Tenant's written notice as required above. However, if Tenant notifies Landlord, within thirty (30) days after receipt of Landlord's termination notice, that Tenant is rescinding its proposed assignment or sublease, the termination notice shall be void and the Lease shall continue in full force and effect. If this Lease shall be terminated with respect to the entire Premises pursuant to this Section, the Term of this Lease shall end on the date stated in Tenant's notice as the effective date of the sublease or assignment as if that date had been originally fixed in this Lease for the expiration of the Term. If Landlord recaptures under this Section only a portion of the Premises, the rent to be paid from time to time during the unexpired Term shall abate proportionately based on the proportion by which the approximate square footage of the remaining portion of the Premises shall be less than that of the Premises as of the date immediately prior to such recapture. Tenant shall, at Tenant's own cost and expense, discharge in full any outstanding commission obligation which may be due and owing as a result of any proposed assignment or subletting, whether or not the Premises are recaptured pursuant to this Section 9.3 and rented by Landlord to the proposed tenant or any other tenant.

9.4 In the event that Tenant sells, sublets, assigns or transfers this Lease, Tenant shall pay to Landlord as additional rent an amount equal to fifty percent (50%) of any Increased Rent (as defined below), less the Costs Component (as defined below), when and as such Increased Rent is received by Tenant. As used in this Section, "Increased Rent" shall mean the excess of (i) all rent and other consideration which Tenant is entitled to receive by reason of any sale, sublease, assignment or other transfer of this Lease, over (ii) the rent otherwise payable by Tenant under this Lease at such time. For purposes of the foregoing, any consideration received by Tenant in form other than cash shall be valued at its fair market value as determined by Landlord in good faith. The "Costs Component" is that amount which, if paid monthly, would fully amortize on a straight-line basis, over the entire period for which Tenant is to receive Increased Rent, the reasonable costs incurred by Tenant for leasing commissions, legal costs and tenant improvements in connection with such sublease, assignment or other transfer.

9.5 Notwithstanding any other provision hereof, it shall be considered reasonable for Landlord to withhold its consent to any assignment of this Lease or sublease of any portion of the Premises if at the time of either Tenant's notice of the proposed assignment or sublease or the proposed commencement date thereof, there shall exist any uncured default of Tenant or matter which will become a default of Tenant with passage of time unless cured, or if the proposed assignee or sublessee is an entity: (a) with which Landlord is already in negotiation; (b) is already an occupant of the Park unless Landlord is unable to provide the amount of space required by such occupant; (c) is a governmental agency; (d) is incompatible with the character of occupancy of the Building; (e) with which the payment for the sublease or assignment is determined in whole or in part based upon its net income or profits; or (f) would subject the Premises to a use which would: (i) involve increased personnel or wear upon the Building; (ii) violate any exclusive right granted to another tenant of the Building; (iii) require any addition to or modification of the Premises or the Building in order to comply with building code or other governmental requirements; or, (iv) involve a violation of Section 1.2. Tenant expressly agrees that for the purposes of any statutory or other requirement of reasonableness on the part of Landlord, Landlord's refusal to consent to any assignment or sublease for any of the reasons described in this Section 9.5, shall be conclusively deemed to be reasonable.

9.6 Upon any request to assign or sublet, Tenant will pay to Landlord the Assignment/Subletting Fee plus, on demand, a sum equal to all of Landlord's costs, including reasonable attorney's fees (not to exceed \$2,500.00), incurred in investigating and considering any proposed or purported assignment or pledge of this Lease or sublease of any of the Premises, regardless of whether Landlord shall consent to, refuse consent, or determine that Landlord's consent is not required for, such assignment, pledge or sublease. Any purported sale, assignment, mortgage, transfer of this Lease or subletting which does not comply with the provisions of this Article 9 shall be void.

9.7 Except pursuant to Section 9.8, if Tenant is a non-publicly traded corporation, limited liability company, partnership or trust, any transfer or transfers of or change or changes within any twelve (12) month period in the number of the outstanding voting shares of the corporation or limited liability company, the general partnership interests in the partnership or the identity of the persons or entities controlling the activities of such partnership or trust resulting in the persons or entities owning or controlling a majority of such shares, partnership interests or activities of such partnership or trust at the beginning of such period no longer having such ownership or control shall be regarded as equivalent to an assignment of this Lease to the persons or entities acquiring such ownership or control and shall be subject to all the provisions of this Article 9 to the same extent and for all intents and purposes as though such an assignment.

9.8 Notwithstanding the foregoing provisions of this Article to the contrary, Tenant shall be permitted to assign this Lease, or sublet all or a portion of the Premises, to an Affiliate of Tenant without the prior consent of Landlord, if all of the following conditions are first satisfied:

9.8.1 Tenant shall not then be in continuing default under this Lease;

9.8.2 a fully executed copy of such assignment or sublease, the assumption of this Lease by the assignee or acceptance of the sublease by the sublessee, and such other information regarding the assignment or sublease as Landlord may reasonably request, shall have been delivered to Landlord;

9.8.3 the Premises shall continue to be operated solely for the use specified in the Reference Page or other use acceptable to Landlord in its sole discretion.

Tenant acknowledges (and, at Landlord's request, at the time of such assignment or subletting shall confirm) that in each instance Tenant shall remain liable for performance of the terms and conditions of the Lease despite such assignment or subletting. As used herein the term "Affiliate" shall mean an entity which (i) directly or indirectly controls Tenant or (ii) is under the direct or indirect control of Tenant or (iii) is under common direct or indirect control with Tenant, or (iv) is the successor to Tenant by merger, consolidation or sale of substantially all of Tenant's assets so long as the net worth of such successor, after completion of the entire series of transactions contemplated in such merger, etc., are at least as great as was the net worth of Tenant prior to commencement of such transactions. Control shall mean ownership of fifty-one percent (51%) or more of the voting securities or rights of the controlled entity.

**10. INDEMNIFICATION.** None of the Landlord Entities shall be liable and Tenant hereby waives all claims against them for any damage to any property or any injury to any person in or about the Premises or the Building by or from any cause whatsoever (including without limiting the foregoing, rain or water leakage of any character from the roof, windows, walls, basement, pipes, plumbing works or appliances, the Building not being in good condition or repair, gas, fire, oil, electricity or theft), except to the extent caused by or arising from the gross negligence or willful misconduct of Landlord or its agents, employees or contractors. Tenant shall protect, indemnify and hold the Landlord Entities harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of (a) any damage to any property (including but not limited to property of any Landlord Entity) or any injury (including but not limited to death) to any person occurring in, on or about the Premises or the Building to the extent that such injury or damage shall be caused by or arise from any actual or alleged act, neglect, fault, or omission by or of Tenant or any Tenant Entity to meet any standards imposed by any duty with respect to the injury or damage; (b) the conduct or management of any work or thing whatsoever done by the Tenant in or about the Premises or from transactions of the Tenant concerning the Premises; (c) Tenant's failure to comply with any and all governmental laws, ordinances and regulations applicable to the condition or use of the Premises or its occupancy; or (d) any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of the Tenant to be performed pursuant to this Lease. The provisions of this Article shall survive the termination of this Lease with respect to any claims or liability accruing prior to such termination.

**11. INSURANCE.**

11.1 Tenant shall keep in force throughout the Term: (a) a Commercial General Liability insurance policy or policies to protect the Landlord Entities against any liability to the public or to any invitee of Tenant or a Landlord Entity incidental to the use of or resulting from any accident occurring in or upon the Premises with a limit of not less than \$1,000,000.00 per occurrence and not less than \$2,000,000.00 in the annual aggregate, or such larger amount as Landlord may prudently require from time to time, covering bodily injury and property damage liability and \$1,000,000 products/completed operations aggregate; (b) Business Auto Liability covering owned, non-owned and hired vehicles with a limit of not less than \$1,000,000 per accident; (c) Worker's Compensation Insurance with limits as required by statute and Employers Liability with limits of \$500,000 each accident, \$500,000 disease policy limit, \$500,000 disease--each employee; (d) All Risk or Special Form coverage protecting Tenant against loss of or damage to Tenant's alterations, additions, improvements, carpeting, floor coverings, panelings, decorations, fixtures, inventory and other business personal property situated in or about the Premises to the full replacement value of the property so insured; and, (e) Business Interruption Insurance with limit of liability representing loss of at least approximately six (6) months of income.

11.2 The aforesaid policies shall (a) be provided at Tenant's expense; (b) name the Landlord Entities so long as Tenant is notified of the names of such by the Landlord as additional insureds (General Liability) and loss payee (Property•Special Form); (c) be issued by an insurance company with a minimum Best's rating of "A-VII" during the Term; and (d) provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to Landlord; a certificate of Liability insurance on Accord Form 25 and a certificate of Property insurance on Accord Form 27 shall be delivered to Landlord by Tenant upon the Commencement Date and at least thirty (30) days prior to each renewal of said insurance.

11.3 Whenever Tenant shall undertake any alterations, additions or improvements in, to or about the Premises ("Work") the aforesaid insurance protection must extend to and include injuries to persons and damage to property arising in connection with such Work, without limitation including liability under any applicable structural work act, and such other insurance as Landlord shall require; and the policies of or certificates evidencing such insurance must be delivered to Landlord prior to the commencement of any such Work.

**12. WAIVER OF SUBROGATION.** So long as their respective insurers so permit, Tenant and Landlord hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage, All Risks or other insurance now or hereafter existing for the benefit of the respective party but only to the extent of the net insurance proceeds payable under such policies. Each party shall obtain any special endorsements required by their insurer to evidence compliance with the aforementioned waiver.

**13. SERVICES AND UTILITIES.**

13.1 Subject to the other provisions of this Lease, Landlord agrees to furnish to the Premises during Building Business Hours (specified on the Reference Pages) on generally recognized business days (but exclusive in any event of Sundays and national and local legal holidays), the following services and utilities subject to the rules and regulations of the Building prescribed from time to time: (a) water suitable for normal office use of the Premises; (b) heat and air conditioning required in Landlord's reasonable judgment for the use and occupation of the Premises during Building Business Hours; (c) cleaning and janitorial service; (d) elevator service by nonattended automatic elevators, if applicable; and, (e) equipment to bring to the Premises electricity for lighting, convenience outlets and other normal office use. In the absence of Landlord's gross negligence or willful misconduct, Landlord shall not be liable for, and Tenant shall not be entitled to, any abatement or reduction of rental by reason of Landlord's failure to furnish any of the foregoing, unless such failure shall persist for an unreasonable time after written notice of such failure is given to Landlord by Tenant and provided further that Landlord shall not be liable when such failure is caused by accident, breakage, repairs, labor disputes of any character, energy usage restrictions or by any other cause, similar or dissimilar, beyond the reasonable control of Landlord. Landlord shall use reasonable efforts to remedy any interruption in the furnishing of services and utilities.

13.1.1 Allocable Costs - Electricity. Tenant shall pay to Landlord monthly an amount reasonably estimated by Landlord to equal Tenant's Allocable Electricity Costs for the electrical energy that Tenant requires for operation of the lighting fixtures, appliances and equipment of Tenant serving the Premises and tenant specific supplemental HVAC equipment. "Tenant's Allocable Electricity Costs" as used herein is initially estimated to be \$1.50 per rsf, and shall be as determined in accordance with Exhibit E attached hereto and made a part hereof. Landlord shall from time to time furnish to Tenant a statement setting forth in reasonable detail the particulars relating to Tenant's Allocable Electricity Costs for the period to which such a statement relates. In the event the estimated payments made by Tenant for said period shall be less than Tenant's Allocable Electricity Costs for said period as set forth in said statement, Tenant shall promptly, but in no event later than thirty (30) days from receipt of invoice, remit to Landlord the difference. In the event the estimated payments made by Tenant for said period exceed Tenant's Allocable Electricity Costs for said period as set forth in said statement, such excess shall be refunded by Landlord. Landlord shall not be liable in any way to Tenant for any failure or defect in the supply or character of electrical energy furnished to the Premises by reason of any requirement, act or omission of the public utility serving the Building with electricity unless due to the act or omission of Landlord. Tenant's use of electrical energy in the Premises shall not at any time exceed the capacity of any of the electrical conductors and equipment in or otherwise serving the Premises. In order to insure that such capacity is not exceeded and to avert possible adverse affect upon the Building electrical services, Tenant shall give notice to Landlord and obtain Landlord's prior written consent whenever Tenant shall connect to the Building electrical distribution system any major fixtures, appliances or equipment. Any additional feeders or risers to supply Tenant's electrical requirements in addition to those originally installed and all other equipment proper and necessary in connection with such feeders or risers, shall be installed by Landlord upon Tenant's request, at the sole cost and expense of Tenant, provided that such additional feeders and risers are permissible under applicable laws and insurance regulations and the installation of such feeders or risers will not cause permanent damage or injury to the Building or cause or create a dangerous condition or unreasonably interfere with other tenants of the Building. Tenant agrees that it will not make any significant alteration or material addition to the electrical equipment and/or appliances in the Premises without the prior written consent of Landlord in each instance first obtained, which consent will not be unreasonably withheld or delayed, and will promptly advise Landlord of any alteration or addition to such electrical equipment and/or appliances. Tenant, at Tenant's expense, shall purchase, install and replace all light fixtures, bulbs, tubes, lamps, lenses, globes, ballasts and switches used in the Premises. Notwithstanding the foregoing, Landlord, at its election, may install at Landlord's cost and expense a separate meter for Tenant's electric usage in which event Tenant shall thereafter obtain and pay for its electricity directly from the electric utility servicing the Building.

13.2 Should Tenant require any additional work or service, as described above, including services furnished outside ordinary business hours specified above, Landlord may, on terms to be agreed, upon reasonable advance notice by Tenant, furnish such additional service and Tenant agrees to pay Landlord such charges as may be agreed upon, including any tax imposed thereon, but in no event at a charge less than Landlord's actual cost plus overhead for such additional service and, where appropriate, a reasonable allowance for depreciation of any systems being used to provide such service. The current charge for after-hours HVAC service, which is subject to change at any time, is specified on the Reference Pages.

13.3 Wherever heat-generating machines or equipment are used by Tenant in the Premises which affect the temperature otherwise maintained by the air conditioning system or Tenant allows occupancy of the Premises by more persons than the heating and air conditioning system is designed to accommodate, in either event whether with or without Landlord's approval, Landlord reserves the right to install supplementary heating and/or air conditioning units in or for the benefit of the Premises and the cost thereof, including the cost of installation and the cost of operations and maintenance, shall be paid by Tenant to Landlord within thirty (30) days of Landlord's demand.

13.4 Except for Tenant's copier equipment and IT equipment, Tenant will not, without the written consent of Landlord, use any apparatus or device in the Premises, including but not limited to, electronic data processing machines and machines using current in excess of 2000 watts and/or 20 amps or 120 volts, which will in any way increase the amount of electricity or water usually furnished or supplied for use of the Premises for normal office use, nor connect with electric current, except through existing electrical outlets in the Premises, or water pipes, any apparatus or device for the purposes of using electrical current or water. If Tenant shall require water or electric current in excess of that usually furnished or supplied for use of the Premises as normal office use, Tenant shall procure the prior written consent of Landlord for the use thereof, which Landlord may refuse, and if Landlord does consent, Landlord may cause a water meter or electric current meter to be installed so as to measure the amount of such excess water and electric current. The cost of any such meters shall be paid for by Tenant. Tenant agrees to pay to Landlord within thirty (30) days of Landlord's demand, the cost of all such excess water and electric current consumed (as shown by said meters, if any, or, if none, as reasonably estimated by Landlord) at the rates charged for such services by the local public utility or agency, as the case may be, furnishing the same, plus any additional expense incurred in keeping account of the water and electric current so consumed.

13.5 Tenant will not, without the written consent of Landlord, contract with a utility provider to service the Premises with any utility, including, but not limited to, telecommunications, electricity, water, sewer or gas, which is not previously providing such service to other tenants in the Building. Subject to Landlord's reasonable rules and regulations and the provisions of Articles 6 and 26, Tenant shall be entitled to the use of wiring ("Communications Wiring") from the existing telecommunications nexus in the Building to the Premises, sufficient for normal general office use of the Premises. Tenant shall not install any additional Communications Wiring, nor remove any Communications Wiring, without in each instance obtaining the prior written consent of Landlord, which consent shall not be withheld, delayed or conditioned. Landlord's shall in no event be liable for disruption in any service obtained by Tenant pursuant to this paragraph.

**14. HOLDING OVER.** Tenant shall pay Landlord for each day Tenant retains possession of the Premises or part of them after termination of this Lease by lapse of time or otherwise at the rate ("Holdover Rate") which shall be One Hundred Fifty Percent (150%) of the amount of the Annual Rent for the last period prior to the date of such termination plus all Rent Adjustments under Article 3.3, prorated on a daily basis, and also pay all damages sustained by Landlord by reason of such retention. If Landlord gives notice to Tenant of Landlord's election to such effect, such holding over shall constitute renewal of this Lease for a period from month to month at the Holdover Rate, but if the Landlord does not so elect, no such renewal shall result notwithstanding acceptance by Landlord of any sums due hereunder after such termination; and instead, a tenancy at sufferance at the Holdover Rate shall be deemed to have been created. In any event, no provision of this Article 14 shall be deemed to waive Landlord's right of reentry or any other right under this Lease or at law.

**15. SUBORDINATION.** Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, this Lease shall be subject and subordinate at all times to ground or underlying leases and to the lien of any mortgages or deeds of trust now or hereafter placed on, against or affecting the Building, Landlord's interest or estate in the Building, or any ground or underlying lease; provided, however, that if the lessor, mortgagee, trustee, or holder of any such mortgage or deed of trust elects to have Tenant's interest in this Lease be superior to any such instrument, then, by notice to Tenant, this Lease shall be deemed superior, whether this Lease was executed before or after said instrument. Notwithstanding the foregoing, Tenant covenants and agrees to execute and deliver within ten (10) days of Landlord's request such further instruments evidencing such subordination or superiority of this Lease as may be required by Landlord. Landlord represents that there is currently no mortgage lien against the property. Landlord shall use commercially reasonable efforts to obtain from any future mortgagee a non-disturbance agreement in favor of Tenant, but the failure to obtain such non-disturbance agreement shall not be a failure of condition of this Lease.

**16. RULES AND REGULATIONS.** Tenant shall faithfully observe and comply with all the rules and regulations as set forth in Exhibit D to this Lease and all reasonable and non-discriminatory modifications of and additions to them from time to time put into effect by Landlord. Landlord shall not be responsible to Tenant for the non-performance by any other tenant or occupant of the Building of any such rules and regulations, provided that Landlord shall use commercially reasonable efforts to enforce such rules and regulations in a uniform manner.

**17. REENTRY BY LANDLORD.**

17.1 Landlord reserves and shall at all times (with at least twenty four hour advance notice, but no notice is required in the event of an emergency) have the right to re-enter the Premises to inspect the same, to supply janitor service and any other service to be provided by Landlord to Tenant under this Lease, to show said Premises to prospective purchasers, mortgagees or tenants (as to tenants, only during the last nine (9) months of the Term), and to alter, improve or repair the Premises and any portion of the Building, without abatement of rent, and may for that purpose erect, use and maintain scaffolding, pipes, conduits and other necessary structures and open any wall, ceiling or floor in and through the Building and Premises where reasonably required by the character of the work to be performed, provided entrance to the Premises shall not be blocked thereby, and further provided that the business of Tenant shall not be interfered with unreasonably. Landlord shall have the right at any time to change the arrangement and/or locations of entrances, or passageways, doors and doorways, and corridors, windows, elevators, stairs, toilets or other public parts of the Building and to change the name, number or designation by which the Building is commonly known. In the event that Landlord damages any portion of any wall or wall covering, ceiling, or floor or floor covering within the Premises, Landlord shall repair or replace the damaged portion to match the original as nearly as commercially reasonable but shall not be required to repair or replace more than the portion actually damaged. Tenant hereby waives any claim for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned by any action of Landlord authorized by this Article 17.

17.2 For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in the Premises, excluding Tenant's vaults and safes or special security areas (designated in advance), and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency to obtain entry to any portion of the Premises. As to any portion to which access cannot be had by means of a key or keys in Landlord's possession, Landlord is authorized to gain access by such means as Landlord shall elect and the cost of repairing any damage occurring in doing so shall be borne by Tenant and paid to Landlord within thirty (30) days of Landlord's demand.

**18. DEFAULT.**

18.1 Except as otherwise provided in Article 20, the following events shall be deemed to be Events of Default under this Lease:

18.1.1 Tenant shall fail to pay when due any sum of money becoming due to be paid to Landlord under this Lease, whether such sum be any installment of the rent reserved by this Lease, any other amount treated as additional rent under this Lease, or any other payment or reimbursement to Landlord required by this Lease, whether or not treated as additional rent under this Lease, and such failure shall continue for a period of ten (10) days after written notice that such payment was not made when due, but if any such notice shall be given on two (2) occasions during any twelve (12) month period, for the twelve (12) month period commencing with the date of the first (1st) such notice, the failure to pay within ten (10) days after due any additional sum of money becoming due to be paid to Landlord under this Lease during such period shall be an Event of Default, without notice.

18.1.2 Tenant shall fail to comply with any term, provision or covenant of this Lease which is not provided for in another Section of this Article and shall not cure such failure within thirty (30) days (forthwith, if the failure involves a hazardous condition) after written notice of such failure to Tenant provided, however, that such failure shall not be an event of default if such failure could not reasonably be cured during such thirty (30) day period, Tenant has commenced the cure within such thirty (30) day period and thereafter is diligently pursuing such cure to completion.

18.1.3 Tenant shall fail to vacate the Premises immediately upon termination of this Lease, by lapse of time or otherwise, or upon termination of Tenant's right to possession only.

18.1.4 Tenant shall become insolvent, admit in writing its inability to pay its debts generally as they become due, file a petition in bankruptcy or a petition to take advantage of any insolvency statute, make an assignment for the benefit of creditors, make a transfer in fraud of creditors, apply for or consent to the appointment of a receiver of itself or of the whole or any substantial part of its property, or file a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws, as now in effect or hereafter amended, or any other applicable law or statute of the United States or any state thereof.

18.1.5 A court of competent jurisdiction shall enter an order, judgment or decree adjudicating Tenant bankrupt, or appointing a receiver of Tenant, or of the whole or any substantial part of its property, without the consent of Tenant, or approving a petition filed against Tenant seeking reorganization or arrangement of Tenant under the bankruptcy laws of the United States, as now in effect or hereafter amended, or any state thereof, and such order, judgment or decree shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

## 19. REMEDIES.

19.1 Except as otherwise provided in Article 20, upon the occurrence and continuance of any of the Events of Default described or referred to in Article 18, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever, concurrently or consecutively and not alternatively:

19.1.1 Landlord may, at its election, terminate this Lease or terminate Tenant's right to possession only, without terminating the Lease.

19.1.2 Upon any termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Tenant's right to possession without termination of the Lease, Tenant shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Landlord, and Tenant hereby grants to Landlord full and free license to enter into and upon the Premises in such event and to repossess Landlord of the Premises as of Landlord's former estate and to expel or remove Tenant and any others who may be occupying or be within the Premises and to remove Tenant's signs and other evidence of tenancy and all other property of Tenant therefrom without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without incurring any liability for any damage resulting therefrom, Tenant waiving any right to claim damages for such re-entry and expulsion, and without relinquishing Landlord's right to rent or any other right given to Landlord under this Lease or by operation of law.

19.1.3 Upon any termination of this Lease, whether by lapse of time or otherwise, Landlord shall be entitled to recover as damages, all rent, including any amounts treated as additional rent under this Lease, and other sums due and payable by Tenant on the date of termination, plus as liquidated damages and not as a penalty, an amount equal to the sum of: (a) an amount equal to the then present value of the rent reserved in this Lease for the residue of the stated Term of this Lease including any amounts treated as additional rent under this Lease and all other sums provided in this Lease to be paid by Tenant, minus the fair rental value of the Premises for such residue; (b) the value of the time and expense necessary to obtain a replacement tenant or tenants, and the estimated expenses described in Section 19.1.4 relating to recovery of the Premises, preparation for reletting and for reletting itself; and (c) the actual cost of performing any other covenants which would have otherwise been performed by Tenant.

19.1.4 Upon any termination of Tenant's right to possession only without termination of the Lease:

19.1.4.1 Neither such termination of Tenant's right to possession nor Landlord's taking and holding possession thereof as provided in Section 19.1.2 shall terminate the Lease or release Tenant, in whole or in part, from any obligation, including Tenant's obligation to pay the rent, including any amounts treated as additional rent, under this Lease for the full Term, and if Landlord so elects Tenant shall continue to pay to Landlord the entire amount of the rent as and when it becomes due, including any amounts treated as additional rent under this Lease, for the remainder of the Term plus any other sums provided in this Lease to be paid by Tenant for the remainder of the Term.

19.1.4.2 Landlord shall use commercially reasonable efforts to relet the Premises or portions thereof to the extent required by applicable law. Landlord and Tenant agree that nevertheless Landlord shall at most be required to use only the same efforts Landlord then uses to lease premises in the Building generally and that in any case that Landlord shall not be required to give any preference or priority to the showing or leasing of the Premises or portions thereof over any other space that Landlord may be leasing or have available and may place a suitable prospective tenant in any such other space regardless of when such other space becomes available and that Landlord shall have the right to relet the Premises for a greater or lesser term than that remaining under this Lease, the right to relet only a portion of the Premises, or a portion of the Premises or the entire Premises as a part of a larger area, and the right to change the character or use of the Premises. In connection with or in preparation for any reletting, Landlord may, but shall not be required to, make repairs, alterations and additions in or to the Premises and redecorate the same to the extent Landlord deems necessary or desirable, and Tenant shall pay the reasonable cost thereof, together with Landlord's expenses of reletting, including, without limitation, any commission incurred by Landlord, within thirty (30) days of Landlord's demand. Landlord shall not be required to observe any instruction given by Tenant about any reletting or accept any tenant offered by Tenant unless such offered tenant has a credit-worthiness reasonably acceptable to Landlord and leases the entire Premises upon terms and conditions including a rate of rent (after giving effect to all expenditures by Landlord for tenant improvements, broker's commissions and other leasing costs) all no less favorable to Landlord than as called for in this Lease, nor shall Landlord be required to make or permit any assignment or sublease for more than the current term or which Landlord would not be required to permit under the provisions of Article 9.

19.1.4.3 Until such time as Landlord shall elect to terminate the Lease and shall thereupon be entitled to recover the amounts specified in such case in Section 19.1.3, Tenant shall pay to Landlord upon demand the full amount of all rent, including any amounts treated as additional rent under this Lease and other sums reserved in this Lease for the remaining Term, together with the costs of repairs, alterations, additions, redecorating and Landlord's expenses of reletting and the collection of the rent accruing therefrom (including reasonable attorney's fees and broker's commissions), as the same shall then be due or become due from time to time, less only such consideration as Landlord may have received from any reletting of the Premises; and Tenant agrees that Landlord may file suits from time to time to recover any sums falling due under this Article 19 as they become due. Any proceeds of reletting by Landlord in excess of the amount then owed by Tenant to Landlord from time to time shall be credited against Tenant's future obligations under this Lease but shall not otherwise be refunded to Tenant or inure to Tenant's benefit.

19.2 Upon the occurrence of an Event of Default, Landlord may (but shall not be obligated to) cure such default at Tenant's sole expense. Without limiting the generality of the foregoing, Landlord may, at Landlord's option, enter into and upon the Premises if Landlord determines in its sole discretion that Tenant is not acting within a commercially reasonable time to maintain, repair or replace anything for which Tenant is responsible under this Lease or to otherwise effect compliance with its obligations under this Lease and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage or interruption of Tenant's business resulting therefrom and Tenant agrees to reimburse Landlord within thirty (30) days of Landlord's demand as additional rent, for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, plus interest from the date of expenditure by Landlord at the Wall Street Journal prime rate.

19.3 Intentionally deleted.

19.4 If, on account of any breach or default by Tenant in Tenant's obligations under the terms and conditions of this Lease, it shall become necessary or appropriate for Landlord to employ or consult with an attorney or collection agency concerning or to enforce or defend any of Landlord's rights or remedies arising under this Lease or to collect any sums due from Tenant, Tenant agrees to pay all reasonable costs and fees so incurred by Landlord, including, without limitation, reasonable attorneys' fees and costs. **TENANT EXPRESSLY WAIVES ANY RIGHT TO: (A) TRIAL BY JURY; AND (B) SERVICE OF ANY NOTICE REQUIRED BY ANY PRESENT OR FUTURE LAW OR ORDINANCE APPLICABLE TO LANDLORDS OR TENANTS BUT NOT REQUIRED BY THE TERMS OF THIS LEASE.**

19.5 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies provided in this Lease or any other remedies provided by law (all such remedies being cumulative), nor shall pursuit of any remedy provided in this Lease constitute a forfeiture or waiver of any rent due to Landlord under this Lease or of any damages accruing to Landlord by reason of the violation of any of the terms, provisions and covenants contained in this Lease.

19.6 No act or thing done by Landlord or its agents during the Term shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or accept a surrender of said Premises shall be valid, unless in writing signed by Landlord. No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants contained in this Lease shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants contained in this Lease. Landlord's acceptance of the payment of rental or other payments after the occurrence of an Event of Default shall not be construed as a waiver of such Default, unless Landlord so notifies Tenant in writing. Forbearance by Landlord in enforcing one or more of the remedies provided in this Lease upon an Event of Default shall not be deemed or construed to constitute a waiver of such Default or of Landlord's right to enforce any such remedies with respect to such Default or any subsequent Default.

19.7 Intentionally deleted.

19.8 Any and all property which may be removed from the Premises by Landlord pursuant to the authority of this Lease or of law, to which Tenant is or may be entitled, may be handled, removed and/or stored, as the case may be, by or at the direction of Landlord but at the risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as by a bill of sale without further payment or credit by Landlord to Tenant.

## **20. TENANT'S BANKRUPTCY OR INSOLVENCY.**

20.1 If at any time and for so long as Tenant shall be subjected to the provisions of the United States Bankruptcy Code or other law of the United States or any state thereof for the protection of debtors as in effect at such time (each a "Debtor's Law"):

20.1.1 Tenant, Tenant as debtor-in-possession, and any trustee or receiver of Tenant's assets (each a "Tenant's Representative") shall have no greater right to assume or assign this Lease or any interest in this Lease, or to sublease any of the Premises than accorded to Tenant in Article 9, except to the extent Landlord shall be required to permit such assumption, assignment or sublease by the provisions of such Debtor's Law. Without limitation of the generality of the foregoing, any right of any Tenant's Representative to assume or assign this Lease or to sublease any of the Premises shall be subject to the conditions that:

20.1.1.1 Such Debtor's Law shall provide to Tenant's Representative a right of assumption of this Lease which Tenant's Representative shall have timely exercised and Tenant's Representative shall have fully cured any default of Tenant under this Lease.

20.1.1.2 Tenant's Representative or the proposed assignee, as the case shall be, shall have deposited with Landlord as security for the timely payment of rent an amount equal to the larger of: (a) three (3) months' rent and other monetary charges accruing under this Lease; and (b) any sum specified in Article 4.1; and shall have provided Landlord with adequate other assurance of the future performance of the obligations of the Tenant under this Lease. Without limitation, such assurances shall include, at least, in the case of assumption of this Lease, demonstration to the satisfaction of the Landlord that Tenant's Representative has and will continue to have sufficient unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that Tenant's Representative will have sufficient funds to fulfill the obligations of Tenant under this Lease; and, in the case of assignment, submission of current financial statements of the proposed assignee, audited by an independent certified public accountant reasonably acceptable to Landlord and showing a net worth and working capital in amounts determined by Landlord to be sufficient to assure the future performance by such assignee of all of the Tenant's obligations under this Lease.

20.1.1.3 The assumption or any contemplated assignment of this Lease or subleasing any part of the Premises, as shall be the case, will not breach any provision in any other lease, mortgage, financing agreement or other agreement by which Landlord is bound.

20.1.1.4 Landlord shall have, or would have had absent the Debtor's Law, no right under Article 9 to refuse consent to the proposed assignment or sublease by reason of the identity or nature of the proposed assignee or sublessee or the proposed use of the Premises concerned.

**21. QUIET ENJOYMENT.** Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises for the Term without hindrance or molestation from Landlord subject to the terms and provisions of this Lease. Landlord shall not be liable for any interference or disturbance by other tenants or third persons, nor shall Tenant be released from any of the obligations of this Lease because of such interference or disturbance. Landlord agrees to use commercially reasonable efforts to enforce the provisions of the leases of the other tenants of the building prohibiting such interference or disturbance.

## **22. CASUALTY**

22.1 In the event the Premises or the Building are damaged by fire or other cause and in Landlord's reasonable estimation such damage can be materially restored within one hundred eighty (180) days, Landlord shall forthwith repair the same and this Lease shall remain in full force and effect, except that Tenant shall be entitled to a proportionate abatement in rent from the date of such damage. Such abatement of rent shall be made pro rata in accordance with the extent to which the damage and the making of such repairs shall interfere with the use and occupancy by Tenant of the Premises from time to time. Within forty-five (45) days from the date of such damage, Landlord shall notify Tenant, in writing, of Landlord's reasonable estimation of the length of time within which material restoration can be made, and Landlord's determination shall be binding on Tenant. For purposes of this Lease, the Building or Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was being used immediately before such damage.

22.2 If such repairs cannot, in Landlord's reasonable estimation, be made within one hundred eighty (180) days, Landlord and Tenant shall each have the option of giving the other, at any time within ninety (90) days after such damage, notice terminating this Lease as of the date of such damage. In the event of the giving of such notice, this Lease shall expire and all interest of the Tenant in the Premises shall terminate as of the date of such damage as if such date had been originally fixed in this Lease for the expiration of the Term. In the event that neither Landlord nor Tenant exercises its option to terminate this Lease, then Landlord shall repair or restore such damage, this Lease continuing in full force and effect, and the rent hereunder shall be proportionately abated as provided in Section 22.1.

22.3 Landlord shall not be required to repair or replace any damage or loss by or from fire or other cause to any panelings, decorations, partitions, additions, railings, ceilings, floor coverings, office fixtures or any other property or improvements installed on the Premises by, or belonging to, Tenant. Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.

22.4 In the event that Landlord should fail to complete such repairs and material restoration within sixty (60) days after the date estimated by Landlord therefor as extended by this Section 22.4, Tenant may at its option and as its sole remedy terminate this Lease by delivering written notice to Landlord, within fifteen (15) days after the expiration of said period of time, whereupon the Lease shall end on the date of such notice or such later date fixed in such notice as if the date of such notice was the date originally fixed in this Lease for the expiration of the Term; provided, however, that if construction is delayed because of changes, deletions or additions in construction requested by Tenant, strikes, lockouts, casualties, Acts of God, war, material or labor shortages, government regulation or control or other causes beyond the reasonable control of Landlord, the period for restoration, repair or rebuilding shall be extended for the amount of time Landlord is so delayed.

22.5 Notwithstanding anything to the contrary contained in this Article: (a) Landlord shall not have any obligation whatsoever to repair, reconstruct, or restore the Premises when the damages resulting from any casualty covered by the provisions of this Article 22 occur during the last twelve (12) months of the Term or any extension thereof, but if Landlord determines not to repair such damages Landlord shall notify Tenant and if such damages shall render any material portion of the Premises untenable Tenant shall have the right to terminate this Lease by notice to Landlord within fifteen (15) days after receipt of Landlord's notice; and (b) in the event the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises or Building requires that any insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) days after such requirement is made by any such holder, whereupon this Lease shall end on the date of such damage as if the date of such damage were the date originally fixed in this Lease for the expiration of the Term.

22.6 In the event of any damage or destruction to the Building or Premises by any peril covered by the provisions of this Article 22, it shall be Tenant's responsibility to properly secure the Premises and upon notice from Landlord to remove forthwith, at its sole cost and expense, such portion of all of the property belonging to Tenant or its licensees from such portion or all of the Building or Premises as Landlord shall request.

**23. EMINENT DOMAIN.** If all or any substantial part of the Premises shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain, or conveyance in lieu of such appropriation, either party to this Lease shall have the right, at its option, of giving the other, at any time within thirty (30) days after such taking, notice terminating this Lease, except that Tenant may only terminate this Lease by reason of taking or appropriation, if such taking or appropriation shall be so substantial as to materially interfere with Tenant's use and occupancy of the Premises. If neither party to this Lease shall so elect to terminate this Lease, the rental thereafter to be paid shall be adjusted on a fair and equitable basis under the circumstances. In addition to the rights of Landlord above, if any substantial part of the Building shall be taken or appropriated by any public or quasi-public authority under the power of eminent domain or conveyance in lieu thereof, and regardless of whether the Premises or any part thereof are so taken or appropriated, Landlord shall have the right, at its sole option, to terminate this Lease. Landlord shall be entitled to any and all income, rent, award, or any interest whatsoever in or upon any such sum, which may be paid or made in connection with any such public or quasi-public use or purpose, and Tenant hereby assigns to Landlord any interest it may have in or claim to all or any part of such sums, other than any separate award which may be made with respect to Tenant's trade fixtures and moving expenses; Tenant shall make no claim for the value of any unexpired Term.

**24. SALE BY LANDLORD.** In event of a sale or conveyance by Landlord of the Building, the same shall operate to release Landlord from any future liability upon any of the covenants or conditions, expressed or implied, contained in this Lease in favor of Tenant, and in such event Tenant agrees to look solely to the responsibility of the successor in interest of Landlord in and to this Lease. Except as set forth in this Article 24, this Lease shall not be affected by any such sale and Tenant agrees to attorn to the purchaser or assignee. If any security has been given by Tenant to secure the faithful performance of any of the covenants of this Lease, Landlord shall transfer or deliver said security, as such, to Landlord's successor in interest and thereupon Landlord shall be discharged from any further liability with regard to said security.

**25. ESTOPPEL CERTIFICATES.** Within ten (10) days following any written request which Landlord may make from time to time, Tenant shall execute and deliver to Landlord or mortgagee or prospective mortgagee a sworn statement certifying: (a) the date of commencement of this Lease; (b) the fact that this Lease is unmodified and in full force and effect (or, if there have been modifications to this Lease, that this lease is in full force and effect, as modified, and stating the date and nature of such modifications); (c) the date to which the rent and other sums payable under this Lease have been paid; (d) the fact that there are no current defaults under this Lease by either Landlord or Tenant except as specified in Tenant's statement; and (e) such other matters as may be reasonably requested by Landlord. Landlord and Tenant intend that any statement delivered pursuant to this Article 25 may be relied upon by any mortgagee, beneficiary or purchaser, and Tenant shall be liable for all loss, cost or expense resulting from the failure of any sale or funding of any loan caused by any material misstatement contained in such estoppel certificate.

**26. SURRENDER OF PREMISES.**

26.1 Tenant shall arrange to meet Landlord for two (2) joint inspections of the Premises, the first to occur at least thirty (30) days (but no more than sixty (60) days) before the last day of the Term, and the second to occur not later than forty-eight (48) hours after Tenant has vacated the Premises. In the event of Tenant's failure to arrange such joint inspections and/or participate in either such inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be conclusively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

26.2 All alterations, additions, and improvements in, on, or to the Premises made or installed by or for Tenant, including, without limitation, carpeting (collectively, "Alterations"), shall be and remain the property of Tenant during the Term. Upon the expiration or sooner termination of the Term, all Alterations shall become a part of the realty and shall belong to Landlord without compensation, and title shall pass to Landlord under this Lease as by a bill of sale. At the end of the Term or any renewal of the Term or other sooner termination of this Lease, Tenant will peaceably deliver up to Landlord possession of the Premises, together with all Alterations by whomsoever made, in the same conditions received or first installed, broom clean and free of all debris, excepting only ordinary wear and tear and damage by fire or other casualty. Notwithstanding the foregoing, if Landlord elects by notice given to Tenant at the time Landlord gives its approval prior to the construction or installation of said Alterations, Tenant shall, at Tenant's sole cost, remove said Alterations, so designated by Landlord's notice at the time of Landlord's approval of said Alterations, and repair any damage caused by such removal. Tenant must, at Tenant's sole cost, remove upon termination of this Lease, any and all of Tenant's furniture, furnishings, equipment, movable partitions of less than full height from floor to ceiling and other trade fixtures and personal property, as well as all data/telecommunications cabling and wiring installed by or on behalf of Tenant, whether inside walls, under any raised floor or above any ceiling (collectively, "Personalty"). Personalty not so removed shall be deemed abandoned by the Tenant and title to the same shall thereupon pass to Landlord under this Lease as by a bill of sale, but Tenant shall remain responsible for the cost of removal and disposal of such Personalty, as well as any damage caused by such removal. In lieu of requiring Tenant to remove Alterations and Personalty and repair the Premises as aforesaid, Landlord may, by written notice to Tenant delivered at least thirty (30) days before the Termination Date, require Tenant to pay to Landlord, as additional rent hereunder, the cost of such removal and repair in an amount reasonably estimated by Landlord.

26.3 All obligations of Tenant under this Lease not fully performed as of the expiration or earlier termination of the Term shall survive the expiration or earlier termination of the Term. Upon the expiration or earlier termination of the Term, Tenant shall pay to Landlord the amount, as estimated by Landlord, necessary to repair and restore the Premises as provided in this Lease and/or to discharge Tenant's obligation for unpaid amounts due or to become due to Landlord. All such amounts shall be used and held by Landlord for payment of such obligations of Tenant, with Tenant being liable for any additional costs upon demand by Landlord, or with any excess to be returned to Tenant after all such obligations have been determined and satisfied, but in no event later than sixty (60) days after the end of the Term. Any otherwise unused Security Deposit shall be credited against the amount payable by Tenant under this Lease.

**27. NOTICES.** Any notice or document required or permitted to be delivered under this Lease shall be addressed to the intended recipient, by fully prepaid registered or certified United States Mail return receipt requested, or by reputable independent contract delivery service furnishing a written record of attempted or actual delivery, and shall be deemed to be delivered when tendered for delivery to the addressee at its address set forth on the Reference Pages, or at such other address as it has then last specified by written notice delivered in accordance with this Article 27, or if to Tenant, the address set forth in the Reference Pages of this Lease and, if to Tenant with a copy to Jonathan M. Sachs, Esq., Adler, Pollock & Sheehan, P.C., 175 Federal Street, 10th Floor, Boston, Massachusetts 02110. Any such notice or document may also be personally delivered if a receipt is signed by and received from, the individual, if any, named in Tenant's Notice Address.

**28. TAXES PAYABLE BY TENANT.** In addition to rent and other charges to be paid by Tenant under this Lease, Tenant shall reimburse to Landlord, upon demand, any and all taxes payable by Landlord (other than net income taxes) whether or not now customary or within the contemplation of the parties to this Lease: (a) upon, allocable to, or measured by or on the gross or net rent payable under this Lease, including without limitation any gross income tax or excise tax levied by the State, any political subdivision thereof, or the Federal Government with respect to the receipt of such rent; (b) upon or with respect to the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of the Premises or any portion thereof, including any sales, use or service tax imposed as a result thereof; (c) upon or measured by the Tenant's gross receipts or payroll or the value of Tenant's equipment, furniture, fixtures and other personal property of Tenant or leasehold improvements, alterations or additions located in the Premises; or (d) upon this transaction or any document to which Tenant is a party creating or transferring any interest of Tenant in this Lease or the Premises. In addition to the foregoing, Tenant agrees to pay, before delinquency, any and all taxes levied or assessed against Tenant and which become payable during the term hereof upon Tenant's equipment, furniture, fixtures and other personal property of Tenant located in the Premises.

**29. INTENTIONALLY DELETED.**

**30. DEFINED TERMS AND HEADINGS.** The Article headings shown in this Lease are for convenience of reference and shall in no way define, increase, limit or describe the scope or intent of any provision of this Lease. Any indemnification or insurance of Landlord shall apply to and inure to the benefit of all the following "Landlord Entities", being Landlord, Landlord's investment manager, and the trustees, boards of directors, officers, general partners, beneficiaries, stockholders, employees and agents of each of them. Any option granted to Landlord shall also include or be exercisable by Landlord's trustee, beneficiary, agents and employees, as the case may be. In any case where this Lease is signed by more than one person, the obligations under this Lease shall be joint and several. The terms "Tenant" and "Landlord" or any pronoun used in place thereof shall indicate and include the masculine or feminine, the singular or plural number, individuals, firms or corporations, and their and each of their respective successors, executors, administrators and permitted assigns, according to the context hereof. The term "rentable area" shall mean the rentable area of the Premises or the Building as calculated by the Landlord on the basis of the plans and specifications of the Building including a proportionate share of any common areas. Tenant hereby accepts and agrees to be bound by the figures for the rentable space footage of the Premises and Tenant's Proportionate Share shown on the Reference Pages; however, Landlord may adjust either or both figures if there is manifest error, addition or subtraction to the Building or any business park or complex of which the Building is a part, remeasurement or other circumstance reasonably justifying adjustment. The term "Building" refers to the structure in which the Premises are located and the common areas (parking lots, sidewalks, landscaping, etc.) appurtenant thereto. If the Building is part of a larger complex of structures, the term "Building" may include the entire complex, where appropriate (such as shared Expenses, Insurance Costs or Taxes) and subject to Landlord's reasonable discretion.

**31. TENANT'S AUTHORITY.** If Tenant signs as a corporation, partnership, trust or other legal entity each of the persons executing this Lease on behalf of Tenant represents and warrants that Tenant has been and is qualified to do business in the state in which the Building is located, that the entity has full right and authority to enter into this Lease, and that all persons signing on behalf of the entity were authorized to do so by appropriate actions. Tenant agrees to deliver to Landlord, simultaneously with the delivery of this Lease, a corporate resolution, proof of due authorization by partners, opinion of counsel or other appropriate documentation reasonably acceptable to Landlord evidencing the due authorization of Tenant to enter into this Lease.

Tenant hereby represents and warrants that neither Tenant, nor any persons or entities holding any legal or beneficial interest whatsoever in Tenant, are (i) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"); (ii) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56, Executive Order 13224 (September 23, 2001) or any Executive Order of the President issued pursuant to such statutes; or (iii) named on the following list that is published by OFAC: "List of Specially Designated Nationals and Blocked Persons." If the foregoing representation is untrue at any time during the Term, an Event of Default will be deemed to have occurred, without the necessity of notice to Tenant.

**32. FINANCIAL STATEMENTS AND CREDIT REPORTS.** At Landlord's request and if not then a publicly traded company, not more than once per calendar year, Tenant shall deliver to Landlord a copy, certified by an officer of Tenant as being a true and correct copy, of Tenant's most recent audited financial statement, or, if unaudited, certified by Tenant's chief financial officer as being true, complete and correct in all material respects. Tenant hereby authorizes Landlord to obtain one or more credit reports on Tenant at any time, and shall execute such further authorizations as Landlord may reasonably require in order to obtain a credit report.

**33. COMMISSIONS.** Each of the parties represents and warrants to the other that it has not dealt with any broker or finder in connection with this Lease, except as described on the Reference Pages.

**34. TIME AND APPLICABLE LAW.** Time is of the essence of this Lease and all of its provisions. This Lease shall in all respects be governed by the laws of the state in which the Building is located.

**35. SUCCESSORS AND ASSIGNS.** Subject to the provisions of Article 9, the terms, covenants and conditions contained in this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators and assigns of the parties to this Lease.

**36. ENTIRE AGREEMENT.** This Lease, together with its exhibits, contains all agreements of the parties to this Lease and supersedes any previous negotiations. There have been no representations made by the Landlord or any of its representatives or understandings made between the parties other than those set forth in this Lease and its exhibits. This Lease may not be modified except by a written instrument duly executed by the parties to this Lease.

**37. EXAMINATION NOT OPTION.** Submission of this Lease shall not be deemed to be a reservation of the Premises. Landlord shall not be bound by this Lease until it has received a copy of this Lease duly executed by Tenant and has delivered to Tenant a copy of this Lease duly executed by Landlord, and until such delivery Landlord reserves the right to exhibit and lease the Premises to other prospective tenants. Notwithstanding anything contained in this Lease to the contrary, Landlord may withhold delivery of possession of the Premises from Tenant until such time as Tenant has paid to Landlord any security deposit required by Article 4.1, the first month's rent as set forth in Article 3 and any sum owed pursuant to this Lease.

**38. RECORDATION.** Neither party shall record or register this Lease or a short form memorandum thereof.

**39. PARKING.**

39.1 During the initial Term of this Lease, Tenant agrees to lease from Landlord and Landlord agrees to lease to Tenant, the number and type of parking passes as set forth on the Reference Page of this Lease. Tenant shall have the right to lease from Landlord up to five (5) additional spaces in the Building's parking garage at the then current market rates on an as-available, tenant-at-will basis. This right to park in the Building's parking facilities (the "Parking Facility") shall be on an unreserved, nonexclusive, first come, first served basis, for passenger-size automobiles and is subject to the following terms and conditions:

39.1.1 Tenant shall pay to Landlord, or Landlord's designated parking operator, the Building's prevailing monthly parking charges, without deduction or offset, on the first day of each month during the Term of this Lease. The initial charges are specified on the Reference Page. Landlord will notify Tenant upon not less than thirty (30) days' notice of any increases in the monthly parking charges prior to billing Tenant any increases. No deductions from the monthly charge shall be made for days on which the Parking Facility is not used by Tenant.

39.1.2 Tenant shall at all times abide by and shall cause each of Tenant's employees, agents, customers, visitors, invitees, licensees, contractors, assignees and subtenants (collectively, "Tenant's Parties") to abide by any rules and regulations ("Rules") for use of the Parking Facility that Landlord or Landlord's garage operator reasonably establishes from time to time, and otherwise agrees to use the Parking Facility in a safe and lawful manner. Landlord reserves the right to adopt, modify and enforce the Rules governing the use of the Parking Facility from time to time including any key-card, sticker or other identification or entrance system and hours of operation. Landlord may refuse to permit any person who violates such Rules to park in the Parking Facility, and any violation of the Rules shall subject the car to removal from the Parking Facility.

39.1.3 Unless specified to the contrary above, the parking spaces hereunder shall be provided on a non-designated "first-come, first-served" basis. Landlord reserves the right to assign specific spaces, and to reserve spaces for visitors, small cars, disabled persons or for other tenants or guests, and Tenant shall not park and shall not allow Tenant's Parties to park in any such assigned or reserved spaces. Tenant may validate visitor parking by such method as Landlord may approve, at the validation rate from time to time generally applicable to visitor parking. Tenant acknowledges that the Parking Facility may be closed entirely or in part in order to make repairs or perform maintenance services, or to alter, modify, re-stripe or renovate the Parking Facility, or if required by casualty, strike, condemnation, act of God, governmental law or requirement or other reason beyond the operator's reasonable control.

39.1.4 Tenant acknowledges that to the fullest extent permitted by law, Landlord shall have no liability for any damage to property or other items located in the parking areas of the Project (including without limitation, any loss or damage to tenant's automobile or the contents thereof due to theft, vandalism or accident), nor for any personal injuries or death arising out of the use of the Parking Facility by Tenant or any Tenant's Parties, whether or not such loss or damage results from Landlord's active negligence or negligent omission. The limitation on Landlord's liability under the preceding sentence shall not apply however to loss or damage arising directly from Landlord's willful misconduct. Without limiting the foregoing, if Landlord arranges for the parking areas to be operated by an independent contractor not affiliated with Landlord, Tenant acknowledges that Landlord shall have no liability for claims arising through acts or omissions of such independent contractor. Tenant and Tenant's Parties each hereby voluntarily releases, discharges, waives and relinquishes any and all actions or causes of action for personal injury or property damage occurring to Tenant or any of Tenant's Parties arising as a result of parking in the Parking Facility, or any activities incidental thereto, wherever or however the same may occur, and further agrees that Tenant will not prosecute any claim for personal injury or property damage against Landlord or any of its officers, agents, servants or employees for any said causes of action and in all events, Tenant agrees to look first to its insurance carrier and to require that Tenant's Parties look first to their respective insurance carriers for payment of any losses sustained in connection with any use of the Parking Facility. Tenant hereby waives on behalf of its insurance carriers all rights of subrogation against Landlord or Landlord's agents.

39.1.5 Tenant's right to park as described in this Article and this Lease is exclusive to Tenant and shall not pass to any assignee or sublessee without the express written consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned.

39.1.6 In the event any surcharge or regulatory fee is at any time imposed by any governmental authority with reference to parking, Tenant shall (commencing after two (2) weeks' notice to Tenant) pay, per parking pass, such surcharge or regulatory fee to Landlord in advance on the first day of each calendar month concurrently with the month installment of rent due under this Lease. Landlord will enforce any surcharge or fee in an equitable manner amongst the Building tenants.

39.2 If Tenant violates any of the terms and conditions of this Article, the operator of the Parking Facility shall have the right to remove from the Parking Facility any vehicles hereunder which shall have been involved or shall have been owned or driven by parties involved in causing such violation, without liability therefore whatsoever. In addition, Landlord shall have the right to cancel Tenant's right to use the Parking Facility pursuant to this Article upon thirty (30) days' written notice, unless within such thirty (30) day period, Tenant cures such default. Such cancellation right shall be cumulative and in addition to any other rights or remedies available to Landlord at law or equity, or provided under this Lease.

**40. RENEWAL OPTION.** Tenant shall, provided the Lease is in full force and effect and there is no uncured Event of Default under any of the other terms and conditions of the Lease at the time of notification or commencement, have one (1) successive option to renew this Lease for a term of three (3) years each, for the portion of the Premises being leased by Tenant as of the date the renewal term is to commence, on the same terms and conditions set forth in the Lease, except as modified by the terms, covenants and conditions as set forth below:

40.1 If Tenant elects to exercise said option, then Tenant shall provide Landlord with written notice no earlier than the date which is twelve (12) months prior to the expiration of the then current term of the Lease but no later than the date which is nine (9) months prior to the expiration of the then current term of this Lease. If Tenant fails to provide such notice, Tenant shall have no further or additional right to extend or renew the term of the Lease.

40.2 The Annual Rent and Monthly Installment in effect at the expiration of the then current term of the Lease shall be adjusted to reflect 95% of the current fair market rental for comparable space in the Building and in other similar buildings in the same rental market as of the date the renewal term is to commence, taking into account the specific provisions of the Lease which will remain constant. Landlord shall advise Tenant of the new Annual Rent and Monthly Installment for the Premises no later than thirty (30) days after receipt of Tenant's written request therefor. Said request shall be made no earlier than thirty (30) days prior to the first date on which Tenant may exercise its option under this Paragraph. Said notification of the new Annual Rent may include a provision for its escalation to provide for a change in fair market rental between the time of notification and the commencement of the renewal term. If Tenant and Landlord are unable to agree on a mutually acceptable rental rate not later than sixty (60) days prior to the expiration of the then current term, then Landlord and Tenant shall each appoint a qualified MAI appraiser doing business in the area, in turn those two independent MAI appraisers shall appoint a third MAI appraiser and the majority shall decide upon the fair market rental for the Premises as of the expiration of the then current term. Landlord and Tenant shall equally share in the expense of this appraisal.

40.3 This option is not transferable, except to an Affiliate; the parties hereto acknowledge and agree that they intend that the aforesaid option to renew this Lease shall be "personal" to Tenant as set forth above and that in no event will any assignee or sublessee, except an Affiliate, have any rights to exercise the aforesaid option to renew.

**41. LIMITATION OF LANDLORD'S LIABILITY.** Redress for any claim against Landlord under this Lease shall be limited to and enforceable only against and to the extent of Landlord's interest in the Building. The obligations of Landlord under this Lease are not intended to be and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its or its investment manager's trustees, directors, officers, partners, beneficiaries, members, stockholders, employees, or agents, and in no case shall Landlord be liable to Tenant hereunder for any lost profits, damage to business, or any form of special, indirect or consequential damages.

**LANDLORD:**

**RREEF AMERICA REIT II CORP. PPP**, a Maryland corporation

By: RREEF Management Company, a Delaware corporation, Authorized Agent

By: /s/ Robert Seaman

Name: Robert Seaman

Title: Vice President - District Manager

Dated: June 9, 2009

**TENANT:**

**ORE PHARMACEUTICALS INC.**, a Delaware corporation

By: /s/ Mark J. Gabrielson

Name: Mark J. Gabrielson

Title: CEO

Dated: June 4, 2009

**EXHIBIT A – FLOOR PLAN DEPICTING THE PREMISES**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

Exhibits A and A-1 are intended only to show the general layout of the Premises and the Building as of the beginning of the Term of this Lease. They does not in any way supersede any of Landlord's rights set forth in Article 17 with respect to arrangements and/or locations of public parts of the Building and changes in such arrangements and/or locations. They are not to be scaled; any measurements or distances shown should be taken as approximate.

(See hatched area on plan attached to Exhibit B)

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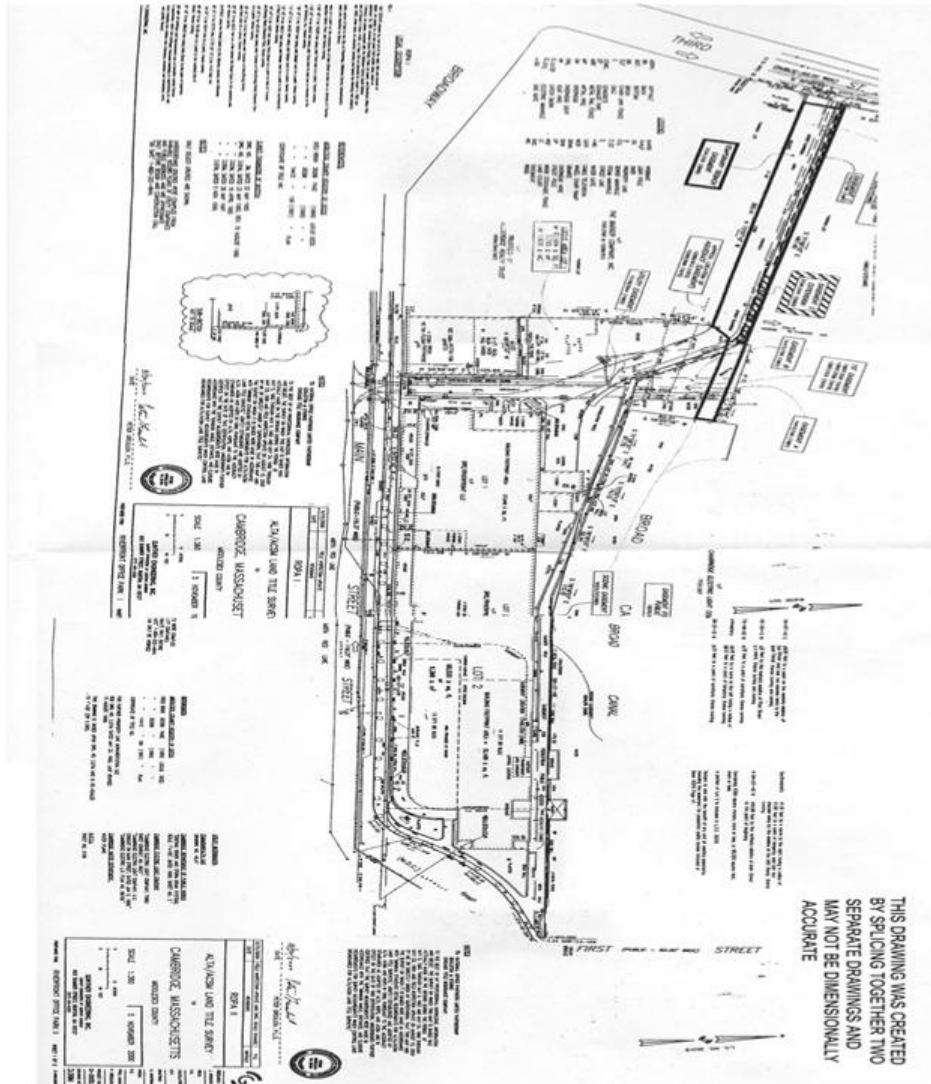
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EXHIBIT A-1 - SITE PLAN

attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant

Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142



Initials

**EXHIBIT A-2 – LEGAL DESCRIPTION OF THE LOT**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

A certain parcel of land in the City of Cambridge, Middlesex County, Massachusetts, bounded and described as follows:

SOUTHWESTERLY	at the intersection of Main Street and First Street, by four lines measuring 44.72 feet, 129.49 feet, 24.15 feet, and 41.16 feet, respectively;
SOUTHERLY	by Main Street by a line measuring 404.86 feet;
WESTERLY	by Lot 1, by a line measuring 154.28 feet; and
NORTHERLY	by the Broad Canal, 594.60 feet.

Said parcel is shown as Lot 2 on a "Subdivision Plan of Land in Cambridge, Mass. (Middlesex County)", dated April 24, 1981, and revised September 4, 1981, drawn by Boston Survey Consultants, and prepared for Darvel Realty Trust, recorded with Middlesex Southern District Registry of Deeds in Book 14412, Page 199.

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**EXHIBIT B – INITIAL ALTERATIONS**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

Landlord will deliver the Premises to Tenant in accordance with the attached plan and improvements as listed below. Landlord shall have no obligation to perform or construct any other improvements or alterations, nor to provide any allowance or reimbursement, other than as provided in this Lease, for any alterations or improvements.

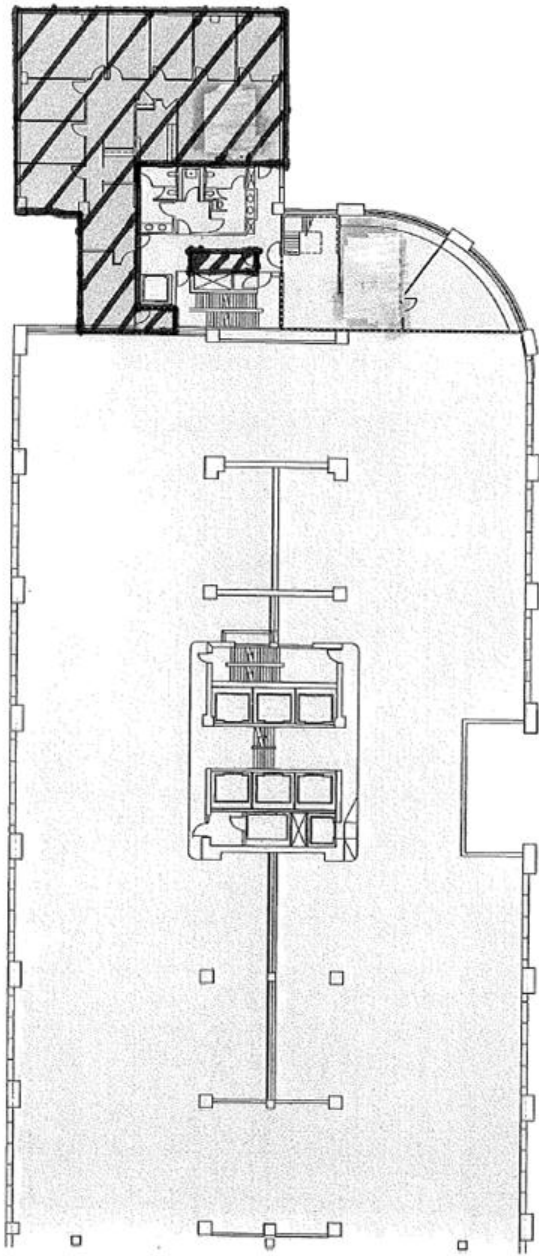
Landlord shall provide the following improvements utilizing Building standard materials and finishes:

1. Paint and install new carpet throughout the Premises with materials and finishes chosen by Tenant from Landlord's Building standard selection.
2. Install a glass wall in the existing conference room facing the reception area.
3. Install a sink and dishwasher in the existing dry kitchenette area.

(see hatched area on attached plan)

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Initials



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**EXHIBIT C – COMMENCEMENT DATE MEMORANDUM**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

**COMMENCEMENT DATE MEMORANDUM**

THIS MEMORANDUM, made as of \_\_\_\_\_, 2009, by and between **RREEF AMERICA REIT II CORP. PPP**, a Maryland corporation (“Landlord”) and **ORE PHARMACEUTICALS INC.**, a Delaware corporation (“Tenant”).

Recitals:

- A. Landlord and Tenant are parties to that certain Lease, dated for reference May 14, 2009 (the “Lease”) for certain premises (the “Premises”) consisting of approximately 4,077 square feet at the building commonly known as One Main Street, Cambridge, Massachusetts.
- B. Tenant is in possession of the Premises and the Term of the Lease has commenced.
- C. Landlord and Tenant desire to enter into this Memorandum confirming the Commencement Date, the Termination Date and other matters under the Lease.

NOW, THEREFORE, Landlord and Tenant agree as follows:

- 1. The actual Commencement Date is \_\_\_\_\_.
- 2. The actual Termination Date is \_\_\_\_\_.
- 3. The schedule of the Annual Rent and the Monthly Installment of Rent set forth on the Reference Pages is deleted in its entirety, and the following is substituted therefor:

*[insert rent schedule]*

- 4. Capitalized terms not defined herein shall have the same meaning as set forth in the Lease.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

**LANDLORD:**

**RREEF AMERICA REIT II CORP. PPP**, a Maryland corporation

By: RREEF Management Company, a Delaware corporation, Authorized Agent

By: **SAMPLE – DO NOT EXECUTE**

Name: Robert Seaman

Title: Vice President - District Manager

Dated: , 2009

**TENANT:**

**ORE PHARMACEUTICALS INC.**, a Delaware corporation

By: **SAMPLE – DO NOT EXECUTE**

Name:

Title:

Dated: , 2009

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**EXHIBIT D – RULES AND REGULATIONS**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

1. No sign, placard, picture, advertisement, name or notice shall be installed or displayed on any part of the outside or inside of the Building without the prior written consent of the Landlord. Landlord shall have the right to remove, at Tenant's expense and without notice, any sign installed or displayed in violation of this rule. All approved signs or lettering on doors and walls shall be printed, painted, affixed or inscribed at Tenant's expense by a vendor designated or approved by Landlord. In addition, Landlord reserves the right to change from time to time the format of the signs or lettering and to require previously approved signs or lettering to be appropriately altered. Landlord shall provide Tenant with Building standard directory signage on the lobby and third floor with the initial cost thereof borne by Landlord.
2. If Landlord objects in writing to any curtains, blinds, shades or screens attached to or hung in or used in connection with any window or door of the Premises, Tenant shall immediately discontinue such use. No awning shall be permitted on any part of the Premises. Tenant shall not place anything or allow anything to be placed against or near any glass partitions or doors or windows which may appear unsightly, in the opinion of Landlord, from outside the Premises.
3. Tenant shall not obstruct any sidewalks, halls, passages, exits, entrances, elevators, or stairways of the Building. No tenant and no employee or invitee of any tenant shall go upon the roof of the Building.
4. Any directory of the Building, if provided, will be exclusively for the display of the name and location of tenants only and Landlord reserves the right to exclude any other names. Except for the initial listing, Landlord reserves the right to charge for changes to Tenant's directory listing at Landlord's actual cost.
5. All cleaning and janitorial services for the Building and the Premises shall be provided exclusively through Landlord. Tenant shall not cause any unnecessary labor by carelessness or indifference to the good order and cleanliness of the Premises. Landlord shall not in any way be responsible to any Tenant for any loss of property on the Premises, however occurring, or for any damage to any Tenant's property by the janitor or any other employee or any other person.
6. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed. No foreign substance of any kind whatsoever shall be thrown into any of them, and the expense of any breakage, stoppage or damage resulting from the violation of this rule shall be borne by the Tenant who, or whose employees or invitees, shall have caused it.
7. Tenant shall store all its trash and garbage within its Premises. Tenant shall not place in any trash box or receptacle any material which cannot be disposed of in the ordinary and customary manner of trash and garbage disposal. All garbage and refuse disposal shall be made in accordance with directions issued from time to time by Landlord. Tenant will comply with any and all recycling procedures designated by Landlord.
8. Landlord will furnish Tenant two (2) keys free of charge to each door in the Premises that has a passage way lock. Landlord may charge Tenant a reasonable amount for any additional keys, and Tenant shall not make or have made additional keys on its own. Tenant shall not alter any lock or install a new or additional lock or bolt on any door of its Premises. Tenant, upon the termination of its tenancy, shall deliver to Landlord the keys of all doors which have been furnished to Tenant, and in the event of loss of any keys so furnished, shall pay Landlord therefor.

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9. If Tenant requires telephone, data, burglar alarm or similar service, the cost of purchasing, installing and maintaining such service shall be borne solely by Tenant. No boring or cutting for wires will be allowed without the prior written consent of Landlord.
10. No equipment, materials, furniture, packages, bulk supplies, merchandise or other property will be received in the Building or carried in the elevators except between such hours and in such elevators as may be designated by Landlord. The persons employed to move such equipment or materials in or out of the Building must be acceptable to Landlord.
11. Tenant shall not place a load upon any floor which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Heavy objects shall stand on such platforms as determined by Landlord to be necessary to properly distribute the weight. Business machines and mechanical equipment belonging to Tenant which cause noise or vibration that may be transmitted to the structure of the Building or to any space in the Building to such a degree as to be objectionable to Landlord or to any tenants shall be placed and maintained by Tenant, at Tenant's expense, on vibration eliminators or other devices sufficient to eliminate the noise or vibration. Landlord will not be responsible for loss of or damage to any such equipment or other property from any cause, and all damage done to the Building by maintaining or moving such equipment or other property shall be repaired at the expense of Tenant.
12. Landlord shall in all cases retain the right to control and prevent access to the Building of all persons whose presence in the judgment of Landlord would be prejudicial to the safety, character, reputation or interests of the Building and its tenants, provided that nothing contained in this rule shall be construed to prevent such access to persons with whom any tenant normally deals in the ordinary course of its business, unless such persons are engaged in illegal activities. Landlord reserves the right to exclude from the Building between the hours of 6 p.m. and 7 a.m. the following day, or such other hours as may be established from time to time by Landlord, and on Sundays and legal holidays, any person unless that person is known to the person or employee in charge of the Building and has a pass or is properly identified. Tenant shall be responsible for all persons for whom it requests passes and shall be liable to Landlord for all acts of such persons. Landlord shall not be liable for damages for any error with regard to the admission to or exclusion from the Building of any person.
13. Tenant shall not use any method of heating or air conditioning other than that supplied or approved in writing by Landlord.
14. Tenant shall not waste electricity, water or air conditioning. Tenant shall keep corridor doors closed. Tenant shall close and lock the doors of its Premises and entirely shut off all water faucets or other water apparatus and electricity, gas or air outlets before Tenant and its employees leave the Premises.
15. Tenant shall not install any radio or television antenna, satellite dish, loudspeaker or other device on the roof or exterior walls of the Building without Landlord's prior written consent, which consent may be withheld in Landlord's sole discretion, and which consent may in any event be conditioned upon Tenant's execution of Landlord's standard form of license agreement. Tenant shall be responsible for any interference caused by such installation.
16. Tenant shall not mark, drive nails, screw or drill into the partitions, woodwork, plaster, or drywall (except for pictures, tackboards and similar office uses) or in any way deface the Premises. Tenant shall not cut or bore holes for wires. Tenant shall not affix any floor covering to the floor of the Premises in any manner except as approved by Landlord. Tenant shall repair any damage resulting from noncompliance with this rule.
17. Tenant shall not install, maintain or operate upon the Premises any vending machine without Landlord's prior written consent, except that Tenant may install food and drink vending machines solely for the convenience of its employees.
18. No cooking shall be done or permitted by any tenant on the Premises, except that Underwriters' Laboratory approved microwave ovens or equipment for brewing coffee, tea, hot chocolate and similar beverages shall be permitted provided that such equipment and use is in accordance with all applicable federal, state and city laws, codes, ordinances, rules and regulations.

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19. Tenant shall not use in any space or in the public halls of the Building any hand trucks except those equipped with the rubber tires and side guards or such other material-handling equipment as Landlord may approve. Tenant shall not bring any other vehicles of any kind into the Building.
20. Tenant shall not permit any motor vehicles to be washed or mechanical work or maintenance of motor vehicles to be performed in any parking lot.
21. Tenant shall not use the name of the Building or any photograph or likeness of the Building in connection with or in promoting or advertising Tenant's business, except that Tenant may include the Building name in Tenant's address. Landlord shall have the right, exercisable without notice and without liability to any tenant, to change the name and address of the Building.
22. Tenant requests for services must be submitted to the Building office by an authorized individual. Employees of Landlord shall not perform any work or do anything outside of their regular duties unless under special instruction from Landlord, and no employee of Landlord will admit any person (Tenant or otherwise) to any office without specific instructions from Landlord.
23. Tenant shall not permit smoking or carrying of lighted cigarettes or cigars other than in areas designated by Landlord as smoking areas.
24. Canvassing, soliciting, distribution of handbills or any other written material in the Building is prohibited and each tenant shall cooperate to prevent the same. No tenant shall solicit business from other tenants or permit the sale of any good or merchandise in the Building without the written consent of Landlord.
25. Tenant shall not permit any animals other than service animals, e.g. seeing-eye dogs, to be brought or kept in or about the Premises or any common area of the Building.
26. These Rules and Regulations are in addition to, and shall not be construed to in any way modify or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease of any premises in the Building. Landlord may waive any one or more of these Rules and Regulations for the benefit of any particular tenant or tenants, but no such waiver by Landlord shall be construed as a waiver of such Rules and Regulations in favor of any other tenant or tenants, nor prevent Landlord from thereafter enforcing any such Rules and Regulations against any or all of the tenants of the Building.
27. Landlord reserves the right to make such other and reasonable rules and regulations as in its judgment may from time to time be needed for safety and security, for care and cleanliness of the Building, and for the preservation of good order in and about the Building. Tenant agrees to abide by all such rules and regulations herein stated and any additional reasonable rules and regulations which are adopted. Tenant shall be responsible for the observance of all of the foregoing rules by Tenant's employees, agents, clients, customers, invitees and guests.

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**EXHIBIT E – ELECTRICITY COSTS**

**attached to and made a part of Lease bearing the  
Lease Reference Date of May 14, 2009 between  
RREEF AMERICA REIT II CORP. PPP, as Landlord and  
ORE PHARMACEUTICALS INC., as Tenant**

**Riverfront Office Park, One Main Street, Cambridge, Massachusetts 02142**

**PROCEDURE FOR ALLOCATION OF COSTS OF ELECTRIC POWER USAGE BY TENANTS**

1. Main electric service to the Building will be provided by the local utility company to a single main meter. All charges by the utility will be read from this meter and billed to and paid by Landlord at rates established by the utility company.
2. In order to allocate charges for electric service fairly among tenants in relation to the relative amounts of electricity used by each tenant, additional meters (known as “check meters”) will be installed by Landlord for each tenant to measure all electricity provided for lights and power to that tenant. This shall not, however, include the following, which shall be wired from the main Building service and not through the check meters: stairwell and emergency lights; elevators; heat pumps and HVAC in the Building; exterior lighting; and all main Building mechanical systems (common areas on each floor, including the elevator lobby, corridors, and bathrooms, will have service through the check meters on each floor) (the “Basic Building Electricity”) and which shall be separately metered.
3. Additional check meters may be installed by Landlord where necessary to assure measurement of all electric service to tenant areas (e.g., in the case of separate dedicated circuits to computer rooms, cafeterias, or other special purpose facilities). Ground floor tenant space will be check-metered if it is not separately metered. In addition, further modification to the number and location of check meters may be made by Landlord if required to improve the quality of information obtained thereby.
4. Landlord will cause the check meters to be read monthly by its employees and will perform an analysis of the information for the purpose of determining an equitable allocation of the costs of electric service among the tenants in the Building in relation to the respective amounts of usage of electricity by those tenants.
5. Each tenant’s allocable share (“Tenant’s Allocable Electricity Cost”), shall be determined by Landlord on the following basis:
  - (a) The total kilowatt hour usage for the period under evaluation shall be established for each check meter and also for the Building as a whole by a reading of the main Building meter for that period.
  - (b) The cost of the total amount of electricity supplied for usage by tenants during the period (exclusive of the Base Building Electricity) (herein called “Tenant Electricity”) shall be determined by multiplying the total cost of electricity as invoiced by the utility company for the same period by a fraction, the numerator of which is the total amount of kilowatt hour usage as measured by all of the Tenant Electricity check meters in the Building and the denominator of which is the total amount of kilowatt hour usage for the Building as measured by the main Building electric meter.
  - (c) Tenant’s Allocable Electricity Cost for the period shall be determined by multiplying the total costs of Tenant Electricity by a fraction, the numerator of which is the kilowatt hour usage of Tenant Electricity by said tenant (calculated as the sum of kilowatt hour usage during the period measured by all check meters serving its premises) and the denominator of which is the total kilowatt hour usage of Tenant Electricity for the same period.

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(d) Where part or all of the rentable area on a floor has been occupied by a tenant for less than all of the period for which said Tenant's Allocable Electricity Cost is being calculated, appropriate and equitable modifications shall be made to the allocation formula so that each tenant's allocable share of costs equitably reflects its period of occupancy, provided that in no event shall the total of all costs as allocated to tenants be less than the total cost of Tenant Electricity for said period.

6. All costs of Base Building Electricity to Landlord shall be treated as part of the Expenses of the Building for purposes of determining the allocation of those costs.

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## CERTIFICATIONS

I, Mark J. Gabrielson, certify that:

1. I have reviewed this report on Form 10-Q of Ore Pharmaceuticals 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 second fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2009

By: /s/ Mark J. Gabrielson  
Mark J. Gabrielson  
Chief Executive Officer

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## CERTIFICATIONS

I, Benjamin L. Palleiko, certify that:

1. I have reviewed this report on Form 10-Q of Ore Pharmaceuticals 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 second fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 14, 2009

By: /s/ Benjamin L. Palleiko  
Benjamin L. Palleiko  
Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

Each of the undersigned hereby certifies, in his capacity as an officer of Ore Pharmaceuticals Inc. (the "Company"), for purposes of 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to the best of his knowledge:

- The Quarterly Report of the Company on Form 10-Q for the quarterly period ended June 30, 2009 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- The information contained in such report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date:	August 14, 2009	By:	<u>/s/ Mark J. Gabrielson</u> Mark J. Gabrielson Chief Executive Officer
Date:	August 14, 2009	By:	<u>/s/ Benjamin L. Palleiko</u> Benjamin L. Palleiko Chief Financial Officer