Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington D.C. 20549

Form 10-K

(Mark One)

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

For the fiscal year ended December 31, 2008

OR

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

Commission file number 000-12477

Amgen Inc.

(Exact name of registrant as specified in its charter)

Delaware	**95-3540776**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
One Amgen Center Drive, Thousand Oaks, California	**91320-1799**
(Address of principal executive offices)	(Zip Code)

(805) 447-1000

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(g) of the Act:
Common stock, $0.0001 par value; preferred share purchase rights

(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

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

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

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

Large accelerated filer ☒ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act) Yes ☐ No ☒

The approximate aggregate market value of voting and non-voting stock held by non-affiliates of the registrant was $49,808,027,303 as of June 30, 2008(A)

(A) Excludes 1,077,968 shares of common stock held by directors and officers, and any stockholders whose ownership exceeds five percent of the shares outstanding, at June 30, 2008. Exclusion of shares held by any person should not be construed to indicate that such person possesses the power, directly or indirectly, to direct or cause the direction of the management or policies of the registrant, or that such person is controlled by or under common control with the registrant.

1,033,964,089

(Number of shares of common stock outstanding as of February 13, 2009)

DOCUMENTS INCORPORATED BY REFERENCE

Specified portions of the registrant's Proxy Statement with respect to the 2009 Annual Meeting of stockholders to be held May 6, 2009 are incorporated by reference into Part III of this annual report.

Table of Contents

INDEX

PART I

Item 1. BUSINESS

Overview

Amgen Inc. (including its subsidiaries, referred to as "Amgen," "the Company," "we," "our" and "us") was incorporated in 1980 and is a global biotechnology company organized as a Delaware corporation that discovers, develops, manufactures and markets human therapeutics based on advances in cellular and molecular biology. We operate in one business segment — human therapeutics.

We market human therapeutic products primarily in the areas of supportive cancer care, nephrology and inflammation. Our principal products include Aranesp® (darbepoetin alfa), EPOGEN® (Epoetin alfa), Neulasta® (pegfilgrastim), NEUPOGEN® (Filgrastim) and Enbrel® (etanercept). Aranesp® and EPOGEN® stimulate the production of red blood cells to treat anemia and belong to a class of drugs referred to as erythropoiesis-stimulating agents ("ESAs"). Aranesp® is used for the treatment of anemia both in supportive cancer care and in nephrology. EPOGEN® is used to treat anemia associated with chronic renal failure ("CRF"). Neulasta® and NEUPOGEN® selectively stimulate the production of neutrophils, one type of white blood cell that helps the body fight infections. ENBREL blocks the biologic activity of tumor necrosis factor ("TNF") by inhibiting its binding to TNF receptors, a substance induced in response to inflammatory and immunological responses, such as rheumatoid arthritis ("RA") and psoriasis. For the years ended December 31, 2008, 2007 and 2006, our principal products represented 94%, 95% and 97% of total product sales, respectively.

We operate in a highly regulated industry and various U.S. and foreign regulatory bodies have substantial authority over how we conduct our business in those countries. Government authorities in the United States and in other countries regulate the manufacturing and marketing of our products and our ongoing research and development ("R&D") activities. (See "*Government Regulation.*") For example, prior to obtaining regulatory approval to market a product, we must conduct extensive clinical studies designed to establish the safety and effectiveness of the product candidate for use in humans in the indications sought. Furthermore, in order to maintain regulatory approval to market a product, we may be required to conduct further clinical trials and to provide additional information on safety and effectiveness. The regulatory environment is evolving and there is increased scrutiny on drug safety and increased authority being granted to regulatory bodies, in particular the U.S. Food and Drug Administration ("FDA"), to assist in ensuring the safety of therapeutic products, which may lead to fewer products being approved by the FDA or other regulatory bodies or additional safety-related requirements. Safety signals, trends, adverse events or results from clinical trials, studies or meta-analyses (a meta-analysis is the review of studies using various statistical methods to combine results from previous separate, but related, studies) performed by us or by others (including our licensees or independent investigators) or from the marketed use of our products may expand safety labeling, restrict the use of our approved products or may result in additional regulatory requirements, such as requiring risk management activities, including a risk evaluation and mitigation strategy ("REMS"), and/or additional or more extensive clinical trials as part of postmarketing commitments ("PMCs") or a pharmacovigilance program. (See "*Postmarketing Safety Activities.*")

Most patients receiving our products are covered by either government and/or private payor healthcare programs. The reimbursement environment is evolving with greater emphasis on cost containment and in demonstrating the economic value of products. Therefore, sales of our products are and will continue to be affected by the availability and extent of reimbursement from third-party payors, including government and private insurance plans and administration of those programs. Governments may regulate access to, prices or reimbursement levels of our products to control costs or to affect levels of use of our products and private insurers may be influenced by government reimbursement methodologies. Worldwide use of our products may be affected by these cost containment pressures and cost shifting from governments and private insurers to healthcare providers or patients in response to ongoing initiatives to reduce or reallocate healthcare expenditures. Further, safety signals, trends, adverse events or results from clinical trials, studies or meta-analyses or from the marketed use of our products may negatively impact worldwide reimbursement for our products. (See "*Reimbursement.*")

We maintain sales and marketing forces primarily in the United States, Europe and Canada. We market our products to healthcare providers, including physicians or their clinics, dialysis centers, hospitals and pharmacies. We market ENBREL under a co-promotion agreement with Wyeth in the United States and Canada (see "*Joint Ventures and Business Relationships — Wyeth*"). In addition, we have entered into licensing agreements, which we deem to be necessary or desirable for the use or sale of our products, and/or co-promotion agreements to market our products in certain geographic areas. These agreements generally require us to pay royalties or share profits on product sales. In the United States, we sell primarily to wholesale distributors of pharmaceutical products. Outside the United States, we sell principally to hospitals and/or wholesalers depending upon the distribution practice in each country.

We focus our R&D efforts on novel therapeutics for the treatment of grievous illness in the areas of oncology, inflammation, bone, metabolic disorders and neuroscience. Our research takes a "modality-independent" approach to drug discovery in which we choose the best possible approach to block a specific disease process before considering the type of drug (modality) that may be required to pursue that approach. We study molecules across a range of modalities in the areas of proteins (sometimes referred to as "large molecules"), including monoclonal antibodies and peptibodies, as well as small molecules. We have major R&D centers in several locations throughout the United States and in the United Kingdom, as well as smaller R&D centers in certain other countries throughout the world. To augment our internal R&D efforts, we acquire companies, acquire and license certain product and technology rights and establish R&D collaborations with third parties. These licenses and collaboration agreements generally provide for non-refundable, upfront license fees, R&D and commercial performance milestone payments, cost sharing, royalty payments and/or profit sharing.

Our manufacturing operations consist of bulk manufacturing, formulation, fill and finish activities which produce Aranesp®, Epoetin alfa, Neulasta®, NEUPOGEN®, ENBREL and other marketed products and product candidates for both commercial and clinical purposes. We operate commercial and clinical manufacturing facilities in several locations throughout the United States and in Puerto Rico as well as perform certain finishing activities in the Netherlands. Third-party contractors manufacture some or all of certain of our marketed products and/or product candidates.

The competitive environment among biotechnology, pharmaceutical and other companies that research, develop, manufacture or market biologics and pharmaceuticals is intense and increasing. We compete with these entities in all areas of our business. In addition, certain of these companies may have greater expertise and/or financial resources, which may provide them certain advantages in the discovery, development and commercialization of new or existing products. (See "*Item 1A. Risk Factors — Our marketed products face substantial competition and other companies may discover, develop, acquire or commercialize products before or more successfully than we do.*")

Key Developments

The following is a summary of selected key developments affecting our business that occurred during 2008 and early 2009, including regulatory and reimbursement developments associated with our ESA products and other developments regarding certain of our other marketed products and product candidates.

ESA Regulatory and Reimbursement Developments

The ESA regulatory and reimbursement developments in 2008 reflect a continuation of events that began in late 2006 that affected the class of ESA products, including Aranesp® and EPOGEN®. Certain of the developments discussed below have had a material adverse impact on sales of our ESA products, in particular Aranesp® sales in the U.S. supportive cancer care setting.

Beginning in late 2006, adverse safety results involving ESA products were observed in various studies that were performed by us and by others (including our licensees or independent investigators) that explored the use of ESAs in settings different from those outlined in the FDA approved label, including targeting higher hemoglobin ("Hb") levels and/or use in non-approved patient populations. The results of these studies culminated in significant regulatory and reimbursement developments affecting the class of ESA products, including

Aranesp® and EPOGEN®. For example, in February 2007, following the reported results from our Anemia of Cancer phase 3 study (the "AoC 103 study"), the United States Pharmacopoeia Dispensing Information ("USP DI") Drug Reference Guides removed Aranesp® in the treatment of anemia of cancer ("AoC"). Thereafter, Aranesp® use in AoC essentially ceased. In addition, during 2007, we had discussions with the FDA and other regulatory authorities and meetings with certain of the FDA's advisory panels, which led to further developments. For example, in March 2007, the product labeling information for the class of ESAs was updated, including a boxed warning in the prescribing information ("PI"). In addition, in November 2007, following our meeting with the Oncologic Drugs Advisory Committee ("ODAC") in May 2007, various additional safety-related revisions were again made to the ESA label. Further, in July 2007, the Centers for Medicare and Medicaid Services ("CMS") issued its National Coverage Decision Memorandum for Use of Erythropoiesis Stimulating Agents in Cancer and Related Neoplastic Conditions (the "Decision Memorandum"). The Decision Memorandum established the ESA reimbursement policy for Medicare and other government beneficiaries who are treated for chemotherapy-induced anemia ("CIA") with ESAs. We believe that the restrictions in the Decision Memorandum changed the way ESAs are used in clinical practice by decreasing the number of treated patients, the average dose and duration of ESA therapy.

Discussions with regulatory authorities, including the FDA, regarding safety concerns with respect to the administration of ESA products in various settings continued throughout 2008, resulting in further regulatory developments. The following is a summary of selected key regulatory and related developments that occurred in 2008.

During 2008, the ESA labeling information was further revised to reflect various safety concerns, beginning in March 2008, with an updated boxed warning in the labeling information in the United States. This updated box warning states that ESAs shorten overall survival and/or time-to-tumor progression in clinical studies in patients with breast, non-small cell lung, head and neck, lymphoid and cervical cancers when dosed to a target Hb level of greater than or equal to 12 grams per deciliter ("g/dL"). Additionally, on August 6, 2008, we revised the ESA product labeling, as the FDA directed, based on a complete response letter, received on July 30, 2008, from the FDA to the revisions to the ESA labeling we proposed following the March 13, 2008 ODAC meeting. The revised labeling included, among other things, (i) the addition to the boxed warning of a statement that ESAs are not indicated for patients receiving myelosuppressive therapy when the anticipated outcome of such therapy is cure, (ii) the addition of a statement in the DOSAGE and ADMINISTRATION section of the label that ESA therapy should not be initiated at Hb levels ³ 10 g/dL and that dose should be adjusted to maintain the lowest Hb level sufficient to avoid red blood cell transfusions and (iii) the removal of reference to the upper safety limit of 12 g/dL. Further, following the closed meeting by the Scientific Advisory Group on Oncology ("SAG-O") in May 2008, we received notification in October 2008 that the European Commission had approved updates to the Aranesp® product information. The product information for all ESAs was updated to advise that in some clinical situations blood transfusions should be the preferred treatment for the management of anemia in patients with cancer and that the decision to administer ESAs should be based on a benefit-risk assessment with the participation of the individual patient. This assessment should take into account the specific clinical context, including the type of tumor and its stage, the degree of anemia, life-expectancy, the environment in which the patient is being treated and patient preference.

In addition, on January 1, 2008, the CMS' revisions to its Erythropoietin Monitoring Policy ("EMP") became effective, which require a 50% reduction in Medicare reimbursement if a patient's Hb level is above 13 g/dL for three or more consecutive months. In addition, the EMP reduces the monthly dosing limits to 400,000 international units ("IUs") of EPOGEN®, from 500,000 IUs, and to 1,200 micrograms ("mcgs") of Aranesp®, from 1,500 mcgs. We believe that the EMP implementation in January 2008 has significantly affected physician behavior resulting in declines in dosing trends as particularly noted in the quarter of implementation. However, this dose decline subsequently stabilized in 2008 but may further fluctuate in the future.

Further, on September 30, 2008, we announced that we had received a summary of preliminary results from the Cochrane Collaboration's independent meta-analysis of patient-level data from previously conducted, randomized, controlled, clinical studies evaluating ESAs in cancer patients which we submitted to the FDA and

the European Agency for the Evaluation of Medical Products ("EMEA"). These results were also presented by the Cochrane Haematological Malignancies Group in December at the 2008 American Society of Hematology ("ASH") Congress.

This Cochrane meta-analysis of patient level data from previous studies corroborates prior analyses indicating that the use of ESAs may increase the risk of death in cancer patients. The studies in the analysis all predate the current label, which advises using the least amount of ESA necessary to avoid transfusion.

The analyses on all cancer patients were based on 53 previously conducted studies involving 13,933 patients. None of these studies utilized ESAs according to current label guidance. The overall survival results corroborate an earlier review by the Cochrane Collaboration, published in 2006, which is included in the WARNINGS section of the current U.S. PI (Hazard Ratio ("HR"): 1.08 [95% Confidence Interval ("CI") 0.99 - 1.18]). The ESA treatment arm had increased on-study deaths (HR: 1.17 [95% CI 1.06 - 1.30]) and decreased overall survival (HR: 1.06 [95% CI 1.00 - 1.12]) compared to controls. The analyses on patients undergoing chemotherapy, the cancer indication for which ESAs are approved, were based on 38 studies with 10,441 patients. None of these studies utilized ESAs according to current label guidance. The ESA treatment arm had increased on-study deaths (HR: 1.10 [95% CI 0.98 - 1.24]) and decreased overall survival (HR: 1.04 [95% CI 0.97 - 1.11]) compared to controls. While neither of these results is statistically significant, they do not exclude the potential for adverse outcomes when ESAs are prescribed according to the current label. The final report on these endpoints is expected in 2009.

Our ESA products will continue to face future challenges. For example, we continue to work with the FDA to finalize a new protocol for a clinical trial to determine the effects of ESAs on survival and tumor outcomes in anemic patients with metastatic cancer receiving concomitant myelosuppressive chemotherapy. We have submitted an Aranesp® study protocol to the FDA and plan to initiate the study in 2009. In addition, in response to the FDA's request under authority prescribed by the Food and Drug Administration Amendments Act of 2007 (the "FDAAA"), we continue to work closely with the FDA to develop a REMS program for the class of ESA products. We have submitted a proposed REMS in response to the FDA's requests. The components of the REMS approved by the FDA could be different for the use of ESAs in the oncology and nephrology indications. We believe that a REMS program for our ESA products could have a material adverse impact on the future sales of Aranesp®, especially in the U.S. supportive cancer care setting. Additionally, future Aranesp® sales could also be materially adversely impacted by further changes in reimbursement, including as a result of future regulatory developments.

Other Regulatory Developments

ENBREL

On March 17, 2008, we and Wyeth Pharmaceuticals, a division of Wyeth, announced updates to the FDA approved labeling for ENBREL, in which the U.S. PI now contains a boxed warning relating to the risk of infections, including tuberculosis. This information in the boxed warning includes additional language regarding screening and monitoring patients for tuberculosis, including patients who tested negative for latent tuberculosis infection. As part of this labeling update, the FDA also required the implementation of a REMS for ENBREL in the form of a medication guide. Additionally, following the FDA web-alert on September 4, 2008 regarding their review of histoplasmosis and other opportunistic fungal infections in patients treated with TNF-blockers, the FDA requested that the boxed warning and WARNINGS sections of the U.S. PI and the medication guide for ENBREL (and other TNF-blockers) be strengthened to include the risk of unrecognized histoplasmosis and other invasive fungal infections with the goal of increasing timely diagnosis and treatment. The FDA also requested that the approved REMS for ENBREL be modified with a communication plan to healthcare providers regarding the risk of unrecognized fungal infections. In December 2008, we agreed with the FDA on the required revisions to the U.S. PI, and we continue to work with the FDA to finalize the requested updates to the ENBREL REMS.

In addition, there are several other outstanding regulatory matters that may also negatively impact future ENBREL product sales. For example, on June 4, 2008, the FDA issued an Early Communication regarding an ongoing safety review of TNF-blockers and the possible association between the use of these medicines and the

development of lymphoma and other cancers in children and young adults and stated that it had decided to conduct further analyses to evaluate the risk and benefits of TNF-blockers in pediatric patients. Furthermore, following the June 18, 2008 Dermatologic and Ophthalmic Drugs Advisory Committee ("DODAC") meeting, on July 24, 2008, we received notification from the FDA through a complete response letter that they would like additional information from us regarding the use of ENBREL in pediatric patients with chronic moderate to severe plaque psoriasis. We continue to work with the FDA to provide it with the above-noted requested information.

Nplate® (romiplostim)

On August 22, 2008, the FDA approved Nplate®, the first platelet producer for the treatment of thrombocytopenia in splenectomized (spleen removed) and non-splenectomized adults with chronic immune thrombocytopenic purpura ("ITP"). Nplate®, the first FDA approved peptibody protein, works by raising and sustaining platelet counts. As part of the approval for Nplate®, a REMS was developed with the FDA to assure the safe use of Nplate® while minimizing risk. The Nplate® REMS involves, among other things, healthcare provider and patient enrollment registries, tracking of patient medical history and data and follow-up safety questionnaires to healthcare providers, all of which require extensive discussion with and education of healthcare providers. In addition, on February 6, 2009, we announced that the European Commission granted marketing authorization for Nplate® for the treatment of splenectomized adult chronic ITP patients who are refractory to other treatments (e.g. corticosteroids, immunoglobulins). In the European Union ("EU"), Nplate® may also be considered as second line treatment for adult non-splenectomized ITP patients where surgery is contra-indicated.

Vectibix® (panitumumab)

At the ODAC meeting on December 16, 2008, we discussed the clinical utility of the KRAS gene as a predictive biomarker in patients with metastatic colorectal cancer ("mCRC") treated with anti-Epidermal Growth Factor Receptors ("EGFr") antibody, Vectibix®. We believe that data shared with the ODAC supports the suggestion that KRAS is a predictive biomarker for the anti-EGFr class of drugs in the monotherapy setting. In March 2008, the *Journal of Clinical Oncology* published results from an analysis of the first randomized, controlled clinical trial ("Study 408"), which showed that mCRC patients with mutated KRAS tumors do not respond to Vectibix® monotherapy. Conversely, patients with wild-type KRAS tumors treated with Vectibix® have a better response rate and prolonged progression-free survival ("PFS").

Clinical Developments

Denosumab

Denosumab is the first fully human monoclonal antibody in late stage clinical development that specifically targets a ligand known as RANKL (that binds to a receptor known as RANK), an essential regulator of osteoclasts (the cells that break down bone). Denosumab is being investigated for its potential to inhibit all stages of osteoclast activity through a targeted mechanism. In December 2008, we submitted a biologics license application ("BLA") to the FDA for denosumab for the treatment and prevention of postmenopausal osteoporosis ("PMO") in women and bone loss in patients undergoing hormone ablation for either prostate or breast cancer. On February 18, 2009, the FDA accepted our BLA and informed us that it will target an FDA action within ten months of the BLA's submission date, resulting in a Prescription Drug User Fee Act ("PDUFA") action date of October 19, 2009. The FDA indicated that it intends to simultaneously review the data we submitted for both the PMO and bone loss in patients undergoing hormone ablation for prostate or breast cancer indications due to the interdependency of the data across the indications from more than 11,000 patients included in support of the BLA. Additionally, in January 2009, we submitted an application to the EMEA for the approval of denosumab for treatment of PMO in women and treatment of bone loss associated with hormone ablation therapy in patients with breast and prostate cancer. In addition, during 2008, we announced results of the following key trials involving denosumab.

Osteoporosis

On September 16, 2008 at the American Society of Bone and Mineral Research ("ASBMR") annual meeting, we presented detailed results from the pivotal fracture trial ("Study 216") evaluating denosumab in the

treatment of PMO. In this pivotal, three-year, international, phase 3 study of approximately 7,800 women with osteoporosis, patients were randomized to receive either denosumab, given by subcutaneous injection once every six months, or placebo injections. For the primary endpoint, treatment with denosumab resulted in a statistically significant reduction (68%) in the incidence of new vertebral fractures compared with placebo treatment (2.3% for denosumab versus 7.2% for placebo, p=0.0001). In addition, women receiving denosumab experienced a statistically significant reduction (20%) in the incidence of new non-vertebral fractures compared with placebo treatment (6.5% for denosumab versus 8.0% for placebo, p=0.011) and a statistically significant reduction (40%) in the incidence of hip fractures compared with placebo treatment (0.7% for denosumab versus 1.2% for placebo, p=0.036), each a secondary endpoint. The incidence and types of both adverse and serious adverse events observed in this study, including serious infections and neoplasms, were similar between the denosumab and placebo groups. The most common adverse events across both treatment arms were arthralgia, back pain, hypertension and nasopharyngitis.

In addition to the detailed results of Study 216, we presented the results of two non-pivotal phase 3 studies of denosumab in osteoporosis at the ASBMR meeting. The first was a phase 3 head-to-head, double-blind trial known as the Study of Transitioning from AleNdronate to Denosumab trial (“STAND”) (“Study 234”). The results of this study demonstrated that subcutaneous injections of denosumab every six months achieved significantly greater increases in bone mineral density (“BMD”) versus those achieved with alendronate (“ALN”) at all sites measured. For the primary endpoint, denosumab resulted in significant increases in BMD at the total hip compared with ALN (1.9% for denosumab versus 1.05% for ALN, p<0.0001). Treatment with denosumab also resulted in significant increases in BMD compared with continued ALN treatment at all secondary endpoints, including the lumbar spine, femoral neck, hip trochanter and 1/3 radius. The incidence and types of adverse events observed in the study, including neoplasms and infection, were similar between the denosumab and ALN treatment groups. The most common adverse events across both treatment arms were back pain, arthralgia and nasal pharyngitis. The second non-pivotal study was a head-to-head trial comparing denosumab to weekly oral ALN, also known as the Determining Efficacy: Comparison of Initiating Denosumab versus Alendronate trial (“DECIDE”) (“Study 141”). As a part of this study, patients were given a questionnaire after 12 months of treatment to gauge preference on mode of administration as well as satisfaction with frequency of dosing of twice-yearly subcutaneous injections versus weekly oral tablet. More than three-quarters of patients in both study arms preferred subcutaneous injection over oral pills (77% versus 23%, p <0.0001). In addition, significantly more patients were more satisfied with twice-yearly dosing compared to weekly dosing (80% placebo injection versus 20% weekly oral ALN, and 79% for denosumab versus 21% weekly placebo tablet, p <0.0001 for both study groups).

Oncology

On July 14, 2008, we announced findings from a three-year pivotal phase 3 placebo-controlled trial evaluating denosumab in the treatment of bone loss in men undergoing androgen deprivation therapy (“ADT”) for non-metastatic prostate cancer (“Study 138”). In this study of more than 1,400 men, denosumab treatment produced statistically significantly greater increases in BMD at the lumbar spine (primary endpoint) and non-vertebral sites compared with placebo at multiple time points. These improvements in BMD were consistent with those seen in other denosumab studies evaluating BMD in women with breast cancer receiving aromatase inhibitor (“AI”) therapy, and in postmenopausal women with low bone mass. During the 36-month evaluation period, men receiving denosumab experienced less than half the incidence of new vertebral fractures (a secondary endpoint) compared with those receiving placebo, a statistically significant finding. Furthermore, in the denosumab arm there were fewer non-vertebral fractures over the 36-month period. The incidence and types of adverse events observed in this study were generally similar between the denosumab and placebo groups. The most common adverse events across both treatment arms were arthralgia, back pain, constipation and pain in extremity. Serious adverse infectious events occurred in approximately 5% of men receiving placebo treatment as compared with approximately 6% of those receiving denosumab.

Competitive Developments

Certain of our marketed products are under increased competitive pressures, including from biosimilar and other products in Europe, which compete or are expected to compete with Aranesp®, Neulasta® and NEUPOGEN®, as well as our marketed products in the United States, including ENBREL. For example, as a result of final regulatory guidelines issued by the EMEA in 2006 related to the development and approval of biosimilar products, we have experienced and expect to continue to experience increased competition throughout Europe, including from a number of biosimilar erythropoietin products, which compete with Aranesp®. In addition, a number of granulocyte colony-stimulating factor ("G-CSF") biosimilar products have received marketing authorization from the European Commission in 2008 and early 2009 and have been or are expected to be launched and compete with Neulasta® and NEUPOGEN®. Further in the United States, ENBREL will continue to face increased competition primarily due to the expected launch of new products.

Litigation Developments

On October 17, 2008, the Massachusetts District Court entered judgment that the patents in suit are valid and enforceable, and that the patents, identified below as the subject of the permanent injunction, would be infringed by the import, use and sale of F. Hoffmann-La Roche Ltd. ("Roche") pegylated erythropoietin product in the United States. The Massachusetts District Court permanently enjoined Roche from infringing the '422 Patent, the '933 Patent, the '868 Patent and the '698 Patent for the remaining life of these patents. See Note 10, "*Contingencies — Roche Matters — Amgen Inc. v. F. Hoffman-La Roche Ltd. et al.*" for further discussion of this legal proceeding.

On July 11, 2008, we announced that we had reached an agreement to settle our antitrust litigation with Ortho Biotech Products L.P., a subsidiary of Johnson & Johnson (hereafter referred to as "Ortho Biotech" or "J&J"), which had alleged that discounts offered to oncology clinics on our NEUPOGEN® and Neulasta® and Aranesp® products violated antitrust laws. Under terms of the agreement, we paid Ortho Biotech $200 million and the pending litigation in New Jersey District Court was dismissed with prejudice.

Economic and Political Developments

Capital and credit markets have been experiencing extreme volatility and disruption, particularly during the latter part of 2008 and the beginning of 2009. We are working to manage our business effectively despite the unprecedented conditions in the financial markets both in the United States and around the world. To date, these macro economic challenges have not affected us to a large degree. The extent and/or the duration of any potential adverse economic impact that such financial disruption may have on our third-party payors, including governments and private insurance plans, wholesale distributors, customers, service providers and suppliers is unclear. However, it may result in reduced demand for our products. (See "*Item 1A. Risk Factors — The volatility of the current financial markets and the general economic slowdown may magnify certain risks that affect our business.*")

Further, beginning in late 2008 and continuing into 2009, foreign currency rates have also been experiencing extreme volatility. Changes in foreign currency rates result in increases or decreases in our reported international product sales. However, the benefit or detriment of any resulting increases or decreases that movements in foreign currency exchange rates have on our international product sales are largely offset by corresponding increases or decreases in our international operating expenses and as a result of our related foreign currency hedging activities. Our hedging activities seek to offset the impact, both positive and negative, that foreign currency exchange rate changes may have on our net income by hedging our net foreign currency exposure, primarily with respect to the Euro.

In addition, we believe the new U.S. presidential administration, together with Congress, will shape U.S. healthcare policy in the coming months and years, and we expect that healthcare reform efforts could include long-term changes to coverage and reimbursement that may have a significant impact on our business. Furthermore, due to the increasing expectations and demands of healthcare payors, we believe that we and others in our industry will be under increased pressure to further demonstrate the efficacy and economic value of our products.

Other Developments

In February 2008, we entered into a license agreement with Takeda Pharmaceutical Company Limited ("Takeda"), which provided them the exclusive rights to develop and commercialize for the Japanese market up to 12 clinical stage molecules from our pipeline across a range of therapeutic areas, including oncology and inflammation. The molecules covered by the license agreement primarily include: AMG 108, AMG 317, AMG 386, AMG 479, AMG 655 and Vectibix®. We have the right to participate in the promotion of these products in Japan. In addition, we entered into a collaboration agreement with Takeda for the worldwide development and commercialization of motesanib (AMG 706). Each party has the right to participate in the commercialization of motesanib in the other party's territory. In connection with these agreements, Takeda acquired our subsidiary in Japan, Amgen K.K.

As a result of the challenges facing certain of our products and, in particular, the regulatory and reimbursement developments involving our marketed ESA products that began in 2007, as discussed above, and their resulting impact on our operations, on August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure while continuing to make significant R&D investments and build the framework for our future growth. Through December 31, 2008, we have completed substantially all of the actions initially included in our restructuring plan, including the divestiture of certain less significant marketed products discussed below. During 2008, we identified certain additional initiatives designed to further assist in improving our cost structure, including outsourcing certain non-core business functions, most notably certain of our information systems' infrastructure services, as well as abandoning leases for certain additional facilities that will no longer be used in our operations. The estimated cost of these additional initiatives is $95 million to $135 million. The total charges currently estimated to be incurred in connection with our restructuring plan, including related implementation costs, is $950 million to $985 million. Through December 31, 2008, we have incurred $887 million of these costs and currently estimate that all remaining costs will be substantially incurred in 2009.

In September 2008, we entered into an agreement with Biovitrum AB ("Biovitrum") whereby they acquired from us the marketed biologic therapeutic products Kepivance® (palifermin) and Stemgen® (ancestim), and also obtained from us a worldwide exclusive license to Kineret® (anakinra) for its current approved indication. In connection with the disposal of these less significant marketed products, we incurred a $10 million loss. For the year ended December 31, 2008, the worldwide product sales for these marketed products were approximately $70 million.

Marketed Products and Selected Product Candidates

We market our principal products in the areas of supportive cancer care, nephrology and inflammation. Our principal products include Aranesp®, EPOGEN®, Neulasta®, NEUPOGEN® and ENBREL. Our products' competitive position among other biologic and pharmaceutical products may be based on, among other things, patent position, product efficacy, safety, reliability, availability, patient convenience/delivery devices, price and reimbursement. Certain of our products face substantial competition from products marketed by large pharmaceutical corporations, which may have greater clinical, research, regulatory, manufacturing, marketing, financial and human resources than we do. In addition, the introduction of new products or the development of new processes by competitors or new information about existing products may result in increased competition for our marketed products, even for those protected by patents, or reduction in the price we receive from selling our products. Further, the development of new treatment options or standards of care may require less use of our products, particularly in supportive cancer care. For example, the development of new treatments for cancer, such as targeted therapies, including monoclonal antibodies, or chemotherapy regimens that are less myelosuppressive, may require less Aranesp® or Neulasta®/NEUPOGEN®. In addition, we expect to continue to face increasingly intense competition, including from new and existing product technologies and competitive pressures associated with biosimilar and other products. In 2006, the EMEA developed and issued final regulatory guidelines related to the development and approval of biosimilar products and, as a result, we have begun to experience and expect to continue to experience increased competition from biosimilar products throughout the EU. Further, although there is currently no legal pathway for abbreviated approval of BLA's for biosimilars in the United States, given the continuing interest by Congress on this issue and on healthcare reform in general, it

is likely that legislation on biosimilars will be introduced in 2009 and possibly passed into law. The new U.S. presidential administration has also expressed an interest in passing legislation regarding biosimilars.

We operate in a highly regulated industry and various U.S. and foreign regulatory bodies have substantial authority over how we conduct our business in those countries. The regulatory environment is evolving and there is increased scrutiny on drug safety and increased authority being granted to regulatory bodies to assist in ensuring the safety of therapeutic products. Certain regulatory developments discussed above in the "*Key Developments*" section, have and will continue to impact future sales of certain of our products.

Aranesp® (darbepoetin alfa)

Aranesp® is our registered trademark for one of our ESAs, a protein that stimulates red blood cell production. Red blood cells transport oxygen to all cells of the body. Without adequate amounts of erythropoietin, the red blood cell count is reduced. A deficient red blood cell count can result in anemia, a condition where insufficient oxygen is delivered to the body's organs and tissues. Anemia can be associated with CRF, both in patients on dialysis and not on dialysis. Anemia can also result from chemotherapy treatments for patients with non-myeloid malignancies.

We were granted an exclusive license by Kirin-Amgen, Inc. ("KA"), a joint venture between Kirin Holdings Company, Limited ("Kirin") and Amgen (see "*Joint Ventures and Business Relationships — Kirin Holdings Company, Limited*"), to manufacture and market darbepoetin alfa in the United States, all European countries, Canada, Australia, New Zealand, Mexico, all Central and South American countries and certain countries in Central Asia, North Africa and the Middle East.

We market Aranesp® primarily in the United States and Europe. Aranesp® was initially launched in 2001 in the United States and Europe for the treatment of anemia associated with CRF (both in patients on dialysis and patients not on dialysis) and is also indicated for the treatment of CIA in patients with non-myeloid malignancies.

Worldwide Aranesp® sales for the years ended December 31, 2008, 2007 and 2006 were $3.1 billion, $3.6 billion and $4.1 billion, respectively. As a result of certain of the regulatory and reimbursement developments discussed above in the "*Key Developments*" section, worldwide Aranesp® sales and, in particular, sales in the U.S. supportive cancer care setting, have and will continue to be materially adversely affected.

Our outstanding material patents for darbepoetin alfa are described in the table below.

Territory	General Subject Matter	Expiration
U.S.	Glycosylation analogs of erythropoietin proteins	5/15/2024
Europe[(1)]	Glycosylation analogs of erythropoietin proteins	10/12/2010
Europe[(1)]	Glycosylation analogs of erythropoietin proteins	8/16/2014

(1) In some cases, these European patents may also be entitled to supplemental protection in one or more countries in Europe and the length of any such extension will vary by country.

Our principal European patent relating to Epoetin alfa expired on December 12, 2004. Although we do not market EPOGEN® in Europe, upon expiration of this patent, some companies have and other companies may receive approval for and market biosimilar or other products to compete with Aranesp® in Europe, presenting additional competition, as further discussed below.

Any products or technologies that are directly or indirectly successful in addressing anemia associated with chemotherapy and nephrology could negatively impact product sales of Aranesp®. The following table reflects companies and their currently marketed products that primarily compete with Aranesp® in the United States and Europe in the supportive cancer care and nephrology segments, unless otherwise indicated.

Territory	Competitor Marketed Product	Competitor
U.S.	PROCRIT®(1)	J&J
Europe	EPREX®/ERYPO®	Janssen-Cilag(2)
Europe	NeoRecormon®	Roche
Europe	Retacrit™(3)/Silapo®(3)	Hospira Enterprises B.V. ("Hospira")/Stada Arzneimittel AG ("Stada")
Europe	Binocrit®(3)/Epoetin alfa Hexal®(3)/Abseamed®(3)	Sandoz GmbH ("Sandoz")/Hexal Biotech Forschungs GmbH ("Hexal")/Medice Arzneimittel Pütter GmbH & Company KG ("Medice")
Europe	MIRCERA®(4)	Roche
Europe	Dynepo®(5)	Shire Pharmaceutical Group Plc ("Shire")

(1) In the United States, Aranesp® competes with PROCRIT® in the supportive cancer care and pre-dialysis settings.
(2) A subsidiary of J&J.
(3) Biosimilar product approved and launched in certain EU countries.
(4) Competes with Aranesp® in the nephrology segment only.
(5) Shire announced in the second quarter of 2008 that it had decided to stop the commercialization of Dynepo®.

In the United States, Aranesp® also competes with EPOGEN®, primarily in the U.S. hospital dialysis clinic setting. In addition to competition from the above-noted marketed products, the following product candidates could compete with Aranesp® in the future. Affymax Inc. ("Affymax") and Takeda are co-developing Hematide™, an ESA for the treatment of anemia in renal patients. FibroGen is developing FG-2216 and FG-4592, orally active ESAs, for the treatment of anemia and is also studying FG-4592 for the treatment in anemia of chronic kidney disease ("CKD"). Ratiopharm is developing a biosimilar ESA, EpoTheta, expected to launch in the EU in 2009. Additionally, in December 2008, Merck & Company, Inc. ("Merck") announced the formation of a new biotech division, Merck Bioventures, which is developing a late-stage pegylated ESA (MK-2578), which they have announced they expect to launch in 2012.

EPOGEN® (Epoetin alfa)

EPOGEN® is our registered trademark for our recombinant human erythropoietin product, a protein that stimulates red blood cell production. A reduced red blood cell count can result in anemia (see "*— Aranesp® (darbepoetin alfa)*"). People with CRF suffer from anemia because they do not produce sufficient amounts of erythropoietin, which is normally produced in healthy kidneys.

We were granted an exclusive license to manufacture and market recombinant human erythropoietin in the United States under a licensing agreement with KA. We have retained exclusive rights to market EPOGEN® in the United States for dialysis patients. We granted Ortho Pharmaceutical Corporation (which has assigned its rights under the Product License Agreement to Ortho Biotech) a license to commercialize recombinant human erythropoietin as a human therapeutic in the United States in all markets other than dialysis (see "*Joint Ventures and Business Relationships — Johnson & Johnson*").

We launched EPOGEN® in the United States in 1989 for the treatment of anemia associated with CRF for patients who are on dialysis. We market EPOGEN® for the treatment of anemic adult and pediatric patients with CRF who are on dialysis. EPOGEN® is indicated for elevating or maintaining the red blood cell level (as determined by hematocrit or Hb measurements) and decreasing the need for blood transfusions in these patients.

EPOGEN® sales in the United States were $2.5 billion for each of the three years ended December 31, 2008.

Our outstanding material patents for Epoetin alfa are described in the table below.

Territory	General Subject Matter	Expiration
U.S.	Process of making erythropoietin	8/15/2012
U.S.	Product claims to erythropoietin	8/20/2013
U.S.	Pharmaceutical compositions of erythropoietin	8/20/2013
U.S.	Cells that make certain levels of erythropoietin	5/26/2015

Any products or technologies that are directly or indirectly successful in addressing anemia associated with CRF could negatively impact product sales of EPOGEN®. In the United States, EPOGEN® and Aranesp® compete with each other, primarily in the U.S. hospital dialysis clinic setting, and there was a conversion from EPOGEN® to Aranesp® in this setting, however we believe that the conversion has stabilized. In addition, Affymax and Takeda are co-developing Hematide™, an ESA for the treatment of anemia in renal patients. FibroGen is developing FG-2216 and FG-4592, orally active ESAs for the treatment of anemia. Additionally, in December 2008, Merck announced the formation of a new biotech division, Merck Bioventures, which is developing a late stage pegylated ESA (MK-2578), which they have announced they expect to launch in 2012.

Neulasta® (pegfilgrastim)/NEUPOGEN® (Filgrastim)

Neulasta® is our registered trademark for a pegylated protein that selectively stimulates production of certain white blood cells known as neutrophils and is based on the Filgrastim molecule. Neutrophils defend against infection. NEUPOGEN® is our registered trademark for our recombinant-methionyl human G-CSF, a protein that also selectively stimulates production of neutrophils. Treatments for various diseases and diseases themselves can result in extremely low numbers of neutrophils, a condition called neutropenia. Myelosuppressive chemotherapy, one treatment option for individuals with certain types of cancers, targets cell types that grow rapidly, such as tumor cells. Normal cells that divide rapidly, such as those in the bone marrow that become neutrophils, are also vulnerable to the effects of cytotoxic chemotherapy, resulting in neutropenia with an increased risk of severe infection. Very often, neutropenia is the dose limiting side effect of chemotherapy and can thus be responsible for a reduction in the amount of chemotherapy that can be administered safely. Such reductions in chemotherapy dose can compromise the effectiveness of chemotherapy on the cancer it is being used to treat, with the result of a higher treatment failure rate. As mentioned above, the pegfilgrastim molecule is based on the Filgrastim molecule. A polyethylene glycol molecule (“PEG”) is added to enlarge the Filgrastim molecule, thereby extending its half-life and causing it to be removed more slowly from the body. Because pegfilgrastim is eliminated through binding to its receptor on neutrophils and their precursors, pegfilgrastim remains in the circulation until neutrophil recovery has occurred. This neutrophil-mediated clearance allows for administration as a single dose per chemotherapy cycle, compared with NEUPOGEN®, which requires more frequent dosing. Neulasta® and NEUPOGEN® are prescribed more frequently in the curative setting, in which myelosuppressive chemotherapy is administered with the intent to cure cancer, rather than in the palliative setting, in which myelosuppressive chemotherapy is administered to treat other complications of cancer by managing tumor growth.

We were granted an exclusive license to manufacture and market pegfilgrastim and G-CSF in the United States, Europe, Canada, Australia and New Zealand under a licensing agreement with KA (see *“Joint Ventures and Business Relationships — Kirin Holdings Company, Limited”*).

We market Neulasta® and NEUPOGEN® primarily in the United States and Europe. Filgrastim is also marketed under the brand name GRANULOKINE® in Italy. Neulasta® was initially launched in the United States and Europe in 2002 and is indicated for reducing the incidence of infection associated with chemotherapy-induced neutropenia in cancer patients with non-myeloid malignancies. Administration of Neulasta® in all cycles of chemotherapy is approved for patients receiving myelosuppressive chemotherapy associated with at least a 17% risk of febrile neutropenia. NEUPOGEN® was initially launched in the United States and Europe in 1991. NEUPOGEN® is indicated for reducing the incidence of infection as manifested by febrile neutropenia for patients with non-myeloid malignancies undergoing myelosuppressive chemotherapy; reducing the duration of neutropenia and neutropenia-related consequences for patients with non-myeloid malignancies undergoing myeloablative chemotherapy followed by bone marrow transplantation; reducing the incidence and duration of neutropenia-related consequences in symptomatic patients with congenital neutropenia, cyclic neutropenia or

idiopathic neutropenia (collectively, severe chronic neutropenia); mobilizing peripheral blood progenitor cells ("PBPC") in cancer patients who have undergone myeloablative chemotherapy for stem cell transplantation; and reducing the recovery time of neutrophils and the duration of fever following induction or consolidation chemotherapy treatment in adult patients with acute myeloid leukemia ("AML").

Worldwide Neulasta® sales for the years ended December 31, 2008, 2007 and 2006 were $3.3 billion, $3.0 billion and $2.7 billion, respectively. Worldwide NEUPOGEN® sales for the years ended December 31, 2008, 2007 and 2006 were $1.3 billion, $1.3 billion and $1.2 billion, respectively.

Our outstanding material patents for pegfilgrastim are described in the table below.

Territory	General Subject Matter	Expiration
U.S.	Pegylated G-CSF	10/20/2015
Europe(1)	Pegylated G-CSF	2/8/2015

(1) In some cases, this European patent may also be entitled to supplemental protection in one or more countries in Europe and the length of any such extension will vary by country.

Our outstanding material patents for Filgrastim are described in the table below.

Territory	General Subject Matter	Expiration
U.S.	G-CSF polypeptides	12/3/2013
U.S.	Methods of treatment using G-CSF polypeptides	12/10/2013

Our principal European patent relating to G-CSF expired on August 22, 2006. Upon expiration of this patent, some companies have and other companies may receive approval for and market biosimilar products and other products to compete with Neulasta® and NEUPOGEN® in Europe, presenting additional competition, as further discussed below.

Neulasta® and NEUPOGEN® could face competition in some circumstances from companies marketing or developing treatments for neutropenia associated with chemotherapy, for bone marrow and PBPC transplant patients, and AML. NEUPOGEN® competes with Neulasta® in the United States and Europe. U.S. and international NEUPOGEN® sales have been adversely impacted by conversion to Neulasta®. However, we believe that the conversion in the United States is substantially complete and that a significant amount of the conversion in Europe had already occurred.

The following table reflects companies and their currently marketed products that primarily compete with Neulasta® and NEUPOGEN® in the United States and Europe in the supportive cancer care segment.

Territory	Competitor Marketed Product	Competitor
U.S.	Leukine®	Bayer HealthCare Pharmaceuticals
Europe	Granocyte®	Chugai Pharmaceuticals Co., Ltd./Sanofi-Aventis
Europe	Ratiograstim®(1)/Filgrastim Ratiopharm®(1)	Ratiopharm
Europe	Biograstim®(1)	CT Arzneimittel
Europe	Tevagrastim®(2)	Teva
Europe	Zarzio®(3)/Filgrastim Hexal®(3)	Sandoz/Hexal

(1) Biosimilar products that received marketing authorization by the European Commission in September 2008 and launched in certain EU countries thereafter.
(2) Biosimilar product that received marketing authorization by the European Commission in September 2008 for which Teva has stated that it would begin marketing throughout Europe in 2009.
(3) Biosimilar products that received marketing authorization by the European Commission in February 2009.

Enbrel® (etanercept)

ENBREL is our registered trademark for our TNF receptor fusion protein that inhibits its binding to TNF receptors, which can result in a significant reduction in inflammatory activity. TNF is one of the chemical

messengers that help regulate the inflammatory process. When the body produces too much TNF, it overwhelms the immune system's ability to control inflammation of the joints or of psoriasis-affected skin areas. ENBREL is similar to a protein that the body produces naturally, and like this protein, it binds and deactivates certain TNF molecules before they can trigger inflammation.

We acquired the rights to ENBREL in July 2002 as part of our acquisition of Immunex Corporation ("Immunex").

We market ENBREL under a co-promotion agreement with Wyeth in the United States and Canada (see "*Joint Ventures and Business Relationships — Wyeth*"). The rights to market ENBREL outside of the United States and Canada are reserved to Wyeth. ENBREL was initially launched in November 1998 by Immunex for the treatment of RA. In addition, ENBREL is now indicated for the treatment of adult patients with the following conditions: moderately to severely active RA; chronic moderate to severe plaque psoriasis in adult patients who are candidates for systemic therapy or phototherapy; active psoriatic arthritis and active ankylosing spondylitis. ENBREL is also approved for the treatment of moderately to severely active polyarticular-course juvenile RA in patients who have had an inadequate response to one or more disease-modifying medicines.

ENBREL sales for the years ended December 31, 2008, 2007 and 2006 were $3.6 billion, $3.2 billion and $2.9 billion, respectively.

Our outstanding material patents for etanercept are described in the table below.

Territory	General Subject Matter	Expiration
U.S.	Methods of treating TNF — dependent inflammatory response	9/5/2009
U.S.	TNFR proteins and pharmaceutical compositions	9/5/2009
U.S.	TNFR DNA vectors, cells and processes for making proteins	10/23/2012

Any products or technologies that are directly or indirectly successful in treating rheumatology, which includes moderate to severe RA, moderate to severe juvenile RA and psoriatic arthritis; and dermatology, which includes ankylosing spondylitis and moderate to severe plaque psoriasis, could negatively impact product sales of ENBREL. Current treatments for these indications include generic methotrexate and other products, as further discussed below.

The following table reflects companies and their currently marketed products that primarily compete with ENBREL in the United States and Canada in the inflammatory disease setting.

Territory	Therapeutic Area	Competitor Marketed Product	Competitor
U.S. & Canada	Rheumatology & Dermatology	REMICADE®	Centocor, Inc.[1]/Schering Plough Corporation
U.S. & Canada	Rheumatology & Dermatology	HUMIRA®	Abbott Laboratories ("Abbott")
U.S. & Canada	Rheumatology & Dermatology	Trexall™	Duramed Pharmaceuticals, Inc.[2]
U.S. & Canada	Rheumatology	Orencia®	Bristol-Myers Squibb Corporation ("BMS")
U.S. & Canada	Rheumatology	Arava®	Sanofi-Aventis
U.S. & Canada	Rheumatology	Rheumatrex®	DAVA Pharmaceuticals, Inc.
U.S. & Canada	Rheumatology	Rituxan®	Genentech, Inc. ("Genentech")
U.S. & Canada	Dermatology	Raptiva®	Genentech
U.S. & Canada	Dermatology	Amevive®	Biogen IDEC Inc. ("Biogen")
U.S. & Canada	Dermatology	Neoral®	Novartis AG ("Novartis")
U.S. & Canada	Dermatology	Soriatane®	Connetics Corporation[3]

(1) A subsidiary of J&J.
(2) A subsidiary of Barr Pharmaceuticals, Inc. ("Barr")
(3) A subsidiary of Stiefel Laboratories, Inc.

In addition to competition from the above-noted marketed products, various companies are developing products which may compete with ENBREL in the future, including the following. In December 2007, J&J filed a BLA with the FDA and a market authorization application ("MAA") with the EMEA for CNTO 1275 (ustekinumab) to treat adults with moderate to severe plaque psoriasis. Although the DODAC unanimously recommended CNTO 1275 for approval, in December 2008, the FDA declined approval and requested additional information from J&J. J&J is also developing CNTO 148 (golimumab) for the treatment of RA. Additionally, a number of companies have cytokine inhibitors in development, including GlaxoSmithKline plc ("GlaxoSmithKline"), Pfizer Inc. ("Pfizer"), Repligen Corporation and Taisho Pharmaceutical Co., Ltd. Roche filed a BLA for its RA candidate Actemra (tocilizumab) in November 2007 and received a complete response letter from the FDA in September 2008, requesting additional data on the labeling and manufacture of the drug. Abbott is developing ABT-874, which is a psoriasis drug, and is in phase 3 trials. UCB has partnered with Nektar Therapeutics to develop Cimzia® (PEGylated anti-TNF) for the treatment of RA. On January 5, 2009, the FDA issued a complete response letter relating to the BLA of Cimzia® for treatment of RA requesting additional information.

Other

Our other marketed products are principally comprised of Sensipar® (cinacalcet), Vectibix® (panitumumab) and Nplate® (romiplostim).

Sensipar® (cinacalcet)

Sensipar® is our registered trademark in the United States and Mimpara® is our registered trademark in Europe, for our first small molecule medicine used in treating CKD patients on dialysis who produce too much parathyroid hormone, a condition known as secondary hyperparathyroidism. In 2004, Sensipar®/Mimpara® was approved in the United States and Europe for the treatment of secondary hyperparathyroidism in CKD patients on dialysis and for the treatment of hypercalcemia in patients with parathyroid carcinoma. We market Sensipar®/Mimpara® primarily in the United States and Europe.

Sensipar® sales for the years ended December 31, 2008, 2007 and 2006 were $597 million, $463 million and $321 million, respectively.

Our outstanding material patents for cinacalcet are described in the table below.

Cinacalcet	General Subject Matter	Expiration
U.S.(1)	Calcium receptor-active molecules	10/23/2015
U.S.(1)	Calcium receptor-active molecules	12/14/2016
U.S.(1)	Methods of treatment	12/14/2016
Europe(2)	Calcium receptor-active molecules	10/23/2015

(1) An application for patent term extension has been submitted and is currently pending in the United States.
(2) In some cases, this European patent may also be entitled to supplemental protection in one or more countries in Europe and the length of any such extension will vary by country.

Any products or technologies that are directly or indirectly successful in treating secondary hyperparathyroidism in patients with CKD on dialysis and/or hypercalcemia in patients with parathyroid carcinoma could negatively impact product sales of Sensipar®/Mimpara®.

The following table reflects companies and their currently marked products that primarily compete with Sensipar® in the United States and Mimpara® in Europe in the nephrology segment.

Territory	Competitor Marketed Product	Competitor
U.S.	Zemplar®	Abbott
U.S.	Hectorol®	Genzyme Corporation ("Genzyme")
U.S.	Rocaltrol®	Roche
Europe	Zemplar®	Abbott
Europe	Renegel®	Genzyme
Europe	Fosrenol®	Shire
Europe	OsvaRen®	Fresenius Medical Care

On July 25, 2008, we filed a lawsuit against Teva and Barr for infringement of four Sensipar® patents. The lawsuit is based on the Abbreviated New Drug Application ("ANDA") filed by Teva and Barr which seeks approval to market generic versions of Sensipar®. (See Note 10, "*Contingencies*" to the Consolidated Financial Statements.) These generic versions could compete with Sensipar® in the future.

Vectibix® (panitumumab)

Vectibix® is our trademark for our first entirely human monoclonal antibody for the treatment of patients with EGFr expressing mCRC after disease progression on, or following fluoropyrimidine-, oxaliplatin- and irinotecan- containing chemotherapy regimens. EGFr is a protein that plays an important role in cancer cell signaling and is over-expressed in many human cancers. Vectibix® is an entirely human monoclonal antibody that binds with high affinity to EGFrs and interferes with signals that might otherwise stimulate growth and survival of the cancer cell. The goal of developing entirely human monoclonal antibodies is to offer effective targeted therapies with lessened risk of immune response against these agents. Vectibix® received FDA approval in September 2006. On December 5, 2007, the European Commission granted a conditional marketing authorization for Vectibix®, which was renewed in December 2008, as a monotherapy for the treatment of patients with EGFr expressing mCRC with non-mutated (wild-type) KRAS genes after failure of standard chemotherapy regimens. We acquired full ownership of Vectibix® as part of our acquisition of Abgenix, Inc. ("Abgenix") in April 2006.

Nplate® (romiplostim)

On August 22, 2008, the FDA approved Nplate®, the first platelet producer for the treatment of thrombocytopenia in splenectomized (spleen removed) and non-splenectomized adults with chronic ITP. Nplate®, the first FDA approved peptibody protein, works by raising and sustaining platelet counts. On February 6, 2009, we announced that the European Commission granted marketing authorization for Nplate® for the treatment of splenectomized adult chronic ITP patients who are refractory to other treatments (e.g. corticosteroids, immunoglobulins). In the EU, Nplate® may also be considered as second line treatment for adult non-splenectomized ITP patients where surgery is contra-indicated.

Product candidates

We are currently studying new product candidates, including denosumab, and currently marketed products for new indications, which, if approved, we expect will enter into highly competitive markets. If successful, these product candidates will face substantial competition from products currently marketed as well as those under development by other biotechnology and pharmaceutical companies. For example, the bone loss setting, in which denosumab would compete, is currently comprised of three therapeutic classes: bisphosphonates, selective estrogen receptor modulators and anabolic agents. Competitive intensity will increase in the bone loss setting with the expected approval of new agents. If denosumab is approved, we would need to significantly expand our sales and marketing capabilities to support its successful launch.

The following table reflects other companies and their currently marketed products that will compete with denosumab, if approved:

Amgen Product Candidate	Therapeutic Area	Competitor Marketed Product	Potential Competitor
Denosumab	PMO	FOSAMAX®	Merck
Denosumab	PMO	Actonel®	Procter & Gamble/Aventis
Denosumab	PMO	Boniva®/Bonviva®	Roche/GlaxoSmithKline
Denosumab	PMO	Evista®	Eli Lilly and Company ("Eli Lilly")
Denosumab	PMO	Forteo®/Forsteo™	Eli Lilly
Denosumab	PMO	Miacalcin®	Novartis
Denosumab	PMO	Aclasta®/Reclast®	Novartis
Denosumab	PMO	generic ALN	Teva
Denosumab	Oncology	Zometa®	Novartis
Denosumab	Oncology	Aredia®	Novartis

Merck's patent covering the use of FOSAMAX® to treat bone loss expired in the United States in February 2008. Following the patent expiry, generic ALN became available from Teva, as noted in the table above, and has also become available from other companies.

Postmarketing Safety Activities

We must conduct extensive clinical trials designed to establish the safety and efficacy of our product candidates in order to file for regulatory approval to market a product. After we have obtained approval to market our products, we monitor adverse events from the use of our products and report these events to regulatory agencies, along with information from postmarketing surveillance or studies. We may utilize other research approaches to learn or confirm information about our marketed products, including observational studies and patient registries, and may engage in risk minimization activities such as physician education initiatives and patient and patient advocacy group initiatives. We may also conduct, or be required by regulatory agencies to conduct, further clinical trials to provide additional information on our marketed products' safety and efficacy. These additional trials may include, among other things, studying different doses or schedules of administration that were used in previous studies, use in other patient populations or other stages of the disease or use over a longer period of time. Additional trials of this nature are sometimes required by regulatory agencies as a condition of their approval to market our products; such trials are sometimes referred to as PMCs. Regulatory agencies may also request or require that we conduct specific studies in order to identify or assess possible safety risks of our marketed products that are observed or suggested by available scientific data.

Certain ESA Postmarketing Commitments

Following the ODAC meeting in May 2004, we proposed a pharmacovigilance program comprised of five ongoing studies for Aranesp®, which sought to explore the use of ESAs in settings different from those outlined in the FDA approved label. These studies were subsequently designated by the FDA as PMCs. One of the five studies, the 20010145 ("145") study, was an Amgen sponsored study, with the other four studies being investigator-sponsored studies. The following table summarizes the five studies:

Sponsor	Study	Tumor Type	Target Hb (g/dL)	Study Results
Amgen	20010145	Small cell lung	13	At median follow-up of 2 1/2 years, ESA and placebo group had similar PFS and overall survival; PFS based on blinded central review similar between ESA and placebo(1)
DAHANCA	DAHANCA-10(2)	Head and neck	14-15.5	5-year locoregional control poorer in ESA group; No significant difference in overall survival(1)
AGO	PREPARE	Neoadjuvant breast	12.5-13	Decreased 3-year relapse-free and overall survival in the ESA group(1)
GELA(3)	LNH-03-6B	NHL(4)	13-15 initially, amended to 13-14	At 1 year, ESA and control groups had similar overall survival and event-free survival(5)
WSG(6)	ARA-03/ARA Plus	Adjuvant breast	13-14	Interim safety results published(7)

(1) Final results are expected in 2009.
(2) Danish Head and Neck Cancer ("DAHANCA")
(3) Groupe d'Etudes de Lymphomes de L'Adulte ("GELA")
(4) Non-Hodgkin's Lymphoma ("NHL")

(5) The final study report is expected in 2010. Late in 2007, an independent Data Safety Monitoring Committee recommended continuation of the study unchanged.
(6) West German Study Group ("WSG")
(7) Interim safety results presented at the 31st annual San Antonio Breast Cancer Symposium, December 13, 2008, San Antonio, TX. The final study report is expected in 2011.

In addition, Johnson and Johnson Pharmaceutical Research & Development ("J&JPRD"), a subsidiary of J&J, and/or its investigators have conducted numerous studies proposed at the 2004 ODAC meeting including: the EPO-GBR-7 and RTOG-9903 studies in head and neck cancer ("HNC"), the EPO-GER-22 and EPO-CAN-20 studies in non-small cell lung cancer ("NSCLC"), the EPO-CAN-17 and EPO-GER-7 studies in breast cancer and the EPO-GER-8/AGO-NOGGO study in cervical cancer. All of the above studies are closed to enrollment and summary results were submitted to the FDA. In addition, J&JPRD's EPO-ANE-3010 study in breast cancer is ongoing and is designated as an FDA PMC.

Based on our ongoing discussions with the FDA in response to the May 2007 ODAC meeting, we and J&JPRD have carefully considered potential new study designs to determine the effects of ESAs on survival and tumor outcomes in anemic patients with metastatic cancer receiving concomitant myelosuppressive chemotherapy. We have submitted an Aranesp® study protocol to the FDA and plan to initiate the study in 2009.

Other Postmarketing Commitments

In addition to our ESA products, we have ongoing PMC studies for all of our marketed products. In particular, we have several large, ongoing studies involving ENBREL, which include trials to evaluate the safety and efficacy of its long-term use.

Other Safety Activities

The FDAAA gave the FDA authority to require us and other companies to develop and implement a REMS for a product to ensure that the benefits of the drug outweigh the risks. The FDA may require the submission of a REMS before a product is approved, or after approval based on new safety information, including new analyses of existing safety information. A REMS may include a medication guide, patient package insert, a plan for communication with healthcare providers or other elements the FDA deems are necessary to assure safe use of the product, which could include imposing certain restrictions on distribution or use of a product. A REMS must include a timetable for submission of assessments of the strategy at specified time intervals. Failure to comply with a REMS, including the submission of a required assessment or any modification to a REMS, may result in substantial civil or criminal penalties. We currently have approved REMS for ENBREL and Nplate®. Additionally, in response to the FDA's request under authority prescribed by the FDAAA, we have submitted a proposed REMS program for the class of ESAs and an update to the existing REMS for ENBREL.

Marketing and Distribution

We maintain sales and marketing forces primarily in the United States, Europe and Canada to support our currently marketed products. We market our products to healthcare providers, including physicians or their clinics, dialysis centers, hospitals and pharmacies. We also market certain products directly to consumers through direct-to-consumer print and television advertising. In addition, for certain of our products, we promote programs to increase public awareness of the health risks associated with the diseases these products treat, as well as providing support to various patient education and support programs in the related therapeutic areas.

In the United States, we sell primarily to wholesale distributors of pharmaceutical products. We utilize these wholesale distributors as the principal means of distributing our products to healthcare providers, such as physicians or their clinics, dialysis centers, hospitals and pharmacies. In early 2008, ENBREL's distribution model was converted from primarily being shipped directly to pharmacies to a wholesale distribution model similar to our other products. Outside the United States, Aranesp®, Neulasta® and NEUPOGEN® are principally distributed to hospitals and/or wholesalers depending upon the distribution practice in each country for which the product has been launched. We monitor the financial condition of our larger customers and limit our credit exposure by setting credit limits, requiring letters of credit, and obtaining credit insurance, as we deem appropriate.

We had product sales to three large wholesaler customers each accounting for more than 10% of total revenues for the years ended December 31, 2008, 2007 and 2006. On a combined basis, these distributors accounted for 71% and 87% of worldwide gross revenues and U.S. gross product sales, respectively, for 2008, as noted in the following table (dollar amounts in millions):

	Years ended December 31,		
	2008	2007	2006
AmerisourceBergen Corporation			
Gross product sales	$ 7,099	$ 6,124	$ 6,523
% of total gross revenues	37%	31%	35%
% of U.S. gross product sales	46%	39%	42%
McKesson Corporation			
Gross product sales	$ 3,594	$ 2,398	$ 2,427
% of total gross revenues	19%	12%	13%
% of U.S. gross product sales	23%	15%	15%
Cardinal Health, Inc.			
Gross product sales	$ 2,823	$ 2,715	$ 2,490
% of total gross revenues	15%	14%	13%
% of U.S. gross product sales	18%	17%	16%

We have granted J&J a license to commercialize recombinant human erythropoietin as a human therapeutic in the United States in all markets other than dialysis (see "*Joint Ventures and Business Relationships — Johnson & Johnson*"). Under a co-promotion agreement with Wyeth, we and Wyeth market ENBREL in the United States and Canada for all approved indications. Additionally, we have entered into agreements with third-parties to market certain of our products including Aranesp®, Neulasta® and NEUPOGEN® in certain geographic areas outside of the United States.

Reimbursement

Sales of all of our principal products are dependent, in part, on the availability and extent of reimbursement from third-party payors, including governments and private insurance plans. Most patients receiving our products are covered by government and/or private payor healthcare programs. Governments may regulate access to, prices or reimbursement levels of our products to control costs or to affect levels of use of our products, and private insurers may be influenced by government reimbursement methodologies. Worldwide use of our products may be affected by these cost containment pressures and cost shifting from governments and private insurers to healthcare providers or patients in response to ongoing initiatives to reduce or reallocate healthcare expenditures. An increasing focus on patient access controls and cost containment by public and private insurers has resulted, and may continue to result, in reduced reimbursement rates for our products. In addition, we believe the new U.S. presidential administration, together with Congress, will shape U.S. healthcare policy in the coming months and years, and we expect that healthcare reform efforts could include long-term changes to coverage and reimbursement that may have a significant impact on our business.

U.S. Reimbursement System

In the United States, healthcare providers, including doctors, hospitals and other healthcare professionals and facilities, are reimbursed for their services by the government through Medicare and other forms of public health insurance and private insurers, which are funded primarily through the payment of premiums from individuals, businesses and the government and taxes from individuals and businesses. The public and private components of this multi-payor system are described below.

Medicare and Other Forms of Public Health Insurance

Medicare is a federal program administered and reimbursed by the federal government that covers individuals age 65 and over as well as those with certain disabilities and chronic illnesses. The CMS administer

Medicare (as well as Medicaid, described below) and are responsible for issuing Medicare National Coverage Determinations Manual instructions as well as manual policy updates, codes for drugs and local coverage decisions. Generally, a national coverage determination ("NCD") is a national policy statement granting, limiting or excluding Medicare coverage for a specific medical item or service. The primary Medicare programs that affect reimbursement for our products are Medicare Part B, which covers physician services and outpatient care, and Medicare Part D, which offers an outpatient prescription drug benefit.

Medicare Part B. Medicare Part B provides limited benefits for fee-for-service outpatient drugs that are furnished "incident to" a physician's services. Generally, "incident to" drugs and biologicals are covered only if they satisfy certain criteria, including that they are of the type that is not usually self-administered by the patient and they are reasonable and necessary for medically accepted diagnosis or treatment. Medicare Part B also covers some drugs pursuant to a specific statutory directive, such as blood-clotting factors and certain immunosuppressive drugs, erythropoietin, and certain oral cancer drugs, if they fall under a specific statutory benefit category and they are "safe and effective" as established by an FDA approval. Many of our primary products, including EPOGEN®, Aranesp®, Neulasta® and NEUPOGEN®, are currently covered under Medicare Part B (as well as other government programs). In addition, most patients with end stage renal disease ("ESRD"), regardless of age, are eligible for coverage of their dialysis treatment through the ESRD Program under Medicare Part B, the primary payor for dialysis treatment. Because Medicare Part B is the primary payor for dialysis treatment, reimbursement for products, such as EPOGEN®, that are typically administered in dialysis centers is particularly sensitive to changes in Medicare reimbursement policy.

Medicare Part D. Medicare Part D provides a voluntary prescription drug benefit for elderly and disabled people who are eligible for Medicare. This coverage is available through various plans that provide insurance coverage for prescription drugs for a monthly premium. The list of prescription drugs covered by Medicare Part D plans varies by plan, but drug lists maintained by individual plans must cover a required range of prescription drugs and biologicals needed by Medicare beneficiaries. To encourage competition, the Medicare Prescription Drug Improvement and Modernization Act ("MMA") stipulates that Part D plans have at least two drugs in each unique therapeutic category, subject to certain exceptions. Medicare patients who access ENBREL and Sensipar® under retail coverage where they are primarily accessed are covered by Medicare Part D.

Medicaid. Medicaid is a state-administered program designed for the low-income and disabled. Under federal law, states must cover low-income children, pregnant women, parents, disabled and seniors, and states have the option of expanding eligibility beyond these groups of patients. Medicaid is financed jointly by the states and federal government through taxes. Medicaid offers a broad set of benefits, including prescription drugs. Certain drug rebates for our products may be available to state governments under Medicaid. (See *"Item 1A. Risk Factors — Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for products is reduced, this could negatively impact the utilization of our products*.")

Private Health Insurance

Employer-sponsored insurance. Employer-sponsored insurance represents the main avenue by which Americans receive private health insurance. Many employers provide health insurance as part of the benefits package for employees. Insurance plans are administered by private companies, both for-profit and not-for-profit, and some companies are "self-insured" (i.e., they pay for all healthcare costs incurred by employees directly through a plan administered by a third party). Generally, employer-sponsored insurance premiums are paid primarily by employers and secondarily by employees.

Individual market. The individual market covers part of the population that is self-employed or retired. In addition, it covers some people who are unable to obtain insurance through their employer. In contrast to the employer-sponsored insurance, the individual market allows health insurance companies to deny people coverage based on pre-existing conditions. The plans are administered by private insurance companies. Individuals pay an insurance premium out-of-pocket for coverage, and benefits vary widely according to plan specifications.

Reimbursement of Our Principal Products

Aranesp®, Neulasta® and NEUPOGEN®. Medicare and Medicaid payment policies for drugs and biologicals are subject to various laws and regulations. The Medicare program covers Aranesp®, Neulasta® and NEUPOGEN®, when administered in the physician clinic setting and the hospital outpatient and dialysis settings, under Part B, and reimburses providers using a payment methodology developed under the MMA based on a fixed percentage of each product's average sales price ("ASP"). ASP is calculated by the manufacturer based on a statutorily defined formula and submitted to CMS. A product's ASP is calculated and reported to CMS on a quarterly basis and therefore may change each quarter. The ASP in effect for a given quarter (the "Current Period") is based upon certain historical sales and sales incentive data covering a statutorily defined period of time preceding the Current Period. CMS publishes the ASPs for products in advance of the quarter in which they go into effect. In the calculation of ASP, CMS currently allows manufacturers to make reasonable assumptions consistent with the general requirements and the intent of the Medicare statute and regulations and their customary business practices and in the future CMS may provide more specific guidance. (See *"Items 1A. Risk Factors — Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for products is reduced, this could negatively impact the utilization of our products*.")

As of January 1, 2008, Medicare payment in the hospital outpatient setting reimbursed each product at 105% of its ASP (sometimes referred to as "ASP+5%"). For 2009, and effective January 1, 2009, CMS established the payment rate in the hospital outpatient setting at ASP+4% and CMS has the regulatory authority to further reduce the outpatient hospital payment formula in future years. The extent to which commercial payors adopt the use of ASP as a payment methodology is still evolving and is often based on the relationship between the provider and the insurer.

Dialysis Reimbursement. Dialysis providers in the United States are primarily reimbursed for EPOGEN® by the federal government through the ESRD Program. The ESRD Program reimburses approved providers for 80% of allowed dialysis costs; the remainder is paid by other sources, including patients, state Medicaid programs, private insurance, and to a lesser extent, state kidney patient programs. The ESRD Program reimbursement methodology is established by federal law and is monitored and implemented by CMS. Medicare reimburses for separately billable dialysis drugs administered in both free-standing and hospital-based dialysis centers, including EPOGEN® and Aranesp®, at ASP+6%, using the same payment amount methodology used in the physician clinic setting. Any changes to the ASP calculations directly affect the Medicare reimbursement for our products administered in the physician clinic setting, dialysis facility and hospital outpatient setting. These calculations are reviewed quarterly for completeness and based on such review, we have on occasion restated our reported ASPs to reflect calculation changes both prospectively and retroactively. For example, partially as a result of our methodology changes, our ASP reimbursement rate for EPOGEN® was reduced for the third quarter of 2007.

ENBREL Reimbursement. The majority of prescription claims for ENBREL are paid through private insurance companies. Under Medicare, ENBREL is reimbursed through the Part D program, although less then 10% of prescriptions are reimbursed through Medicare.

Recent Medicare Reforms. On July 15, 2008, the Medicare Improvements for Patients and Providers Act of 2008 (the "MIPPA") became law. The MIPPA contained a number of Medicare and Medicaid reforms, including a broader payment bundle for dialysis services and drugs which will require CMS, beginning in 2011, to establish a bundled Medicare payment rate that includes dialysis services and drug/labs that are currently separately billed. The new bundled rate will include dialysis services covered under the current composite rate, including all injectable drugs commonly provided during dialysis treatment, including ESAs, intravenous ("IV") iron, and IV vitamin D, as well as "oral equivalent" forms of these IV drugs. The bundled reimbursement rate will be phased in over a four year period in equal increments starting in 2011. It is possible that individual providers could elect to permanently move to a full Medicare bundled payment in 2011. CMS will also be required to establish a quality incentive program that begins concurrently with bundling in 2011 and which subjects facilities to up to a 2% annual reduction in Medicare reimbursement for failure to meet or exceed CMS quality performance standards, including performance standards related to anemia management and dialysis adequacy.

ESA Reimbursement Developments. Since April 1, 2006, the Medicare reimbursement for ESAs administered to dialysis patients has been subject to a revised EMP, the Medicare payment review mechanism used by CMS to monitor EPOGEN® and Aranesp® utilization and appropriate hematocrit outcomes of dialysis patients. The EMP was revised, effective January 1, 2008, requiring a 50% reduction in Medicare reimbursement if a patient's Hb is above 13 g/dL for three or more consecutive months. In addition, the revised EMP reduces the monthly dosing limits to 400,000 IUs of EPOGEN®, from 500,000 IUs, and to 1,200 mcgs of Aranesp®, from 1,500 mcgs. The implementation of the revised EMP and ESA labeling changes led to a decline in EPOGEN® sales for the first quarter of 2008 compared to the first quarter of 2007 primarily due to a decline in both overall utilization and as well as average dosing per patient. However, this dose decline subsequently stabilized. (See *"Management's Discussion and Analysis of Financial Condition and Results of Operations — Results of Operations — EPOGEN®."*)

On March 14, 2007, CMS announced that the agency began a review of all Medicare policies related to the administration of ESAs in non-renal disease applications as part of a national coverage analysis ("NCA"), which is generally CMS' first step toward developing an NCD. On May 14, 2007, CMS issued a proposed NCD that was open for public comment through June 13, 2007. On July 30, 2007, CMS issued its Decision Memorandum which was substantially altered from the proposed NCD. On January 14, 2008, CMS issued changes to its Medicare NCD Manual, adding the ESA Decision Memorandum, effective for claims with dates of service on and after July 30, 2007 with an implementation date of April 7, 2008. The Decision Memorandum determined that ESA treatment was not reasonable and necessary for certain clinical conditions, and established Medicare coverage parameters for FDA-approved ESA use in oncology.

We believe that the restrictions in the Decision Memorandum changed the way ESAs are used in clinical practice, for example, by decreasing the number of treated patients, the average ESA dose and the duration of ESA therapy. We believe this restriction on reimbursement of ESAs in the Decision Memorandum has had a material adverse effect on the use, reimbursement and sales of Aranesp®, and our business and results of operations. In addition, based on our knowledge, although no private payors have fully implemented the Decision Memorandum to date, many private payors have implemented portions of the Decision Memorandum that most commonly reflect the prescriber package insert. Further, we believe many healthcare providers have reduced ESA utilization for all of their patients regardless of insurance coverage.

On September 11, 2007, the FDA held a joint meeting of the Cardiovascular-Renal Drug Advisory Committee ("CRDAC") and the Drug Safety and Risk Management Advisory Committee ("DSaRMAC") to evaluate the safety data on ESA use in renal disease. On July 31, 2008, CMS issued a listing of potential topics for future NCDs as a step to increase transparency in the NCD process and which included as potential topics the use of ESAs in ESRD and CKD. CMS has not announced whether it will proceed to a NCD for ESAs in ESRD or CKD and we cannot predict whether ESAs in the renal setting will be the subject of a future NCD, however, any final NCD for ESAs in the renal setting, which may include non-coverage and/or new dosing and treatment restrictions similar to those proposed in the Decision Memorandum for treatment of anemia in oncology with ESAs, would negatively affect use, reduce reimbursement and coverage, negatively affect product sales of our ESA products and may have a material adverse effect on our business and results of operations.

Reimbursement Outside the United States

Generally, in Europe and other countries outside the United States, the government-sponsored healthcare system has traditionally been the primary payor of healthcare costs of patients. Over the past several years, the reimbursement environment in Europe has become very challenging, with the advent of Health Technology Assessment organizations (e.g., National Institute for Health and Clinical Excellence ("NICE") in the United Kingdom) that make determinations of coverage and reimbursement based upon both the clinical value as well as cost-effectiveness of a product. With increased budgetary constraints, payors in many countries employ a variety of cost-containment measures that can include reference pricing (i.e., setting the reimbursement rate for a given class of agents at the lowest price within the class), generic substitution and mandatory price cuts. In many countries, the influence of regional and hospital payors also contributes to the level of product access that is afforded

to patients. In the future, these trends are likely to continue. Additionally, we anticipate that many payors will request manufacturers to provide alternative pricing mechanisms (e.g., payment caps) that facilitate greater predictability of payor budgets.

Research and Development and Selected Product Candidates

Our vision is to deliver therapeutics that can make a meaningful difference in patients' lives. Therefore, we focus our R&D on novel human therapeutics for the treatment of grievous illness in the areas of oncology, inflammation, bone, metabolic disorders and neuroscience. We take a modality-independent approach to R&D — that is, we identify targets, and then choose the modality best suited to address a specific target. As such, our discovery research programs may yield targets that lead to the development of human therapeutics delivered as proteins, including monoclonal antibodies and peptibodies, or small molecules.

To execute our clinical trial programs, we need to maintain an effective development organization and associated R&D support organizations. We conduct clinical trial activities with both our internal staff and third-party contract clinical trial service providers. In order to increase the number of patients available for enrollment for our clinical trials, we have and will continue to open clinical sites and enroll patients in a number of geographic locations where we have more limited experience conducting clinical trials, including Russia, India, East Asia and some Central and South American countries. (*See "Item 1A. Risk Factors — Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected."*)

We have major R&D centers in several locations throughout the United States and in the United Kingdom, as well as smaller research centers in Canada and Germany, and smaller development facilities throughout Europe and in Canada, Australia, Mexico, Hong Kong and India (see "*Item 2. Properties*"). As part of our restructuring efforts, we have also moderated expansion of certain R&D facilities throughout the United States, including abandoning leases for certain R&D facilities that will no longer be used in our operations.

In addition to product candidates and marketed products generated from our internal R&D efforts, we acquire companies, acquire and license certain product and technology rights and establish R&D collaborations, which enhance our strategic position within our industry by strengthening and diversifying our R&D capabilities, product pipeline and marketed product base. (See Note 8, "*Acquisitions*" to the Consolidated Financial Statements and "*Item 1A. Risk Factors — We may not be able to develop commercial products.*")

Some of our competitors are actively engaged in R&D in areas where we have products or where we are developing product candidates or new indications for existing products. For example, we compete with other clinical trials for eligible patients, which may limit the number of available patients who meet the criteria for certain clinical trials. The competitive marketplace for our product candidates is significantly dependent upon the timing of entry into the market. Early entry may have important advantages in gaining product acceptance, contributing to the product's eventual success and profitability. Accordingly, we expect that in some cases, the relative speed with which we can develop products, complete clinical testing, receive regulatory approval and supply commercial quantities of the product to the market is expected to be important to our competitive position.

Various public and privately owned companies, research organizations, academic institutions and governmental agencies conduct a significant amount of R&D in the biotechnology industry. We face competition in our collaborative arrangements and licensing or acquisition activities from other pharmaceutical and biotechnology companies that also seek to license or acquire technologies, product candidates or marketed products from these entities. Accordingly, we may have difficulty entering into collaborative arrangements and licensing or acquiring technologies, product candidates and marketed products on acceptable terms.

The following table is a selection of certain of our product candidates by phase of development in our therapeutic areas of focus as of February 6, 2009. Additional product candidate (pipeline) information can be found on our website at (http://www.amgen.com). (This website address is not intended to function as a hyperlink, and the information contained on our website is not intended to be a part of this filing.)

Molecule	Disease/Condition	Therapeutic Area
Phase 3 Programs		
Cinacalcet	Cardiovascular disease in patients with secondary hyperparathyroidism and chronic kidney disease undergoing maintenance dialysis	Nephrology
Darbepoetin alfa	Anemia in heart failure	Nephrology
Darbepoetin alfa	Patients with chronic kidney disease, anemia and type 2 diabetes	Nephrology
Denosumab	Postmenopausal osteoporosis	Bone
Denosumab	Cancer-related bone damage (skeletal-related events) from advanced malignancies in breast cancer, prostate cancer, and solid tumors including multiple myeloma	Hematology/Oncology
Denosumab	Prevention of bone metastases in prostate cancer	Hematology/Oncology
Denosumab	Bone loss induced by hormone ablation therapy in breast cancer or prostate cancer	Hematology/Oncology
Motesanib	First-line non-small cell lung cancer	Hematology/Oncology
Panitumumab	First- and second-line colorectal cancer	Hematology/Oncology
Panitumumab	Metastatic and/or recurrant head and neck cancer	Hematology/Oncology
Phase 2 Programs		
AMG 102	Various cancer types	Hematology/Oncology
AMG 108	Rheumatoid arthritis	Inflammation
AMG 222	Type 2 diabetes	General Medicine
AMG 223	Hyperphosphatemia	Nephrology
AMG 317	Asthma	Inflammation
AMG 386	Various cancer types	Hematology/Oncology
AMG 479	Various cancer types	Hematology/Oncology
AMG 655	Various cancer types	Hematology/Oncology
Denosumab	Rheumatoid arthritis	Inflammation
Motesanib	First-line breast cancer	Hematology/Oncology
Panitumumab	Locally advanced head and neck cancer	Hematology/Oncology
rhApo2L/TRAIL	Various cancer types	Hematology/Oncology
Romiplostim[(1)]	Chemotherapy-induced thrombocytopenia in non-small cell lung cancer and lymphoma	Hematology/Oncology
Romiplostim[(1)]	Myelodysplastic syndromes	Hematology/Oncology
Phase 1 Programs		
AMG 191	Inflammatory diseases	Inflammation
AMG 208	Various cancer types	Hematology/Oncology
AMG 221	Type 2 diabetes	General Medicine
AMG 477	Type 2 diabetes	General Medicine
AMG 557	Systemic lupus erythematosus	Inflammation
AMG 745	Muscle wasting disorders	Hematology/Oncology
AMG 747	Neuroscience	General Medicine
AMG 761	Asthma	Inflammation
AMG 811	Systemic lupus erythematosus	Inflammation
AMG 827	Inflammatory diseases	Inflammation
AMG 853	Asthma	Inflammation
AMG 888	Various cancer types	Hematology/Oncology
Sclerostin Ab (AMG 785)	Bone-related conditions	Bone

(1) Program previously identified as AMG 531.

Phase 1 clinical trials investigate safety and proper dose ranges of a product candidate in a small number of human subjects.

Phase 2 clinical trials investigate side effect profiles and efficacy of a product candidate in a large number of patients who have the disease or condition under study.

Phase 3 clinical trials investigate the safety and efficacy of a product candidate in a large number of patients who have the disease or condition under study.

The following text provides additional information about selected product candidates that are in human clinical trials.

Denosumab

Denosumab is a fully human monoclonal antibody that specifically targets a ligand known as RANKL (that binds to a receptor known as RANK) which is a key mediator of osteoclast formation, function, and survival. Denosumab is being studied across a range of conditions including osteoporosis, treatment-induced bone loss, bone metastases, multiple myeloma and RA.

The overall denosumab program remains on track with all completed PMO and treatment-induced bone loss (prostate and breast cancer) phase 3 studies having met primary and key secondary endpoints. The following chart is an overview of the phase 3 clinical development program for denosumab:

Program Area	Indication	Enrollment Status	Project Data Availability
Osteoporosis	PMO Treatment (versus placebo)	Complete	Received
Osteoporosis	PMO Treatment (versus ALN)	Complete	Received
Osteoporosis	PMO Prevention	Complete	Received
Osteoporosis	PMO Transition (from ALN)	Complete	Received
Oncology	Treatment-Induced Bone Loss-Prostate Cancer	Complete	Received
Oncology	Treatment-Induced Bone Loss-Breast Cancer	Complete	Received
Oncology	Bone Metastates-Prostate Cancer	Complete	2010[(1)]
Oncology	Skeletal-Related Events-Breast Cancer	Complete	3rd Quarter of 2009[(1)]
Oncology	Skeletal-Related Events-Solid Tumors/multiple myeloma	Complete	4th Quarter of 2009[(1)]
Oncology	Skeletal-Related Events-Prostate Cancer	Complete	2010[(1)]

(1) Event-driven study and consequently data availability may vary as a result

Postmenopausal Osteoporosis Trials

In a three-year phase 3 pivotal study of approximately 7,800 women with PMO (Study 216), twice-yearly subcutaneous injections with denosumab resulted in a statistically significant reduction in the incidence of new vertebral fractures compared with placebo treatment. In addition, women receiving denosumab experienced a statistically significant reduction in the incidence of new non-vertebral and hip fractures compared with those receiving placebo.

In a two-year pivotal phase 3 study of 332 postmenopausal women with low bone mass (osteopenia), treatment with denosumab increased BMD at all sites measured compared with placebo.

In a one-year non-pivotal phase 3, head-to-head, double-blind study in 1,189 postmenopausal women comparing the effects of denosumab versus weekly oral ALN (FOSAMAX®), treatment with denosumab resulted in significantly greater BMD gains at all sites measured compared with ALN.

In a one-year phase 3 head-to-head, double-blind study (Study 234) comparing the effects of denosumab in 504 women with PMO transitioned from weekly oral ALN versus continued ALN therapy, treatment with denosumab resulted in significantly greater BMD gains at all sites measured compared with continued treatment with ALN.

In all four PMO studies, the incidence and types of adverse events were generally similar across the treatment groups. The most common adverse events included back pain, arthralgia and nasopharyngitis.

Treatment-Induced Bone Loss Trials

In a pivotal phase 3 study of more than 1,400 men undergoing ADT for non-metastatic prostate cancer (Study 138), denosumab treatment produced statistically significantly greater increases in BMD across the

skeleton compared with placebo. During the 36-month evaluation period, men receiving denosumab experienced less than half the incidence of new vertebral fractures compared with those receiving placebo, a statistically significant finding. Furthermore, in the denosumab arm there were fewer non-vertebral fractures over the 36-month period.

In the pivotal phase 3 trial of 252 women with non-metastatic breast cancer and low bone mass receiving AI therapy, patients experienced significant increases in BMD across the skeleton when given denosumab once every six months irrespective of duration of AI therapy.

In both studies, the incidence and types of adverse and serious adverse events observed generally were similar between the denosumab and placebo groups. The most common adverse events across the treatment arms included arthralgia, back pain, constipation, and pain in extremity.

License applications for PMO and patients undergoing hormone ablation for either prostate or breast cancer were submitted with the FDA in December 2008 and EMEA in January 2009.

Other Settings

Denosumab is also being studied in patients with breast cancer, prostate cancer, other solid tumors or multiple myeloma for treatment to prevent skeletal-related events ("SRE"). The Company expects to review the complete data set for SREs in breast cancer and solid tumors in the second half of 2009. The phase 3 study evaluating denosumab in patients with non-metastatic prostate cancer to prevent bone metastases is ongoing.

Vectibix® (panitumumab)

Panitumumab (Vectibix®) is a fully-human monoclonal antibody antagonist of the EGFr pathway. It is being investigated as a cancer treatment.

In December 2008, we presented data to the ODAC regarding the utility of KRAS as a predictive biomarker for Vectibix® monotherapy. We performed a biomarker analysis which indicated that in mCRC patients who have failed all other chemotherapeutic regimens, the efficacy of Vectibix® monotherapy is confined to patients with non-mutated (wild-type) KRAS tumors. Specifically, patients with non-mutated KRAS tumors treated with Vectibix® monotherapy have shown a significantly prolonged PFS compared to best supportive care alone. Indeed, patients whose tumors contained KRAS mutations did not seem to benefit from Vectibix® treatment. As a result of our KRAS analyses, the statistical analysis plans of the phase 3 studies of Vectibix® in the treatment of first and second line colorectal cancer, which were initiated in 2006, have been amended. These study changes are expected to allow the Company to assess the utility of Vectibix® in patients according to tumor KRAS mutational status; data from these phase 3 studies are expected to be available in 2009.

In December 2007, we announced that the European Commission has granted a conditional marketing authorization for Vectibix® as monotherapy for the treatment of patients with EGFr expressing metastatic colorectal carcinoma with non-mutated (wild-type) KRAS after failure of fluoropyrimidine-, oxaliplatin- and irinotecan-containing chemotherapy regimens. In December 2008, the European Committee for Medicinal Products for Human Use ("CHMP") adopted a positive opinion for the renewal of this conditional marketing authorization.

In May 2008, we presented data from the phase 2 Panitumumab Regimen Evaluation in Colorectal Cancer to Estimate Primary Response to Treatment ("PRECEPT") trial and phase 1 data evaluating panitumumab in head and neck cancer at the annual meeting of the American Society of Clinical Oncology ("ASCO") and in July 2008, we disclosed that the phase 2 Skin Toxicity Evaluation Protocol with Panitumumab ("STEPP") study showed that preemptive treatment reduced the incidence rate of skin toxicities without additional side effects. In 2007, we initiated a phase 3 study for the first-line treatment of metastatic squamous cell carcinoma of the head and neck ("SCCHN") as well as two randomized phase 2 studies in locally advanced SCCHN testing panitumumab in combination with chemoradiotherapy or with radiotherapy alone. Panitumumab is also being investigated in combination with other investigational anti-cancer therapies.

Nplate® (romiplostim)

Romiplostim (Nplate®) is a peptibody agonist of the thrombopoietin ("TPO") receptor.

Nplate® is the first FDA-approved agent that acts directly to increase platelet production for the treatment of thrombocytopenia in splenectomized (spleen removed) and non-splenectomized adults with chronic ITP, who have had an insufficient response to corticosteroids, immunoglobulins or splenectomy.

In August 2008, Nplate® became the first FDA-approved peptibody protein, which works by raising and sustaining platelet counts representing a novel approach for the treatment of this chronic disease.

We are also evaluating romiplostim in pediatric ITP, myelodysplastic syndromes ("MDS"), and chemotherapy-induced thrombocytopenia ("CIT"). Phase 2 studies in each setting were initiated in 2006. The trials are currently ongoing and we continue to evaluate the safety and efficacy of romiplostim in these settings.

Sensipar® (cinacalcet)

Cinacalcet (Sensipar®/Mimpara®) is an orally-administered small molecule that lowers parathyroid hormone ("PTH") levels in blood by signaling through the calcium-sensing receptor ("CaR") in parathyroid tissue to inhibit PTH secretion. It also lowers blood calcium and phosphorous levels.

The phase 3 EVOLVE (EValuation Of Cinacalcet Therapy to Lower CardioVascular Events) trial, initiated in 2006, is a large (3,800 patient), multi-center, international, randomized, double-blind study to assess the effects of Sensipar® on mortality and cardiovascular morbidity in patients with CKD undergoing maintenance dialysis. The EVOLVE study completed enrollment in January 2008.

Aranesp® (darbepoetin alfa)

Darbepoetin alfa (Aranesp®) is a recombinant protein agonist of the erythropoietic receptor.

The Reduction of Events with Darbepoetin alfa in Heart Failure ("RED-HF™") Trial phase 3 study, initiated in 2006, is a large (2,600 patient), global, randomized, double-blind, placebo-controlled study to evaluate the effect of treatment of anemia with darbepoetin alfa on morbidity and mortality in patients with symptomatic left ventricular heart failure. The RED-HF™ Trial continues to enroll patients.

The Trial to Reduce Cardiovascular Events with Aranesp® Therapy ("TREAT") phase 3 study, initiated in 2004, is a large (4,000 patient), multi-center, randomized, double-blind, controlled trial designed to determine the impact of anemia therapy with darbepoetin alfa on mortality and non-fatal cardiovascular events in patients with CKD, anemia and type 2 diabetes. In December 2007, the TREAT study completed enrollment. In November 2008, we disclosed that the independent Data Safety Monitoring Committee ("DSMC") completed a pre-specified, unblinded review of the data at a point where 80% of the targeted number of fully adjudicated events had been recorded and recommended that the study continue without modification.

AMG 102

AMG 102 is a fully human monoclonal antibody that blocks the action of hepatocyte growth factor/scatter factor ("HGF/SF"). It is being investigated as a cancer treatment.

Phase 2 studies of single agent AMG 102 initiated in 2006 for renal cell carcinoma ("RCC") and glioblastoma multiforme ("GBM") are ongoing. An interim analysis of the GBM study was presented at ASCO 2008 in which AMG 102 was administered as a single agent to 40 patients with recurrent GBM to assess its safety and efficacy. We expect the final results from the phase 2 studies in RCC and GBM to be available in the first half of 2009. In 2008, data were presented at ASCO from a separate trial in which AMG 102 was combined with bevacizumab or motesanib. We also initiated in 2008, four separate phase 2 studies for the treatment of gastric, prostate, colorectal and small cell lung cancer.

AMG 108

AMG 108 is a fully human monoclonal antibody that targets inhibition of the action of interleukin-1 ("IL-1").

In April 2008, we discussed results from the phase 2 study in RA. AMG 108 appeared to be well tolerated and showed a statistically significant improvement in the signs and symptoms of RA. However, the efficacy profile based on the results of this study was not comparable to the current standard of care for biologic therapies. Amgen is evaluating other options for the overall development program.

AMG 222

AMG 222 is an orally-administered small molecule antagonist of DPP-IV. It is being investigated as a treatment of type 2 diabetes. AMG 222 is being developed in partnership with Servier.

A phase 2a study is ongoing in this disease setting in collaboration with Servier. We expect the results from the phase 2a study to be available in the first half of 2009.

AMG 223

AMG 223 is an orally-administered polymer which binds phosphate. It is being investigated as a treatment of hyperphosphatemia in CKD patients on hemodialysis.

The results for AMG 223 from its recently completed phase 1 study in normal healthy subjects and phase 2 study in subjects with CKD on hemodialysis with hyperphosphatemia have been obtained. AMG 223 appeared to be well tolerated and showed a statistically significant reduction in serum phosphorus compared with placebo. While these results were consistent with what is required for registration of a phosphate-binding therapy, in the context of our overall development portfolio, the Company will be reviewing other options for the commercialization of this investigational product.

AMG 317

AMG 317 is a fully human monoclonal antibody that is under investigation for its ability to block the actions of interleukin-4 (“IL-4”) and interleukin-13 (“IL-13”), cytokines that may play a role in asthma.

In 2008, a phase 2 dose ranging study in moderate to severe asthma was completed. An interim analysis showed evidence of biological activity; however, the overall clinical efficacy did not meet expectations. Complete study results will be presented in a peer-reviewed forum in 2009.

AMG 386

AMG 386 is a peptibody that binds to and inhibits angiopoietin 1 and 2. It is being investigated as a cancer treatment.

In 2007, we initiated four phase 2 studies of AMG 386 for the treatment of RCC, metastatic breast cancer, ovarian cancer and gastric cancer. We expect the results from the phase 2 gastric study to be available in the second half of 2009.

AMG 479

AMG 479 is a fully human monoclonal antibody antagonist of IGF-1 receptor. It is being investigated as a cancer treatment.

In 2007, we initiated a phase 2 study of AMG 479 as a potential cancer therapeutic in Ewing’s Sarcoma. We also initiated in 2008, phase 2 studies for the treatment of advanced breast, pancreatic, colorectal and small cell lung cancers.

AMG 655

AMG 655 is a fully human monoclonal antibody agonist that targets death receptor 5 (“DR5”) and induces apoptosis in sensitive tumor cells. It is being investigated as a cancer treatment.

Phase 2 studies in pancreatic cancer, NSCLC, colorectal cancer (“CRC”) and soft tissue sarcoma are ongoing. We expect the results from the phase 2 NSCLC and soft tissue sarcoma studies to be available in the second half of 2009.

Motesanib

Motesanib is an orally-administered small molecule antagonist of vascular endothelial growth factor receptors 1, 2 and 3 ("VEGFR1-3"), platelet-derived growth factor receptor ("PDGFR") and stem cell factor receptor ("c-kit"). It is being investigated as a cancer treatment. We are developing this product in collaboration with Takeda.

In 2008, we completed enrollment in phase 2 studies of motesanib versus bevacizumab in the treatment of metastatic breast cancer and NSCLC and we expect the results from these studies to be available in the first half of 2009.

In November 2008, Amgen and Millennium: The Takeda Oncology Company, a subsidiary of Takeda announced that enrollment in the phase 3 MONET1 trial evaluating motesanib in combination with paclitaxel and carboplatin for the first-line treatment of advanced NSCLC has been temporarily suspended following a planned safety data review of 600 patients by the study's independent Data Monitoring Committee ("DMC"). The study's DMC also recommended that patients with squamous NSCLC immediately discontinue motesanib therapy but did not recommend discontinuation of motesanib therapy for patients with non-squamous NSCLC. In February 2009, the DMC recommended the trial resume enrollment of patients with non-squamous NSCLC. Amgen, Millennium and Takeda plan to follow this recommendation, which will require modifications to the trial's study design. Enrollment is expected to resume once these changes are sanctioned by appropriate global health authorities.

rhApo2L/TRAIL

rhApo2L/TRAIL is a recombinant human protein that targets death receptors 4 and 5 ("DR4 and DR5") and induces apoptosis in sensitive tumor cells. It is being investigated as a cancer treatment. We are developing this product in collaboration with Genentech.

Phase 2 studies in NSCLC and NHL are ongoing. We expect the results to be available in the second half of 2009.

Manufacturing, Distribution and Raw Materials

Manufacturing

Our manufacturing operations consist of bulk manufacturing, formulation, fill and finish and distribution activities for Aranesp®, Epoetin alfa, Neulasta®, NEUPOGEN® , ENBREL, Vectibix®, Nplate®, denosumab and other products and product candidates for both commercial and clinical purposes. Bulk manufacturing includes fermentation and cell culture, which are the processes in which our proteins are produced. The proteins are purified to a high quality and then formulated into a stable form. The fill process dispenses the formulated bulk protein into the vials or syringes. Finally, in the finish process, our products are packaged for distribution. We operate commercial and clinical manufacturing facilities in several locations throughout the United States, Puerto Rico and the Netherlands (see "*Item 2. Properties*"). Manufacturing of Sensipar®, our small molecule product, is performed entirely by third-party contractors.

We actively manage our inventory produced at our manufacturing facilities and supply produced by our third-party contract manufacturers. We expect to continue to use third-party contract manufacturers to produce or assist in the production of certain of our existing products and a number of our clinical product candidates.

(See "*Item 1A. Risk Factors — We must continue to build the framework for our future growth, and if we fail to execute on our initiatives our business could be adversely affected.*")

In general, we have obtained licenses from various parties that we deem to be necessary or desirable for the manufacture of our products. These licenses generally require us to pay royalties to the parties on product sales.

Commercial Bulk Manufacturing

We operate commercial bulk manufacturing facilities in Puerto Rico and in several locations throughout the United States (see "*Item 2. Properties*"). Other than for ENBREL, we perform all of the commercial bulk manufacturing for our proteins.

In addition to commercial quantities of bulk ENBREL produced at our Rhode Island facility, we and Wyeth also have a contract manufacturing agreement with Boehringer Ingelheim Pharma KG ("BI Pharma") for the production of additional supply of ENBREL. We also have a global supply agreement with Wyeth related to the manufacture, supply and allocation of bulk supplies of ENBREL. Under this agreement, we and Wyeth share the total worldwide bulk supply of ENBREL produced by our Rhode Island manufacturing facility, BI Pharma's manufacturing facility in Germany and Wyeth's manufacturing facility in Ireland.

Our supply of ENBREL is significantly dependent on product manufactured by BI Pharma, and, accordingly, we have made significant purchase commitments to BI Pharma. Under our supply agreements, BI Pharma has reserved a specified level of production capacity for ENBREL and we are committed to using at least that level of capacity. We are required to submit a rolling three-year forecast for manufacturing the bulk drug for ENBREL and a rolling forecast for a shorter period for the number of finished vials of ENBREL. We would be responsible for substantial payments to BI Pharma if we were not to use the minimum production capacity that BI Pharma has reserved for ENBREL each calendar year or if the BI Pharma supply agreement is terminated prematurely under specified conditions. (See Note 9, "*Commitments*" to the Consolidated Financial Statements.)

In addition to producing our own commercial quantities of Epoetin alfa, we also supply Epoetin alfa in the United States to J&J under a supply agreement (see "*Joint Ventures and Business Relationships — Johnson & Johnson*").

Commercial Formulation, Fill and Finish Manufacturing

Our primary commercial formulation, fill and finish manufacturing facility is located in Puerto Rico. In addition, we operate a commercial formulation, fill and finish manufacturing facility in California for Vectibix® and conduct certain finish activities in the Netherlands (see "*Item 2. Properties*"). Other than for ENBREL and Nplate®, we perform substantially all of the commercial formulation, fill and finish activities for our proteins in Puerto Rico. In addition to the formulation, fill and finish of ENBREL performed by us in Puerto Rico or by BI Pharma for the ENBREL they manufacture and supply to us, fill and finish of a certain portion of ENBREL is also performed by other third-party contract manufacturers (see "*Item 1A. Risk Factors — We manufacture and formulate, fill and finish substantially all our products at our Puerto Rico manufacturing facility; if significant natural disasters or production failures occur at this facility, we may not be able to supply these products*").

Clinical Manufacturing

Clinical bulk manufacturing, formulation, fill and finish manufacturing facilities are operated in several locations throughout the United States and in Puerto Rico (see "*Item 2. Properties*"). Certain finishing activities for our clinical products are performed in the Netherlands. In addition, we also utilize third-party contract manufacturers to perform manufacturing activities for certain of our clinical products.

Distribution

We operate distribution centers in Kentucky, California and the Netherlands for worldwide distribution of the majority of our commercial and clinical products. In addition, we also use third party distributors to supplement distribution of our commercial and clinical products in certain areas of the world.

Other

In addition to the manufacturing and distribution activities noted above, our operations in the United States and Puerto Rico perform key manufacturing support functions, including quality control, process development, procurement, distribution and production scheduling. Our global supply of our principal products is significantly dependent on the uninterrupted and efficient operation of our manufacturing facilities.

Manufacturing Initiatives

We have a number of key ongoing initiatives to assist in meeting our future manufacturing needs. In order to maintain supply, mitigate risks associated with the majority of our formulation, fill and finish operations being performed in a single facility and to adequately prepare to launch a number of our late-stage product candidates, in particular denosumab, we must successfully implement a number of manufacturing projects on schedule, operate our facilities at appropriate production capacity over the next few years, optimize manufacturing asset utilization, continue our use of third-party contract manufacturers and maintain a state of regulatory compliance. Key manufacturing projects include: (i) construction, qualification and licensure of a new formulation and filling facility at our Puerto Rico site and (ii) expansion and the related qualification and licensure of our existing bulk protein facilities at our Puerto Rico site for the production of our late-stage product candidate, denosumab. (See *"Item 1A. Risk Factors — Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers."*)

Raw Materials and Medical Devices

Certain raw materials, medical devices and components needed for manufacturing are proprietary products provided by single-source third-party suppliers. Certain of these raw materials, medical devices and components are cited in our drug application with regulatory agencies so that they must be obtained from the specified sole source. We currently attempt to manage the risk associated with such sole-sourced suppliers by inventory management, relationship management and evaluating alternate sources when feasible. We also monitor the financial condition of certain suppliers, their ability to supply our needs and the market conditions for these items.

Also, certain raw materials required for commercial and clinical manufacturing of our products are derived from biological sources, including mammalian tissues, bovine serum and human serum albumin ("HSA"). Some of our manufacturing processes currently use biological sources and we continue to investigate alternatives to biological sources and alternative manufacturing processes that do not require the use of biologically-sourced raw materials as such raw materials may be subject to contamination and/or recall. Also, certain countries in which we market our products may restrict the use of biologically derived substances in the manufacture of drugs. A material shortage, contamination, recall and/or restriction of the use of biologically derived substances in the manufacture of our products could disrupt our commercial manufacturing of products, or could result in a mandated withdrawal of products from the market. (See "*Item 1A. Risk Factors — We rely on single third-party suppliers for some of our raw materials, medical devices and components; if these third-parties fail to supply these items, we may be unable to supply our products.*")

We perform various procedures to assist in authenticating the source of raw materials, including intermediary materials used in the manufacture of our products, which include verification of the country of origin. These procedures are incorporated into the manufacturing processes performed by us and our third-party contract manufacturers.

Joint Ventures and Business Relationships

From time to time, we may enter into joint ventures and other business relationships to provide additional development, manufacturing and marketing capabilities. In addition to our internal R&D efforts, we have acquired certain product rights and have established R&D collaborations to enhance our R&D capabilities and internally developed product pipeline. Our R&D collaborations generally provide for non-refundable, upfront license fees, R&D and commercial performance milestone payments, cost sharing, royalty payments and/or profit sharing. Additionally, these collaborations may include manufacturing and co-promotion arrangements. Our collaboration agreements with third parties are performed on a "best efforts" basis with no guarantee of either technological or commercial success.

Trade secret protection for our unpatented confidential and proprietary information is important to us. To protect our trade secrets, we generally require parties to collaboration and licensing agreements to execute confidentiality agreements upon the commencement of the collaboration or licensing arrangement with us. However, others could either develop independently the same or similar information or obtain access to our information.

Kirin Holdings Company, Limited

We formed KA, a 50-50 joint venture with Kirin in 1984. KA develops and commercializes certain of our and Kirin's product rights, which have been transferred to this joint venture. KA has given exclusive licenses to us to manufacture and market: (i) darbepoetin alfa in the United States, Europe, Canada, Australia, New Zealand, Mexico, all Central and South American countries and certain countries in Central Asia, North Africa and the Middle East, (ii) pegfilgrastim and G-CSF in the United States, Europe, Canada, Australia and New Zealand, (iii) recombinant human erythropoietin in the United States and (iv) romiplostim in the United States, Europe, Canada, Australia, New Zealand, Mexico, all Central and South American countries and certain African and Middle East countries. We currently market darbepoetin alfa, pegfilgrastim, G-CSF, recombinant human erythropoietin and romiplostim under the brand names Aranesp®, Neulasta®, NEUPOGEN®/GRANULOKINE®, EPOGEN® and Nplate®, respectively.

KA has also given exclusive licenses to Kirin to manufacture and market: (i) darbepoetin alfa and romiplostim in Japan, the People's Republic of China ("China"), Taiwan, Korea and certain other countries in Asia, (ii) pegfilgrastim and G-CSF in Japan, Taiwan and Korea and (iii) recombinant human erythropoietin in Japan. Kirin markets darbepoetin alfa in Japan under the brand name NESP®. Kirin markets G-CSF and recombinant human erythropoietin in China under a separate agreement with KA. Kirin markets its G-CSF product in its respective territories under the trademark GRAN®. Kirin markets its recombinant human erythropoietin product in Japan under the trademark ESPO®.

KA has licensed to J&J rights to recombinant human erythropoietin in all geographic areas of the world outside the United States, China and Japan (see "*—Johnson & Johnson*"). Under its agreement with KA, J&J pays a royalty to KA based on sales. KA has also licensed to Roche rights to pegfilgrastim and G-CSF in certain geographic areas of the world.

In connection with our various license agreements with KA, we pay KA royalties based on product sales. In addition, we also receive payment from KA for conducting certain R&D activities on its behalf (see Note 4, "*Related party transactions*" to the Consolidated Financial Statements).

Johnson & Johnson

We granted J&J a license to commercialize recombinant human erythropoietin as a human therapeutic in the United States in all markets other than dialysis. All recombinant human erythropoietin sold by J&J in the United States is manufactured by us and sold by J&J under the trademark PROCRIT® (Epoetin alfa). PROCRIT® brand Epoetin alfa is identical to EPOGEN® brand Epoetin alfa, which is manufactured and sold by us in the U.S. dialysis market. Pursuant to the license agreement with J&J, we earn a 10% royalty on net sales of PROCRIT® by J&J in the United States.

Outside the United States, with the exception of China and Japan, J&J was granted rights to manufacture and commercialize recombinant human erythropoietin as a human therapeutic for all uses under a licensing agreement with KA. With respect to its sales outside of the United States, J&J manufactures and commercializes its own brand of Epoetin alfa which is then sold by J&J under various trademarks such as EPREX® and ERYPO®. We are not involved in the manufacture of Epoetin alfa sold by J&J outside of the United States.

Wyeth

Amgen and Wyeth market and sell ENBREL under a co-promotion agreement in the United States and Canada for all approved indications. The rights to market ENBREL outside of the United States and Canada are reserved to Wyeth. Under the co-promotion agreement, a management committee comprised of equal representation from Wyeth and Amgen is responsible for overseeing the marketing and sales of ENBREL, including strategic planning, the approval of an annual marketing plan, product pricing and the establishment of a brand team. The brand team, with equal representation from each party, prepares and implements the annual marketing plan, which requires a minimum level of financial and sales personnel commitment from each party, and is

responsible for all sales activities. Further, pursuant to the co-promotion agreement, Wyeth and Amgen each pay a defined percentage of all selling and marketing expenses approved by the management committee. In addition, we pay Wyeth a percentage of the annual gross profits on our ENBREL sales, which reflect the sharing of manufacturing costs in the United States and Canada attributable to all approved indications for ENBREL on a scale that increases as gross profits increase; however, we maintain a majority share of ENBREL profits. Under the co-promotion agreement, Wyeth is required to reimburse Amgen for: (i) certain clinical and regulatory expenses we incur in connection with the filing and approval of any new indications for ENBREL in the United States and Canada, (ii) certain specified patent expenses related to ENBREL and (iii) certain costs, expenses and liabilities associated with the manufacture, use or sale of ENBREL in the United States and Canada.

We also have a global supply agreement with Wyeth related to the manufacture, supply and allocation of bulk supplies of ENBREL. Under this agreement, we and Wyeth share the total worldwide bulk supply of ENBREL produced by our Rhode Island manufacturing facility, BI Pharma's manufacturing facility in Germany and Wyeth's manufacturing facility in Ireland.

Our agreements with Wyeth do not include a change of control provision.

Fresenius Medical Care North America, Inc.

In October 2006, we entered into a five-year sole sourcing and supply agreement with an affiliate of Fresenius Medical Care North America, Inc. ("Fresenius"), on its behalf and on behalf of certain of its affiliates, whereby they have agreed to purchase, and we have agreed to supply, all of Fresenius' commercial requirements for ESAs for use in managing the anemia of its hemodialysis patients in the United States and Puerto Rico, based on forecasts provided by Fresenius and subject to the terms and conditions of the agreement.

Daiichi Sankyo Company, Limited

In July 2007, we entered into a collaboration and license agreement with Daiichi Sankyo Company, Limited ("Daiichi Sankyo"), which provided them the exclusive rights to develop and commercialize denosumab in Japan in PMO and oncology with the potential for additional indications. As part of the agreement, Amgen received exclusive worldwide rights to certain Daiichi Sankyo intellectual property to the extent applicable to denosumab.

Takeda Pharmaceutical Company Limited

In February 2008, we entered into a license agreement with Takeda, which provided them the exclusive rights to develop and commercialize for the Japanese market up to 12 clinical stage molecules from our pipeline across a range of therapeutic areas, including oncology and inflammation. The molecules covered by the license agreement primarily include: AMG 108, AMG 317, AMG 386, AMG 479, AMG 655 and Vectibix®. We have the right to participate in the promotion of these products in Japan. In addition, we entered into a collaboration agreement with Takeda for the worldwide development and commercialization of motesanib (AMG 706). Each party has the right to participate in the commercialization of motesanib in the other party's territory. In connection with these agreements, Takeda acquired our subsidiary in Japan, Amgen K.K.

Government Regulation

Regulation by governmental authorities in the United States and other countries is a significant factor in the production and marketing of our products and our ongoing R&D activities.

In order to clinically test, manufacture and market products for therapeutic use, we must satisfy mandatory procedures and safety and effectiveness standards established by various regulatory bodies. In the United States, the Public Health Service Act, the Federal Food, Drug and Cosmetic Act ("FDCA") and the FDAAA, as amended, and the regulations promulgated thereunder, and other federal and state statutes and regulations govern, among other things, the raw materials and components used in the production of, research, development, testing, manufacture, quality control, labeling, storage, record keeping, approval, advertising and promotion, and distribution of our products on a product-by-product basis. The failure to comply with the applicable regulatory

requirements may subject a company to a variety of administrative and/or judicially imposed sanctions. These sanctions could include the FDA's refusal to approve pending applications, withdrawals of approvals, delay or suspension of clinical trials, warning letters, product recalls, product seizures, total or partial suspension of our operations, injunctions, fines, civil penalties and/or criminal prosecution.

Clinical Development. Product development and approval within this regulatory framework takes a number of years and involves our expenditure of substantial resources, and any approval we obtain remains costly for us to maintain (see *"Item 1A. Risk Factors — Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.", "— Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected.", "— We may not be able to develop commercial products."* and *"— If our intellectual property positions are challenged, invalidated, circumvented or expire, or if we fail to prevail in present and future intellectual property litigation, our business could be adversely affected.").* After laboratory analysis and preclinical testing in animals, we file an investigational new drug ("IND") application with the FDA to begin human testing. The IND application automatically becomes effective 30 days after receipt by the FDA, unless the FDA raises concerns or questions. In such a case, the IND sponsor and the FDA must resolve any outstanding concerns before the clinical trial can begin.

Typically, we undertake a three-phase human clinical testing program. In phase 1, we conduct small clinical trials to investigate the safety and proper dose ranges of our product candidates in a small number of human subjects. In phase 2, we conduct clinical trials to investigate side effect profiles and efficacy of our product candidates in a larger number of patients who have the disease or condition under study. In phase 3, we conduct clinical trials to investigate the safety and efficacy of our product candidates in a large number of patients who have the disease or condition under study. The time and expense required for us to perform this clinical testing is substantial and may vary by product. For example, denosumab, one of our late-stage product candidates, requires large trials that require substantial time and resources to recruit patients and significant expense to execute. Historically, our products have required smaller, shorter trials. Foreign studies performed under an IND must meet the same requirements that apply to U.S. studies. The FDA will accept a foreign clinical study not conducted under an IND only if the study is well-designed, well-conducted, performed by qualified investigators, and conforms to the ethical principles contained in the Declaration of Helsinki (as embodied in FDA regulations) and applicable laws and regulations of the country in which the research was conducted. Phase 1, 2 and 3 testing may not be completed successfully within any specified time period, if at all. (See "*Item 1A. Risk Factors — We may not be able to develop commercial products.*") The FDA monitors the progress of each trial conducted under an IND and may, at its discretion, reevaluate, alter, suspend, or terminate the testing based upon the data accumulated to that point and the FDA's risk/benefit assessment with regard to the patients enrolled in the trial. (See "*Item 1A. Risk Factors — Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected.*")

Applications. The results of preclinical and clinical trials are submitted to the FDA in the form of a BLA for biologic products subject to the Public Health Service Act or a new drug application ("NDA") for drugs subject to the approval provisions of the FDCA. The submission of the application is no guarantee that the FDA will find it complete and accept it for filing. If an application is accepted for filing, following the FDA's review, the FDA may grant marketing approval, request additional information, or deny the application if it determines that the application does not provide an adequate basis for approval. As a condition of approval, the FDA may require postmarketing clinical trials or other studies to confirm the product's safety and efficacy for its intended use. We cannot take any action to market any new drug or biologic product in the United States until our appropriate marketing application has been approved by the FDA.

Post-approval Phase. Under the FDAAA, if the FDA becomes aware of new safety information after approval of a product, they may require us to conduct further clinical trials to assess a known or potential serious

risk. If required to conduct a post-approval study, periodic status reports must be submitted to the FDA. Failure to conduct such post-approval studies in a timely manner may result in substantial civil or criminal penalties.

The FDAAA also gave the FDA authority to require companies to implement a REMS for a product to ensure that the benefits of the drug outweigh the risks. The FDA may require the submission of a REMS before a product is approved, or after approval based on new safety information, including new analyses of existing safety information. A REMS may include a medication guide, patient package insert, a plan for communication with healthcare providers, or other elements as the FDA deems are necessary to assure safe use of the product, which could include imposing certain restrictions on distribution or use of a product. A REMS must include a timetable for submission of assessments of the strategy at specified time intervals. Failure to comply with a REMS, including the submission of a required assessment or any modification to a REMS, may result in substantial civil or criminal penalties.

Adverse events that are reported after marketing approval also can result in additional limitations being placed on a product's use and, potentially, withdrawal of the product from the market. The FDA has authority to mandate labeling changes to products at any point in a product's lifecycle based on new safety information. (See "*Item 1A. Risk Factors — Recent labeling changes or risk mitigation activities required by regulatory authorities, as well as the results or meta-analyses of clinical trials, may adversely impact the use, sales and reimbursement of our ESAs.*") Failure to implement FDA-mandated changes may result in civil or criminal penalties. (See "*Item 1A. Risk Factors — Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*")

FDA Regulation of Product Marketing and Promotion. The FDA closely reviews and regulates the marketing and promotion of products. We are required to gain FDA approval before marketing or promoting a product as a treatment for a particular indication. Our product advertising and promotion for approved product indications must comply with the statutory standards of the FDCA, and the FDA's implementing regulations and standards. The FDA's review of marketing and promotional activities encompasses, but is not limited to, direct-to-consumer advertising, healthcare provider-directed advertising and promotion, sales representative communications to healthcare professionals, promotional programming and promotional activities involving the Internet. The FDA also reviews industry-sponsored scientific and educational activities. The FDA may take enforcement action against a company for promoting unapproved uses of a product ("off-label promotion") or for other violations of its advertising and labeling laws and regulations. Enforcement action may include product seizures, injunctions, civil or criminal penalties or regulatory letters, which may require corrective advertising or other corrective communications to healthcare professionals. Failure to comply with the FDA regulations also can result in adverse publicity or increased scrutiny of company activities by Congress or other legislators.

FDA Regulation of Manufacturing Standards. The FDA regulates and inspects equipment, facilities, laboratories and processes used in the manufacturing and testing of products prior to providing approval to market a product. If after receiving clearance from the FDA, we make a material change in manufacturing equipment, location or process, additional regulatory review may be required. We also must adhere to current Good Manufacturing Practice ("GMP") regulations and product-specific regulations enforced by the FDA through its facilities inspection program. The FDA also conducts regular, periodic visits to re-inspect our equipment, facilities, laboratories and processes following an initial approval. If, as a result of these inspections, the FDA determines that our equipment, facilities, laboratories or processes do not comply with applicable FDA regulations and conditions of product approval, the FDA may seek civil, criminal or administrative sanctions and/or remedies against us, including the suspension of our manufacturing operations.

Approval and Post-Approval Regulation Ex-US. In the EU countries, Switzerland, Canada and Australia, regulatory requirements and approval processes are similar in principle to those in the United States. Additionally, depending on the type of drug for which approval is sought, there are currently two potential tracks for marketing approval in the EU, including a centralized procedure. The specific requirements of each track differ depending upon the type of drug being reviewed. In the centralized procedure, a company submits a single

marketing authorization application to the EMEA who conducts a thorough evaluation, drawing from its scientific resources across Europe. If the drug product is proven to fulfill the requirements for quality, safety and efficacy, the CHMP adopts a positive opinion, which is transmitted to the European Commission for final approval of the marketing authorization. While the Commission generally follows the CHMP's opinion, it is not bound to do so. Although not all medicines have to undergo the centralized procedure, it is required of products derived from biotechnology. After evaluation and marketing authorization, various parties, including the national competent authorities, the EMEA, the European Commission and the marketing authorization holders share responsibilities for the detection, assessment and prevention of adverse effects and other medicine-related problems in a process known as pharmacovigilance. Healthcare professionals and patients are also encouraged to report adverse effects and other medicine-related problems. This process includes the collection of adverse drug reaction reports as part of the follow-up on any side effects of a product, and upon assessment, the authorities can decide to demand that the product labels be updated with safety data or warnings, that safety data or warnings be provided to healthcare professionals, or recommend the temporary suspension or complete withdrawal of a product from the market.

Other. We are also subject to various federal and state laws, as well as foreign laws, pertaining to healthcare "fraud and abuse," including anti-kickback laws and false claims laws. Anti-kickback laws make it illegal to solicit, offer, receive or pay any remuneration in exchange for, or to induce, the referral of business, including the purchase or prescription of a particular drug that is reimbursed by a state or federal program. The federal government has published regulations that identify "safe harbors" or exemptions for certain arrangements that do not violate the anti-kickback statute. We seek to comply with the safe harbors wherever possible. Due to the breadth of the statutory provisions and the absence of guidance in the form of regulations or court decisions addressing some of our practices, it is possible that our practices might be challenged under anti-kickback or similar laws. False claims laws prohibit anyone from knowingly and willingly presenting, or causing to be presented for payment to third-party payors (including Medicare and Medicaid), claims for reimbursed drugs or services that are false or fraudulent, claims for items or services not provided as claimed or claims for medically unnecessary items or services. Our activities relating to the sale and marketing of our products may be subject to scrutiny under these laws. Violations of fraud and abuse laws may be punishable by criminal and/or civil sanctions, including fines and civil monetary penalties, as well as the possibility of exclusion from federal healthcare programs (including Medicare and Medicaid). If the government were to allege against or convict us of violating these laws, there could be a material adverse effect on our business, including our stock price. Our activities could be subject to challenge for the reasons discussed above and due to the broad scope of these laws and the increasing attention being given to them by law enforcement authorities.

Since 1991, we have participated in the Medicaid rebate program established in Section 1927 of the Social Security Act by the Omnibus Budget Reconciliation Act of 1990 and subsequent amendments of that law. Related to our participation in this program is a requirement that we extend comparable discounts under the Public Health Service ("PHS") pharmaceutical pricing program. Under the Medicaid rebate program, we pay a rebate for each unit of our product reimbursed by Medicaid. The amount of the rebate for each of our products is set by law as a minimum 15.1% of the Average Manufacturer Price ("AMP") of that product, or if it is greater, the difference between AMP and the best price available from us to any non-exempt customer. The rebate amount also includes an inflation adjustment if AMP increases faster than inflation. The PHS pricing program requires that we extend discounts comparable to the Medicaid rebate to a variety of community health clinics and other entities that receive health services grants from the PHS, as well as hospitals that serve a disproportionate share of Medicare and Medicaid beneficiaries. The rebate amount is determined for each quarter based on our reports of the quarter's AMP and best price for each of our products to the CMS. The terms of our participation in the program impose an obligation to correct the prices reported in previous quarters, as may be necessary. Any such corrections could result in an overage or underage in our rebate liability for past quarters, depending on the direction of the correction. In addition to retroactive rebates, if we were found to have knowingly submitted false information to the government, in addition to other penalties available to the government, the statute provides for civil monetary penalties in the amount of $100,000 per item of false information. Under the Medicare program our products are reimbursed under a Medicare Part B payment methodology that reimburses each product at a specified percentage of its ASP (sometimes referred to as "ASP+6%"). ASP is calculated by the manufacturer

based on a statutorily defined formula and submitted to CMS and similar civil monetary penalties apply for knowingly submitting false information. (See "*Item 1A. Risk Factors — Our sales depend on coverage and reimbursement from third-party payors, and to the extent access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*")

We also make our products available to authorized users of the Federal Supply Schedule ("FSS") of the General Services Administration. Since 1993, as a result of the Veterans Health Care Act of 1992 (the "VHC Act"), federal law has required that we offer deeply discounted FSS contract pricing for purchases by the Department of Veterans Affairs, the Department of Defense, the Coast Guard and the PHS (including the Indian Health Service) in order for federal funding to be available for reimbursement of our products under the Medicaid program or purchase of our products by these four federal agencies and certain federal grantees. FSS pricing to these four federal agencies must be equal to or less than the Federal Ceiling Price ("FCP"), which is 24% below the Non-Federal Average Manufacturer Price ("Non-FAMP") for the prior fiscal year. The accuracy of our reported Non-FAMPs, FCPs and our FSS contract prices may be audited by the government under applicable federal procurement laws and the terms of our FSS contract. Among the remedies available to the government for inaccuracies in calculation of Non-FAMPs and FCPs is recoupment of any overcharges to the four specified Federal agencies based on those inaccuracies. Also, if we were found to have knowingly reported a false Non-FAMP, in addition to other penalties available to the government, the VHC Act provides for civil monetary penalties of $100,000 per item that is incorrect. Finally, we are required to disclose in our FSS contract proposal all commercial pricing that is equal to or less than our proposed FSS pricing, and subsequent to award of an FSS contract, we are required to monitor certain commercial price reductions and extend commensurate price reductions to the government, under the terms of the FSS contract Price Reductions Clause. Among the remedies available to the government for any failure to properly disclose commercial pricing and/or to extend FSS contract price reductions is recoupment of any FSS overcharges that may result from such omissions.

We are also subject to regulation under the Occupational Safety and Health Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act and other current and potential future federal, state or local laws, rules and/or regulations. Our R&D activities involve the controlled use of hazardous materials, chemicals, biological materials and various radioactive compounds. We believe that our procedures comply with the standards prescribed by federal, state or local laws, rules and/or regulations; however, the risk of injury or accidental contamination cannot be completely eliminated. While we are not required to do so, we strive to conduct our research and manufacturing activities in a manner that meets the intents and purposes of the National Institutes of Health Guidelines for Recombinant DNA Research.

Additionally, the U.S. Foreign Corrupt Practices Act ("FCPA") prohibits U.S. corporations and their representatives from offering, promising, authorizing or making payments to any foreign government official, government staff member, political party or political candidate in an attempt to obtain or retain business abroad. The scope of the FCPA would include interactions with certain healthcare professionals in many countries. Our present and future business has been and will continue to be subject to various other U.S. and foreign laws, rules and/or regulations.

(See "*Item 1A. Risk Factors — Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*" and "*— Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*")

Human Resources

As of December 31, 2008, we had approximately 16,900 staff members, which include approximately 200 part-time staff members. Of the total staff members as of December 31, 2008, approximately 7,850 were engaged in R&D, approximately 3,050 were engaged in selling and marketing, approximately 3,600 were engaged in commercial manufacturing activities and approximately 2,400 were engaged in other activities. There can be no

assurance that we will be able to continue attracting and retaining qualified personnel in sufficient numbers to meet our needs. None of our staff members are covered by a collective bargaining agreement, and we have experienced no work stoppages. We consider our staff relations to be good.

Trade secret protection for our unpatented confidential and proprietary information is important to us. To protect our trade secrets, we generally require our staff members, material consultants and scientific advisors to execute confidentiality agreements upon the commencement of employment or the consulting relationship with us. However, others could either develop independently the same or similar information or obtain access to our information.

Executive Officers of the Registrant

The executive officers of the Company as of January 31, 2009 are as follows:

Mr. Kevin W. Sharer, age 60, has served as a director of the Company since November 1992. Since May 2000, Mr. Sharer has been Chief Executive Officer and President of the Company and has also been Chairman of the Board of Directors since December 2000. From October 1992 to May 2000, Mr. Sharer served as President and Chief Operating Officer of the Company. From April 1989 to October 1992, Mr. Sharer was President of the Business Markets Division of MCI Communications Corporation ("MCI"). From February 1984 to March 1989, Mr. Sharer held numerous executive capacities at General Electric Company ("GE"). Mr. Sharer is a director of Chevron Corporation and Northrop Grumman Corporation.

Mr. David W. Beier, age 60, became Senior Vice President, Global Government and Corporate Affairs in March 2008. He joined the Company in 2003 as Senior Vice President, Global Government Affairs. Previously, Mr. Beier was a partner with the law firm of Hogan and Hartson in Washington, D.C. From 1998 to early 2001, Mr. Beier served as Chief Domestic Policy Advisor to the Vice President of the United States. He also held positions as Vice President of Government Affairs and Public Policy for Genentech and staff counsel in the U.S. House of Representatives. Mr. Beier is a director of ARYx Therapeutics, Inc.

Dr. Fabrizio Bonanni, age 62, became Executive Vice President, Operations in August 2007. He has served as Senior Vice President, Manufacturing of the Company since 2004. Dr. Bonanni joined the Company in 1999 as Senior Vice President, Quality and Compliance and in June 2001 he also became the Corporate Compliance Officer. Previously, Dr. Bonanni held various management positions at Baxter International, Inc. from 1974 to 1999, including positions as Corporate Vice President, Regulatory and Clinical Affairs and Corporate Vice President, Quality System.

Mr. Robert A. Bradway, age 46, became Executive Vice President and Chief Financial Officer in April 2007. He joined the Company in 2006 as Vice President, Operations Strategy. Previously, Mr. Bradway had an 18 year career at Morgan Stanley in New York and London where he was a managing director in investment banking. Mr. Bradway led Morgan Stanley's healthcare practice in Europe for several years and also ran Morgan Stanley's European banking department.

Mr. Thomas J. Flanagan, age 59, became Senior Vice President and Chief Information Officer in October 2006. From June 2004 to October 2006, Mr. Flanagan served as Vice President, Information Systems. From December 1995 to May 2004, Mr. Flanagan served in a variety of executive positions including Chief Information Officer and Vice President, Global Service Delivery at MCI.

Mr. Brian McNamee, age 52, became Senior Vice President, Human Resources in June 2001. From November 1999 to June 2001, Mr. McNamee served as Vice President of Human Resources at Dell Computer Corp. From 1998 to 1999, Mr. McNamee served as Senior Vice President, Human Resources for the National Broadcasting Corporation, a division of GE. From July 1988 to November 1999, Mr. McNamee held human resource positions at GE.

Mr. George J. Morrow, age 56, became Executive Vice President of Worldwide Sales and Marketing in January 2001 and became Executive Vice President, Global Commercial Operations in April 2003. From January 1999 to December 2000, Mr. Morrow was President and Chief Executive Officer of Glaxo Wellcome Inc. ("Glaxo"), a subsidiary of GlaxoSmithKline. From January 1997 to December 1998, Mr. Morrow was Managing

Director of Glaxo Wellcome U.K., also a subsidiary of GlaxoSmithKline. From May 1993 to December 1996, Mr. Morrow was Group Vice President for Commercial Operations of Glaxo. Mr. Morrow currently serves on the Board of Directors of Align Technology, Inc.

Dr. Roger M. Perlmutter, age 56, became Executive Vice President, Research and Development in January 2001. From July 1999 to December 2000, Dr. Perlmutter was Executive Vice President, Worldwide Basic Research and Preclinical Development of Merck Research Laboratories. From February 1999 to July 1999, Dr. Perlmutter served as Executive Vice President of Merck Research Laboratories, and from February 1997 to January 1999, as Senior Vice President of Merck Research Laboratories. From May 1989 to January 1997, Dr. Perlmutter was also Chairman of the Department of Immunology, University of Washington, and from January 1991 to January 1997, Professor in the Departments of Immunology, Biochemistry and Medicine, University of Washington. From July 1984 to January 1997, Dr. Perlmutter served as Investigator at the Howard Hughes Medical Institute at the University of Washington. Dr. Perlmutter currently serves on the Board of Directors of StemCells, Inc.

Ms. Anna S. Richo, age 48, became Senior Vice President and Chief Compliance Officer in June 2008. From December 2003 to June 2008, Ms. Richo served as Vice President, Law. Prior to Amgen, she spent 12 years at Baxter Healthcare Corporation in roles of increasing responsibility in law, including Vice President, Law, for Baxter's BioScience Division. Also, for more than five years, Ms. Richo served on the Board of Directors of Cytyc Corporation and was a member of the Audit and Finance Committees.

Mr. David J. Scott, age 56, became Senior Vice President, General Counsel and Secretary in March 2004. From May 1999 to February 2004, Mr. Scott served as Senior Vice President and General Counsel of Medtronic, Inc. and also as Secretary from January 2000. From December 1997 to April 1999, Mr. Scott served as General Counsel of London-based United Distillers & Vintners. Mr. Scott also served in executive roles at Grand Metropolitan plc and RJR Nabisco, Inc., and was an attorney in private practice.

Geographic Area Financial Information

For financial information concerning the geographic areas in which we operate, see Note 11, "*Segment information — Geographic information*" to the Consolidated Financial Statements.

Investor Information

Financial and other information about us is available on our website (http://www.amgen.com) (This website address is not intended to function as a hyperlink, and the information contained in our website is not intended to be a part of this filing). We make available on our website, free of charge, copies of our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after filing such material electronically or otherwise furnishing it to the Securities and Exchange Commission ("SEC"). In addition, we have previously filed registration statements and other documents with the SEC. Any document we file may be inspected, without charge, at the SEC's public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549 or at the SEC's internet address at http://www.sec.gov. Information related to the operation of the SEC's public reference room may be obtained by calling the SEC at 1-800-SEC-0330.

Item 1A. RISK FACTORS

This report and other documents we file with the SEC contain forward looking statements that are based on current expectations, estimates, forecasts and projections about us, our future performance, our business or others on our behalf, our beliefs and our management's assumptions. These statements are not guarantees of future performance and involve certain risks, uncertainties, and assumptions that are difficult to predict. You should carefully consider the risks and uncertainties facing our business. The risks described below are not the only ones facing us. Our business is also subject to the risks that affect many other companies, such as employment relations, general economic conditions, geopolitical events and international operations. Further, additional risks not currently known to us or that we currently believe are immaterial also may impair our business, operations, liquidity and stock price materially and adversely.

Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.

We and certain of our licensees and partners conduct research, preclinical testing and clinical trials for our product candidates and marketed products for both their existing indications as well as for new and/or expanded indications. In addition, we manufacture and contract manufacture, and certain of our licensees and partners manufacture our products and product candidates, price, sell, distribute and market or co-market our products for their approved indications. These activities are subject to extensive regulation by numerous state and federal governmental authorities in the United States, such as the FDA and CMS, as well as in foreign countries, such as the EMEA in European countries and similar regulatory bodies in Canada and Australia. Currently, we are required in the United States and in foreign countries to obtain approval from those countries' regulatory authorities before we can manufacture (or have our third-party manufacturers produce), market and sell our products in those countries. The FDA and other U.S. and foreign regulatory agencies have substantial authority to fail to approve commencement of, suspend or terminate clinical trials, require additional testing, delay or withhold registration and marketing approval, mandate product withdrawals and require changes in labeling (including eliminating certain therapeutic indications) of our products. In 2007, the FDAAA was signed into law significantly adding to the FDA's authority including allowing the FDA to (i) require sponsors of marketed products to conduct post-approval clinical studies to assess a known serious risk, signals of serious risk or to identify an unexpected serious risk; (ii) mandate labeling changes to products, at any point in a product's lifecycle, based on new safety information and (iii) require sponsors to implement a REMS for a product which could include a medication guide, patient package insert, a communication plan to healthcare providers, or other elements as the FDA deems are necessary to assure safe use of the drug, which could include imposing certain restrictions on distribution or use of a product. Failure to comply with the new requirements, if imposed on a sponsor by the FDA under the FDAAA, could result in significant civil monetary penalties. Further, regulatory agencies could change existing, or promulgate new, regulations at any time which may affect our ability to obtain or maintain approval of our existing or future products or require significant additional costs to obtain or maintain such approvals.

In our experience, obtaining regulatory approval has been and continues to be increasingly difficult and costly and takes many years, and, after it is obtained, is increasingly costly to maintain. With the occurrence of a number of high profile safety events relating to certain pharmaceutical products, regulatory authorities, and, in particular, the FDA, members of Congress, the U.S. Government Accountability Office ("GAO"), Congressional committees, private health/science foundations and organizations, medical professionals, including physicians and investigators, and the general public are increasingly concerned about potential or perceived safety issues associated with pharmaceutical and biological products, whether under study for initial approval or already marketed. For example, we have received letters from both the House Subcommittee on Oversight and Investigation, Committee on Energy and Commerce and the United States Senate Committee on Finance with inquiries with respect to our ESA studies, promotion of our ESAs and other products, our rebates and contracting strategies and our pharmacovigilance program, to which we have fully cooperated by submitting our responses and meeting with Congressional staff. To the extent that there is resulting legislation or changes in CMS or FDA policy or regulatory activity as a result of Congressional concerns, such changes could have a material adverse effect on the use of our ESA products that are the subject of such changes.

As a result of this increasing concern, potential or perceived safety signals and safety concerns, from clinical trials, use by the market or other sources, are receiving greater scrutiny, which may lead to (i) fewer treatments being approved by the FDA or other regulatory bodies, (ii) revised labeling of an approved product or a class of products for safety reasons, potentially including a boxed warning or additional limitations on the use of approved products in specific therapeutic areas (possibly until additional clinical trials can be designed and completed), (iii) mandated PMCs or pharmacovigilance programs for approved products and/or (iv) requirement of risk management activities (including a REMS) related to the promotion and sale of a product. In addition, significant concerns about the safety and effectiveness of our products could ultimately lead to the revocation of

marketing approval of the products within particular therapeutic areas, or in total, which would have a material adverse effect on the use, sales and reimbursement of the affected products and on our business and results of operations. (See "— *Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*")

Certain specific labeling or label changes of our approved products or product candidates may be necessary or required for a number of reasons, including: the identification of actual or theoretical safety or efficacy concerns concerning any of our products by regulatory agencies, the discovery of significant problems or safety signals or trends with a similar product that implicates an entire class of products, subsequent concerns about the sufficiency of the data or studies underlying the label or changes to the underlying safety/efficacy analysis related to results from clinical trials or meta-analysis of clinical trials or clinical data performed by us or others. Label changes may also be required as a result of new legislation. Under new FDA legislation implemented in 2006, the Physician's Labeling Rule ("PLR") requires changes to the existing format of U.S. product package inserts for human prescription drug and biological products with the intent of making product information more easily accessible. The PLR requires revised standards of content and format of labeling and provides timelines for when new and previously approved products must comply with the new regulations. In addition, before or after any of our products are approved for commercial use, regulatory bodies could decide that the product labels need to include certain warning language as part of an evolving label change to a particular class of products. For example, in March and November 2007, and in March and August 2008, the U.S. labels for the class of ESA products, including Aranesp® and EPOGEN® , were updated to include revised boxed warnings, restrictions on the use of ESAs in specific therapeutic areas and other safety-related product labeling changes. (See "— *Recent labeling changes or risk management activities required by regulatory authorities, as well as the results or meta-analyses of clinical trials, may adversely impact the use, sales and reimbursement of our ESAs.*") On March 17, 2008, we and Wyeth announced updates to the FDA-approved labeling for ENBREL in which the U.S. PI now contains a boxed warning relating to the risk of infections, including tuberculosis. This information in the boxed warning includes additional language regarding screening and monitoring patients for tuberculosis, including patients who tested negative for latent tuberculosis infection. Further, on September 4, 2008, the FDA issued a web-alert regarding their review of histoplasmosis and other opportunistic fungal infections in patients treated with TNF-blockers. The FDA requested that the boxed warning and WARNINGS sections of the U.S. PI and the medication guide for ENBREL (and other TNF-blockers) be strengthened to include the risk of unrecognized histoplasmosis and other invasive fungal infections with the goal of increasing timely diagnosis and treatment. The FDA also requested that the approved REMS for ENBREL be modified with a communication plan to healthcare providers regarding the risk of unrecognized fungal infections. In December 2008, we agreed with the FDA on the required revisions to the U.S. PI, and we continue to work with the FDA to finalize the requested updates to the ENBREL REMS.

Additionally, on June 4, 2008, the FDA issued an Early Communication regarding the ongoing safety review of TNF-blockers and the possible association between the use of these medicines and the development of lymphoma and other cancers in children and young adults and stated that it had decided to conduct further analyses to evaluate the risk and benefits of TNF-blockers in pediatric patients. On June 18, 2008, we participated in a meeting of the DODAC to review data supporting the supplemental BLA submitted by us for the use of ENBREL in treating pediatric patients with chronic moderate to severe plaque psoriasis, who are inadequately controlled with topical therapy or who have received systemic therapy or phototherapy and the DODAC recommended, with an 8-5 vote, to approve ENBREL in the treatment of chronic moderate to severe plaque psoriasis in children. On July 24, 2008, we received notification from the FDA through a complete response letter that the FDA would like additional information from us regarding the use of ENBREL in pediatric patients with chronic moderate to severe plaque psoriasis. We cannot predict what the result of the FDA's analysis of TNF-blockers and the development of lymphoma or other cancers in children and young adults may be, nor can we speculate on the effect of that analysis on the supplemental BLA. However, further revisions to the ENBREL label or other actions by the FDA, including additional advisory committee meetings, could have a material adverse impact on the use and sales of ENBREL which could have a material adverse effect on our business and results of operations.

A revision of product labeling or the regulatory actions described above could be required even if there is no clearly established connection between the product and the safety or efficacy concerns that have been raised or if the product is not indicated for a particular use. For example, in October 2007 we announced that we and the FDA adopted changes to the U.S. labeling for Vectibix® based on the results of the Panitumumab Advanced Colorectal Cancer Evaluation ("PACCE") trial highlighting to clinicians the greater risk seen when Vectibix® is combined with Avastin® and the specific chemotherapy used in the PACCE trial to treat patients with first-line mCRC. Vectibix® is not indicated for the first-line treatment of mCRC and the additional safety information applies to an unapproved use of Vectibix®.

If we or others identify safety concerns before approval of the product or after a product is on the market, the regulatory agencies such as the FDA or EMEA may impose risk management activities upon us (including a REMS) which may require substantial costs and resources to negotiate, develop and implement, including sales force time to educate physicians on REMS requirements and compliance, and/or may require additional or more extensive clinical trials as part of a pharmacovigilance program of our product or for approval of a new indication. Further, risk management activities, including a REMS, required by regulatory agencies such as the FDA could also modify, restrict or otherwise impact the ability of healthcare providers to prescribe, dispense or use our products, limit patient access to our products or affect our ability to compete against products that do not have a REMS, any of which could have a negative effect on our ability to launch our affected products and could have a material adverse effect on sales of the affected products and on our business and results of operations. For example, as part of the approval for Nplate®, a REMS was developed with the FDA to assure the safe use of Nplate® while minimizing risk. The Nplate® REMS involves, among other things, healthcare provider and patient enrollment registries, tracking of patient medical history and data and follow-up safety questionnaires to healthcare providers, all of which require extensive discussion with and education of healthcare providers which has limited our ability to promote Nplate®. Further, as part of the update to the boxed warning and warnings sections of the U.S. PI and the medication guide for ENBREL, the FDA stated that it would require us and the other makers of TNF-blockers to educate healthcare providers about the risk of unrecognized histoplasmosis. Our efforts to comply with the requirements of our existing REMS and any additional REMS or other risk management activities required of us in the future could restrict or otherwise impact our existing promotional activities for our other products as well. In addition, we have ongoing PMC studies for all of our marketed products. These clinical trials must be conducted by us to maintain regulatory approval and marketing authorization. For example, we have agreed with the FDA to a robust pharmacovigilance program to continue to study the safety surrounding the use of ESAs in the oncology setting. (See "— *Recent labeling changes or risk management activities required by regulatory authorities, as well as the results or meta-analyses of clinical trials, may adversely impact the use, sales and reimbursement of our ESAs.*") Additionally, the original approvals of Vectibix® in both the United States and EU were conditioned on us conducting additional clinical trials of the use of Vectibix® as a therapy in treating mCRC. Our conditional approval of Vectibix® in the EU is reviewed annually by the CHMP, and in December 2008 we agreed as a condition of the renewal of the conditional approval to conduct an additional clinical trial in the existing approved indication. If results from clinical trials as part of a PMC or pharmacovigilance program are negative, it could result in the revocation of the marketing or conditional marketing approvals or revised labeling of our products, which could have a material adverse effect on sales of the affected products and on our business and results of operations.

Substantially all of our marketed products are currently approved in the United States and most are approved in Europe and in other foreign countries for specific uses. However, later discovery of unknown problems with our products could result in the regulatory activities described above or even the potential withdrawal of the product in certain therapeutic areas or certain product presentations, or completely, from the market. If new medical data suggest an unacceptable safety risk or previously unidentified side-effects, we may voluntarily withdraw, or regulatory authorities may mandate we withdraw, such product in certain therapeutic areas, or completely recall a product presentation from the market for some period or permanently. For example in 2006, we initiated a voluntary recall of the Neulasta® SureClick™ pre-filled pen in Europe because of the potential risk to patients of receiving an incomplete dose and we conducted a voluntary wholesaler recall of a limited number of lots of ENBREL as a result of a small number of reports of missing, detached or loose rubber caps on the needleless syringe filled with diluent liquid by a third-party contract manufacturer and packaged with the vials of

ENBREL. In addition in August 2008, we voluntary recalled two manufacturing lots of EPOGEN® and our licensee, Ortho Biotech, voluntarily recalled one manufacturing lot of PROCRIT® (Epoetin alfa) that was manufactured in our manufacturing facilities after having identified cracks in the necks of a small number of vials upon post-manufacturing inspection. Although there have been no observable adverse event trends associated with the Neulasta® SureClick™ pre-filled pen, with the reports of missing, detached or loose rubber caps on the needleless syringe packaged with the ENBREL vials or with the cracks in the neck of vials of Epoetin alfa, we may experience the same or other problems in the future resulting in broader product recalls or adverse event trends. Additionally, if other parties (including our licensees, such as J&J and Wyeth, or independent investigators) report or fail to effectively report to regulatory agencies side effects or other safety concerns that occur from their use of our products in clinical trials or studies or from marketed use, regulatory approval may be withdrawn for a product for the therapeutic area in question, or completely, or other risk management activities may be required by regulators.

If regulatory authorities determine that we or our licensees or partners conducting R&D activities on our behalf have not complied with regulations in the R&D of a product candidate, new indication for an existing product or information to support a current indication, then they may not approve the product candidate or new indication or maintain approval of the current indication in its current form or at all, and we will not be able to market and sell it. If we were unable to market and sell our products or product candidates, our business and results of operations would be materially and adversely affected. Additionally, safety signals, trends, adverse events or results from clinical trials or studies performed by us or by others (including our licensees or independent investigators) from the marketed use of our drugs that result in revised safety-related labeling or restrictions on the use of our approved products could negatively impact healthcare provider prescribing behavior, use of our products, regulatory or private health organization medical guidelines and reimbursement for our products all of which would have a material adverse effect on our business and results of operations. (See *"— Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*" and "*— Guidelines and recommendations published by various organizations can reduce the use of our products.*")

Recent labeling changes or risk management activities required by regulatory authorities, as well as the results or meta-analyses of clinical trials, may adversely impact the use, sales and reimbursement of our ESAs.

On March 9, 2007, based upon data from our AoC 103 Study, J&J's Correction of Hemoglobin and Outcomes in Renal Insufficiency ("CHOIR") study, and preliminary data from the third-party investigator DAHANCA 10 Study, among others, the FDA approved updated safety information, including a boxed warning, in the labeling for the class of ESAs, including Aranesp® and EPOGEN®. On May 10, 2007, the ODAC held a panel meeting to discuss the safety/efficacy profile of ESA use in oncology. Responding to questions posed by the FDA, the ODAC recommended that more restrictions be added to ESA labeling and that additional clinical trials be conducted by companies with currently approved ESAs, including us, although no specific restrictions or studies were recommended at the ODAC meeting. The committee is advisory and FDA officials are not bound to or limited by its recommendations, although the FDA has commonly followed the recommendations of its advisory panels. The FDA also held a joint meeting of the CRDAC and the DSaRMAC on September 11, 2007, which evaluated the safety data on ESA use in renal disease. On November 8, 2007, in recognition of the input from the May 2007 ODAC and September 2007 joint CRDAC/DSaRMAC meetings, we announced additional updates to the Aranesp® and EPOGEN®/PROCRIT® labeling which reflected ongoing interactions with the FDA regarding the safety and benefit/risk profile of ESAs and included modifications to the boxed warnings of the ESA labeling. Additionally, based on safety data from the Preoperative Epirubicin Paclitaxel Aranesp® ("PREPARE") interim study results in neo-adjuvant breast cancer and the data from the Gynecologic Oncology Group 191 ("GOG-191") study in cervical cancer, on March 7, 2008, we announced that the FDA approved updated safety information, including the boxed warning in the labeling information for the class of ESAs, including Aranesp® and EPOGEN®. On March 13, 2008, the FDA held a follow-up ODAC panel meeting to discuss cumulative data, including recent study results, on the risks of ESAs when used in the oncology setting.

On July 30, 2008, we received a complete response letter from the FDA to the revisions to the ESA labeling we proposed following the March 13, 2008 ODAC meeting. The letter included, among other things, (i) the addition to the boxed warning of a statement that ESAs are not indicated for patients receiving myelosuppressive therapy when the anticipated outcome of such therapy is cure, (ii) the addition of a statement in the DOSAGE and ADMINISTRATION section of the label that ESA therapy should not be initiated at Hb levels ³ 10 g/dL and that dose should be adjusted to maintain the lowest Hb level sufficient to avoid red blood cell transfusions and (iii) the removal of reference to the upper safety limit of 12 g/dL. We revised the ESA labeling on August 6, 2008, as the FDA directed, and have experienced a reduction in our ESA sales, in particular Aranesp® sales in the U.S. supportive cancer care setting, since that time. Although we cannot predict what further impact the revised ESA labels may have on our business, the revised ESA labeling or any future labeling changes, including any required in connection with our ongoing discussions with the FDA regarding the conversion of the format of our ESA U.S. labels in accordance with the PLR, could have a material adverse impact on the reimbursement, use and sales of our ESA products, which would have a material adverse effect on our business and results of operations.

Additionally, we continue to work closely with the FDA to develop a REMS program for the class of ESA products under authority prescribed by the FDAAA. We have submitted a proposed REMS in response to the FDA's requests, although we cannot predict what risk management activities the FDA may require of us, and the components of the REMS could be different for the use of ESAs in the oncology and nephrology indications. A REMS program for our ESA products could have a material adverse impact on the reimbursement, use and sales of our ESA products, which would have a material adverse effect on our business and results of operations. (See "*— Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market"* and "*— Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*") We also continue to work with the FDA to finalize a new protocol for a clinical trial to determine the effects of ESAs on survival and tumor outcomes in anemic patients with metastatic cancer receiving concomitant myelosuppressive chemotherapy. We have submitted an Aranesp® study protocol to the FDA and plan to initiate the study in 2009. The addition of these clinical trials to our pharmacovigilance program and any additional clinical trials required by the FDA could result in substantial additional expense, and their outcomes could result in additional label restrictions or the loss of regulatory approval for an approved indication, each of which may have a material adverse effect on our business and results of operations. Additionally, any negative results from such trials could materially affect the extent of approvals, the use, reimbursement and sales of our ESA products. (See "*— Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected*.")

Further on March 5, 2008, we announced that the European Commission reached its decision to amend the product labeling for the class of ESAs, including Aranesp®, based on the positive opinion from the CHMP in January 2008, which was consistent with the EMEA's October 23, 2007 press release stipulating a uniform target Hb range for all ESAs of 10 g/dL to 12 g/dL with guidance to avoid sustained Hb levels above 12 g/dL. Following the March 13, 2008 ODAC, we have continued to share additional ESA safety data with the EMEA as it has become available. On May 15, 2008, we and other ESA marketing authorization holders participated in a closed meeting of the SAG-O. The marketing authorization holders were asked to provide an overview on studies that have been initiated or conducted since July 2007, as well as any other new data that can help to elucidate recent issues on the impact of ESAs on tumor progression and survival in cancer patients. These data included previously disclosed interim results from the PREPARE study in neo-adjuvant breast cancer therapy; follow-up data from the GOG-191 study in cervical cancer, which were published in the February 2008 issue of Gynecologic Oncology; and the February 2008 meta-analysis by Bennett et al, which was published in the Journal of the American Medical Association. Scientific Advisory Groups ("SAGs") are established by the EMEA to deliver answers, on a consultative basis, to specific questions addressed to them by the CHMP. On June 26, 2008 the

EMEA, based upon the CHMP's opinion which took into account the position expressed by the SAG-O, recommended updating the product information for ESAs with a new warning for their use in cancer patients. In July 2008, the EMEA requested that further clarity around the product information be provided by regulatory agencies in each European Member State country through the publication of a Dear Healthcare Professional Communication, following which we followed the necessary regulatory procedure to update the Aranesp® product information. In October 2008, we received notification that the Aranesp® product information update was approved by the European Commission. The product information for all ESAs was updated to advise that in some clinical situations blood transfusions should be the preferred treatment for the management of anemia in patients with cancer and that the decision to administer ESAs should be based on a benefit-risk assessment with the participation of the individual patient, which should take into account the specific clinical context and that factors that should be considered in the assessment should include the type of tumor and its stage, the degree of anemia, life-expectancy, the environment in which the patient is being treated and patient preference. Although we cannot predict what impact the final EU ESA product information will have on our business, the reimbursement, use and sales of Aranesp® in Europe could be materially adversely affected, which would have a material adverse effect on our business and results of operations.

Further, we continue to receive results from meta-analyses or previously initiated clinical trials using ESAs. For example, on September 30, 2008, we announced that we had received a summary of preliminary results from the Cochrane Collaboration's independent meta-analysis of patient-level data from previously conducted, randomized, controlled, clinical studies evaluating ESAs in cancer patients which we submitted to the FDA and the EMEA. These results were also presented by the Cochrane Haematological Malignancies Group in December at the 2008 ASH Congress. This Cochrane meta-analysis of patient level data from previous studies corroborates prior analyses indicating that the use of ESAs may increase the risk of death in cancer patients. The studies in the analysis all predate the current label, which advises using the least amount of ESA necessary to avoid transfusion. The analyses on all cancer patients were based on 53 previously conducted studies involving 13,933 patients. None of these studies utilized ESAs according to current label guidance. The overall survival results corroborate an earlier review by the Cochrane Collaboration, published in 2006, which is included in the WARNINGS section of the current U.S. PI (HR: 1.08 [95% CI 0.99-1.18]). The ESA treatment arm had increased on-study deaths (HR: 1.17 [95% CI 1.06-1.30]) and decreased overall survival (HR: 1.06 [95% CI 1.00-1.12]) compared to controls. The analyses on patients undergoing chemotherapy, the cancer indication for which ESAs are approved, were based on 38 studies with 10,441 patients. None of these studies utilized ESAs according to current label guidance. The ESA treatment arm had increased on-study deaths (HR: 1.10 [95% CI 0.98-1.24]) and decreased overall survival (HR: 1.04 [95% CI 0.97-1.11]) compared to controls. While neither of these results is statistically significant, they do not exclude the potential for adverse outcomes when ESAs are prescribed according to the current label. The final report on these endpoints is expected in 2009. Additionally, our TREAT study, a large 4,000 patient multi-center, randomized, double-blind, controlled phase 3 trial designed to determine the impact of anemia therapy with Aranesp® on mortality and non-fatal cardiovascular events in patients with CKD, anemia and type 2 diabetes, continues to progress. Although we cannot predict the results of meta-analyses or the outcomes of ongoing clinical trials, or the extent to which regulatory authorities may require additional labeling changes as a result of these or other trials, we cannot exclude the possibility that adverse results could have a material adverse impact on the reimbursement, use and sales of our ESAs which would have a material adverse effect on our business and results of operations.

Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected.

Before we can sell any products, we must conduct clinical trials which demonstrate that our product candidates are safe and effective for use in humans for the indications sought or our existing products are safe and effective for use in humans in new indications sought. Additionally, we may be required to conduct additional trials as a condition of the approval of our label or as a result of perceived or existing safety concerns. The results of these clinical trials are used as the basis to obtain regulatory approval from regulatory authorities such as the FDA. Clinical trials are experiments conducted using our products or product candidates in human patients hav-

ing the diseases or medical conditions we are trying to address. Conducting clinical trials is a complex, time-consuming and expensive process. We are required to conduct clinical trials using an appropriate number of trial sites and patients to support the product label claims we are seeking or to support our existing label. The length of time, number of trial sites and patients required for clinical trials vary substantially according to the type, complexity, novelty and intended use of the product candidate or the extent of the safety concerns, post-marketing issues and/or exposure to patients and therefore, we may spend several years and incur substantial expense in completing certain trials. Our ability to complete our clinical trials in a timely fashion depends in large part on a number of key factors including protocol design, regulatory and institutional review board approval, availability of clinical study material and the rate of patient enrollment in clinical trials. Patient enrollment is a function of several factors, including the size and location of the patient population, enrollment criteria and competition with other clinical trials for eligible patients. As such, there may be limited availability of patients who meet the criteria for certain clinical trials. Delays in planned clinical trials can result in increased development costs, delays in regulatory approvals, associated delays in product candidates reaching the market and revisions to existing product labels. In addition, in order to increase the number of patients available for enrollment for our clinical trials, we have and will continue to open clinical sites and enroll patients in a number of new geographic locations where our experience conducting clinical trials is more limited, including Russia, India, East Asia and some Central and South American countries either through utilization of third-party contract clinical trial providers entirely or in combination with local staff. Conducting clinical trials in locations where we have limited experience requires substantial time and resources to identify and understand the unique regulatory environments of individual countries. If we fail to adequately manage the design, execution and regulatory aspects of our large, complex and regulatory diverse clinical trials, our clinical trials and corresponding regulatory approvals may be delayed or we may fail to gain approval for our product candidates altogether or could lose our ability to market existing products in certain therapeutic areas or altogether. If we are unable to market and sell our product candidates or are unable to obtain approvals in the timeframe needed to execute our product strategies, our business and results of operations would be materially adversely affected. Additional information on our clinical trials can be found on our website at (http://www.amgen.com). (This website address is not intended to function as a hyperlink, and the information contained on our website is not intended to be a part of this filing.)

Patients may also suffer adverse medical events or side effects in the course of our, our licensees, partners or independent investigator’s clinical trials of our products or product candidates that may delay the clinical program, require additional or longer trials to gain approval, prohibit regulatory approval of our product candidates or additional indications for our currently approved products, or may render the product candidate commercially unfeasible or limit our ability to market existing products in certain therapeutic areas or at all. For example, as a result of observing an increased frequency of cholecystitis (inflammation of the gall bladder) in patients treated with our late-stage product candidate motesanib, we delayed our phase 3 trial in first-line NSCLC, which was previously expected to begin in the fourth quarter of 2006, until the second half of 2007. Clinical trials must be designed based on the current standard of medical care. However in certain diseases, such as cancer, the standard of care is evolving rapidly. In these diseases, the duration of time needed to complete certain clinical trials may result in the design of such clinical trials being based on an out of date standard of medical care, limiting the utility and application of such trials. Of course, even if we successfully manage our clinical trials, we may not obtain favorable clinical trial results and may not be able to obtain regulatory approval for new product candidates, product label extensions or maintenance of our current labels on this basis. Further, clinical trials conducted by others, including our licensees, partners or independent investigators, may result in unfavorable clinical trials results that may call into question the safety of our products in off-label or on label uses that may result in label restrictions and/or additional trials.

In connection with our efforts to improve our cost structure, we refocused our spending on critical R&D and operational priorities and sought greater efficiencies in how we conduct our business, including optimizing ongoing clinical trials and trial initiation. To the extent future sales are negatively affected as a result of additional regulatory and reimbursement developments or other challenges, we may be required to further adjust our R&D investment plans. Such actions could result in delays in obtaining approval or reductions in the number of indications and market potential of our product candidates.

Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.

Sales of all of our principal products are dependent, in part, on the availability and extent of reimbursement from third-party payors, including governments and private insurance plans. Generally, in Europe and other countries outside the United States, the government-sponsored healthcare system is the primary payor of healthcare costs of patients. Governments may regulate access to, prices or reimbursement levels of our products to control costs or to affect levels of use of our products. Worldwide use of our products may be affected by these cost containment pressures and cost shifting from governments and private insurers to healthcare providers or patients in response to ongoing initiatives to reduce or reallocate healthcare expenditures. It is possible that applicable statutes, such as the MMA, could be modified or new legislation or regulation introduced in 2009 and later that could include a focus on reducing drug costs and change coverage and reimbursement methodologies for government healthcare programs that could have a significant impact on our business. Although we cannot predict when legislation or regulation affecting reimbursement from third-party payors may be proposed or enacted in the future or the specific effect any such legislation or regulation would have on our business, any such legislation or regulations changing and/or reducing the coverage and reimbursement of our products or the way our products are used or prescribed may cause our sales to decrease and our revenues to decline.

Further, adverse events or results from clinical trials or studies performed by us or by others or from the marketed use of our drugs may expand the safety information in the labeling for our approved products and may negatively impact worldwide reimbursement for our products. For example, on January 14, 2008, CMS issued changes to its Medicare National Coverage Determinations Manual that resulted in the reduced use of ESAs in clinical practice. A more detailed discussion of the Decision Memorandum follows below. (See also "*— Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*" and "*— Guidelines and recommendations published by various organizations can reduce the use of our products.*")

An increasing focus on cost containment by public and private insurers has resulted, and could result in the future, in lower reimbursement rates for our products. Most patients receiving Aranesp®, Neulasta® and NEUPOGEN® for approved indications are covered by government and/or private payor healthcare programs. Medicare and Medicaid government healthcare programs' payment policies for drugs and biologicals are subject to various laws and regulations. Effective January 1, 2009 in the hospital outpatient setting, our products are reimbursed under a Medicare Part B payment methodology that reimburses each product at 104% of its ASP (sometimes referred to as "ASP+4%"). The rate of reimbursement in the hospital outpatient setting has been reduced twice since its inception (with reimbursement rates set at ASP+5% for 2008 and ASP+6% from 2005 to 2007). Effective January 1, 2009, in the physician office setting, Aranesp®, Neulasta® and NEUPOGEN® are reimbursed under a Medicare Part B payment methodology that reimburses each product at ASP+6%. CMS has the regulatory authority to alter or maintain the Medicare payment rates for Part B drugs and biologicals in the future for the hospital outpatient setting. A product's ASP is calculated and reported to CMS on a quarterly basis and may change each quarter. The ASP in effect for a given quarter (the "Current Period") is based upon certain historical sales and sales incentive data covering a statutorily defined period of time preceding the Current Period. For example, the ASP based payment rate for Aranesp® that will be in effect for the second quarter of 2009 will be based in part on certain historical sales and sales incentive data for Aranesp® from January 1, 2008 through December 31, 2008.

In the dialysis setting, our products may also be subject to downward pressure on reimbursement rates. In the United States, dialysis providers are primarily reimbursed for EPOGEN® by the federal government through the ESRD Program of Medicare. The ESRD Program reimburses approved providers for 80% of allowed dialysis costs; the remainder is paid by other sources, including patients, state Medicaid programs, private insurance, and to a lesser extent, state kidney patient programs. The ESRD Program reimbursement methodology is established by federal law and is monitored and implemented by CMS. Currently, the payment mechanism for separately reimbursed dialysis drugs in both free-standing and hospital-based dialysis centers, including EPOGEN® and

Aranesp®, is reimbursed by Medicare at ASP+6%. Although we cannot predict the payment levels of EPOGEN® in future quarters or the extent to which Medicare payments for dialysis drugs may be modified by future federal regulation or legislation, a decrease in the reimbursement rate for EPOGEN® may have a material adverse effect on our business and results of operations. Any changes to the ASP calculations directly affect the Medicare reimbursement for our products administered in the physician clinic setting, dialysis facility and hospital outpatient setting. These calculations are regularly reviewed for completeness and based on such review, and we have revised our reported ASPs to reflect calculation changes both prospectively and retroactively. For example, partially as a result of our methodology changes, our ASP reimbursement rate for EPOGEN® was reduced for the third quarter of 2007.

Since April 1, 2006, the Medicare reimbursement for ESAs administered to dialysis patients has been subject to a revised EMP, the Medicare payment review mechanism used by CMS to monitor EPOGEN® and Aranesp® utilization and appropriate hematocrit outcomes of dialysis patients. The EMP was revised, effective January 1, 2008, requiring a 50% reduction in Medicare reimbursement if a patient's Hb is above 13 g/dL for three or more consecutive months. In addition, the revised EMP reduces the monthly dosing limits to 400,000 IUs of EPOGEN®, from 500,000 IUs, and to 1,200 mcgs of Aranesp®, from 1,500 mcgs. The implementation of the revised EMP and ESA labeling changes led to a decline in EPOGEN® sales for the first quarter of 2008 compared to the first quarter of 2007 primarily due to a decline in both overall utilization and as well as average dosing per patient. While this dose decline subsequently stabilized in 2008, it may further fluctuate in the future, which could have a material adverse effect on sales of EPOGEN® and our business and results of operations.

On July 15, 2008, the MIPPA became law with a number of Medicare and Medicaid reforms including a broader payment bundle for dialysis services and drugs which will require CMS, beginning in 2011, to establish a bundled Medicare payment rate that includes dialysis services and drug/labs that are currently separately billed. The new bundled rate will include dialysis services covered under the current composite rate, as well as all injectable drugs commonly provided during dialysis treatment, and currently billed separately, including ESAs, IV iron, and IV vitamin D, as well as "oral equivalent" forms of these IV drugs. The bundled reimbursement rate will be phased in over a four year period in equal increments starting in 2011. It is possible that some providers could elect to move to a full Medicare bundled payment in 2011. CMS will also be required to establish a quality incentive program that begins concurrently with bundling in 2011 and which subjects facilities to up to a 2% annual reduction in Medicare reimbursement for failure to meet or exceed CMS quality performance standards, including performance standards related to anemia management and dialysis adequacy. Bundling initiatives that have been implemented in other healthcare settings have occasionally resulted in lower utilization of services that had not previously been a part of the bundled payment. We are in the process of evaluating the potential impact of the new Medicare legislation on our business and at this time cannot predict the impact a bundled payment system for outpatient dialysis might have on sales of EPOGEN® or Aranesp®.

We face risks relating to the calculation of ASP. ASP is calculated by the manufacturer based on a statutorily defined formula and submitted to CMS. MedPAC has recommended that ASP reporting requirements be clarified "to ensure that ASP calculations allocate discounts to reflect the transaction price for each drug." Under the current ASP system, we allocate our discounts based on the prices paid for individual drugs, according to the terms of our contracts with physicians and other purchasers, and we believe that the resulting ASPs reflect the transaction prices for individual drugs. Moreover, in the Medicare Physician Fee Schedule Final Rule for 2008, the agency clarified that in the absence of specific guidance, manufacturers may continue to make "reasonable assumptions" in the calculation of ASP, consistent with the general requirements and the intent of the Medicare statute and regulations and their customary business practices. The agency stated that it will continue to monitor this issue and may provide more specific guidance in the future.

Other initiatives reviewing the coverage or reimbursement of our products, including those related to safety, could result in less extensive coverage or lower reimbursement and could negatively affect sales of some of our marketed products. For example, on March 14, 2007, shortly after the March 9, 2007 FDA labeling changes for all ESAs, CMS announced that the agency had begun reviewing all Medicare policies related to the administration of ESAs in non-renal disease applications as part of a NCA which is generally CMS' first step toward developing a NCD. Generally, an NCD is a national policy statement granting, limiting or excluding Medicare

coverage or reimbursement for a specific medical item or service. On May 14, 2007, CMS issued a proposed NCD that was open for public comment through June 13, 2007. On July 30, 2007, CMS issued its Decision Memorandum which was substantially altered from the proposed NCD. On January 14, 2008, CMS issued changes to its Medicare NCD Manual, adding the ESA Decision Memorandum, effective for claims with dates of service on and after July 30, 2007 with an implementation date of April 7, 2008. In the Decision Memorandum, CMS determined that ESA treatment was not reasonable and necessary for certain clinical conditions, and established Medicare coverage parameters for FDA-approved ESA use in oncology.

We believe this restriction on reimbursement of ESAs in the Decision Memorandum has had and may continue to have a material adverse effect on the use, reimbursement and sales of Aranesp®, and our business and results of operations. Additionally, to our knowledge, although no private payors have fully implemented the Decision Memorandum to date, many private payors have implemented the portions of the restrictions included in the Decision Memorandum that most commonly reflect the prescriber package insert. Further, we believe many healthcare providers have reduced ESA utilization for all of their patients regardless of insurance coverage. While we cannot fully predict the further impact of the Decision Memorandum on how, or under what circumstances, healthcare providers will prescribe or administer our ESAs, it had a significant impact to our business in 2007 and 2008 and we believe that it may continue to impact us in the future.

In addition, the FDA held a joint meeting of the CRDAC and the DSaRMAC on September 11, 2007 to evaluate safety data on ESA use in renal disease. On July 31, 2008, CMS issued a listing of potential topics for future NCDs as a step to increase transparency in the NCD process, which included as potential topics the use of ESAs in ESRD and CKD. Also included in the initial potential future NCD topic list is the category of thrombopoiesis stimulating agents (platelet growth factors), the category of drugs that includes Nplate®. CMS has not announced whether it will proceed to a NCD for ESAs in ESRD or CKD, or for thrombopoiesis stimulating agents, and we cannot predict whether either ESAs in the renal setting or thrombopoiesis stimulating agents will be the subject of a future NCD; however, any final NCD for ESAs in the renal setting, which may include non-coverage and/or new dosing and treatment restrictions similar to those proposed in Decision Memorandum for treatment of anemia in oncology with ESAs, would negatively affect use, reduce reimbursement and coverage, negatively affect product sales of our ESA products and may have a material adverse effect on our business and results of operations.

If, and when, reimbursement rates or availability for our marketed products changes adversely or if we fail to obtain adequate reimbursement for our current or future products, healthcare providers may limit how much or under what circumstances they will prescribe or administer them, which could reduce the use of our products or cause us to reduce the price of our products. This could result in lower product sales, which could have a material adverse effect on us and our results of operations. For example, the use of EPOGEN® in the United States in connection with treatment for ESRD is funded primarily by the U.S. federal government. In early 1997, CMS, formerly known as Healthcare Financing Administration ("HCFA"), instituted a reimbursement change for EPOGEN®, which materially and adversely affected our EPOGEN® sales until the policies were revised. In addition, following the update to the ESA labeling and associated revisions in compendia, nearly all Medicare contractors dropped reimbursement for Aranesp® for anemia of cancer. (See "— *Guidelines and recommendations published by various organizations can reduce the use of our products*.") Also, we believe the increasing emphasis on cost-containment initiatives in the United States, Europe and other countries has and will continue to put pressure on the price and usage of our products, which may adversely impact product sales. In addition, we believe the new U.S. presidential administration, together with Congress, will shape U.S. healthcare policy in the coming months and years, and we expect that healthcare reform efforts could include long-term changes to coverage and reimbursement that may have a significant impact on our business. Further, when a new therapeutic product is approved, the governmental and/or private coverage and reimbursement for that product is uncertain and a failure to demonstrate clear clinical and/or comparative value associated with the use of a new therapeutic product as compared to existing therapeutic products or practices may result in inadequate or no reimbursement. We cannot predict the availability or amount of reimbursement for our approved products or product candidates, including those at a late stage of development, and current reimbursement policies for marketed products may change at any time. Sales of all our products are and will be affected by government and

private payor reimbursement policies. Reduction in reimbursement for our products could have a material adverse effect on our product sales and results of operations.

If our intellectual property positions are challenged, invalidated, circumvented or expire, or if we fail to prevail in present and future intellectual property litigation, our business could be adversely affected.

The patent positions of pharmaceutical and biotechnology companies can be highly uncertain and often involve complex legal, scientific and factual questions. To date, there has emerged no consistent policy regarding breadth of claims allowed in such companies' patents. Third parties may challenge, invalidate or circumvent our patents and patent applications relating to our products, product candidates and technologies. In addition, our patent positions might not protect us against competitors with similar products or technologies because competing products or technologies may not infringe our patents. For certain of our product candidates, there are third parties who have patents or pending patent applications that they may claim prevent us from commercializing these product candidates in certain territories. Patent disputes are frequent, costly and can preclude or delay commercialization of products. We are currently, and in the future may be, involved in patent litigation. However, a patent dispute or litigation may not discourage a potential violator from bringing the product that is alleged to infringe to market and we may be subject to competition during certain periods of litigation. Further, under the Hatch-Waxman Act, products approved by the FDA under a NDA may be the subject of patent litigation with generic competitors before the five year period of data exclusivity provided for under the Hatch-Waxman Act has expired and prior to the expiration of the patents listed for the product. For example, on July 25, 2008, we, NPS Pharmaceuticals and Brigham and Women's Hospital, filed a lawsuit against Teva and Barr for infringement of four Sensipar® patents. The lawsuit is based on ANDAs filed by Teva and Barr which seek approval to market generic versions of Sensipar® before expiration of the patents. This lawsuit is described in Note 10, "*Contingencies*" to the Consolidated Financial Statements. If we lose or settle current or future litigations at certain stages or entirely, we could be subject to competition and/or significant liabilities; required to enter into third-party licenses for the infringed product or technology or required to cease using the technology or product in dispute. In addition, we cannot guarantee that such licenses will be available on terms acceptable to us, or at all.

Our success depends in part on our ability to obtain and defend patent rights and other intellectual property rights that are important to the commercialization of our products and product candidates. We have filed applications for a number of patents and have been granted patents or obtained rights relating to erythropoietin, natural and recombinant G-CSF, darbepoetin alfa, pegfilgrastim, etanercept, cinacalcet, panitumumab, romiplostim and our product candidates. We market our erythropoietin, recombinant G-CSF, darbepoetin alfa, pegfilgrastim, etanercept, cinacalcet, panitumumab and romiplostim products as EPOGEN® (Epoetin alfa), NEUPOGEN® (Filgrastim), Aranesp® (darbepoetin alfa), Neulasta® (pegfilgrastim), Enbrel® (etanercept), Sensipar®/Mimpara® (cinacalcet), Vectibix® (panitumumab) and Nplate® (romiplostim), respectively. With respect to our material patents, we have had a number of G-CSF patent expiries in the United States.

We also have been granted or obtained rights to patents in Europe relating to erythropoietin, G-CSF, pegfilgrastim (pegylated G-CSF), etanercept, darbepoetin alfa, cinacalcet, panitumumab and romiplostim. Our principal European patent relating to erythropoietin expired on December 12, 2004 and our principal European patent relating to G-CSF expired on August 22, 2006. As these patents have expired, some companies have and we believe others may receive approval for and market biosimilar (as they are generally known in the EU) and other products to compete with these products in the EU presenting additional competition to our products. (See "— *Our marketed products face substantial competition and other companies may discover, develop, acquire or commercialize products before or more successfully than we do.*")

We may experience difficulties, delays or unexpected costs and not achieve or maintain anticipated cost savings from our restructuring plan.

As a result of various regulatory and reimbursement developments that began in 2007 and, in particular those affecting our marketed ESA products, on August 15, 2007, we announced a plan to restructure our world-

wide operations in order to improve our cost structure while continuing to make significant R&D investments and build the framework for our future growth. As part of the restructuring plan, we reduced staff, made changes to certain capital projects, closed certain production operations and abandoned leases primarily for certain R&D facilities that will not be used in our operations. Through December 31, 2008, we have completed substantially all of these actions and reduced costs in 2008. Our ability to maintain these savings is dependent upon various future developments, some of which are beyond our control. During 2008, we identified certain additional initiatives designed to further assist in improving our cost structure. We may not realize, in full or in part, the anticipated benefits and savings from our recent restructuring efforts due to unforeseen difficulties, delays or unexpected costs. If we are unable to achieve or maintain all of the resulting savings or benefits to our business or other unforeseen events occur, our business and results of operations may be adversely affected. Further, if we were to experience additional changes to our business or redesign certain processes to achieve increased efficiencies, we may face further restructuring and/or reorganization activities in the future.

In addition, our reduction of staff was completed through a combination of a voluntary transition program and an involuntary reduction in force. In order to be successful and build our framework for future growth, we must continue to execute and deliver on our core business initiatives with fewer human resources and losses of intellectual capital. We must also attract, retain and motivate key employees including highly qualified management, scientific, manufacturing and sales and marketing personnel who are critical to our business. We may not be able to attract, retain or motivate qualified employees in the future and our inability to do so may adversely affect our business.

Guidelines and recommendations published by various organizations can reduce the use of our products.

Government agencies promulgate regulations and guidelines directly applicable to us and to our products. However, professional societies, practice management groups, insurance carriers, physicians, private health/science foundations and organizations involved in various diseases from time to time may also publish guidelines or recommendations to healthcare providers, administrators and payors, and patient communities. Recommendations of government agencies or these other groups/organizations may relate to such matters as usage, dosage, route of administration and use of related therapies and reimbursement of our products by government and private payors. (See "— *Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*") Organizations like these have in the past made recommendations about our products. Recommendations or guidelines that are followed by patients and healthcare providers could result in decreased use and/or dosage of our products. Some examples of agency and organizational guidelines include:

- On August 30, 2007, the National Kidney Foundation (the "NKF") distributed to the nephrology community final updated Kidney Disease Outcomes Quality Initiative ("KDOQI") clinical practice guidelines and clinical practice recommendations for anemia in CKD. The NKF's Anemia Work Group conducted an extensive review of results from 26 new and existing randomized controlled trials, comparing the risks and benefits of a range of Hb therapeutic targets in CKD patients. Based on this review, the NKF-KDOQI™ Anemia Work Group recommended in their 2007 Update to the NKF-KDOQI™ Anemia Management Guidelines that physicians target Hb in the range of 11 g/dL to 12 g/dL, and also stipulated that the target not be above 13 g/dL.
- On February 2, 2007, following the reported results from our AoC 103 Study, the USP DI Drug Reference Guides removed Aranesp® in the treatment of AoC. Thereafter, Aranesp® use in AoC essentially ceased.

Any recommendations or guidelines that result in decreased use, dosage or reimbursement of our products could adversely affect our product sales and operating results materially. In addition, the perception by the investment community or stockholders that such recommendations or guidelines will result in decreased use and dosage of our products could adversely affect the market price for our common stock.

We may not be able to develop commercial products.

We intend to continue to make significant R&D investments. Successful product development in the biotechnology industry is highly uncertain, and very few R&D projects produce a commercial product. Product candidates or new indications for existing products (collectively, "product candidates") that appear promising in the early phases of development, such as in early human clinical trials, may fail to reach the market for a number of reasons, such as:

- the product candidate did not demonstrate acceptable clinical trial results even though it demonstrated positive preclinical trial results
- the product candidate was not effective or more effective than currently available therapies in treating a specified condition or illness
- the product candidate had harmful side effects in humans or animals
- the necessary regulatory bodies, such as the FDA, did not approve our product candidate for an intended use
- the product candidate was not economical for us to manufacture and commercialize
- other parties have or may have proprietary rights relating to our product candidate, such as patent rights, and will not let us sell it on reasonable terms, or at all
- the product candidate is not cost effective in light of existing therapeutics
- we and certain of our licensees, partners or independent investigators may fail to effectively conduct clinical development or clinical manufacturing activities
- the regulatory pathway to approval for product candidates is uncertain or not well-defined

For example, we announced that after discussions with the FDA we have decided not to file for approval of motesanib in refractory thyroid cancer until there is more clarity on what would constitute an appropriate regulatory filing package for that indication. We believe that the safety concerns around our ESAs expressed by the FDA must be addressed to the agency's satisfaction before new indications or expanded labeling of our ESA products will likely be approved.

Further, several of our product candidates have failed or been discontinued at various stages in the product development process, including, but not limited to, Brain Derived Neurotrophic Factor ("BDNF"), Megakaryocyte Growth and Development Factor ("MGDF") and Glial Cell Lined-Derived Neurotrophic Factor ("GDNF"). For example, in 1997, we announced the failure of BDNF for the treatment of amyotrophic lateral sclerosis, or Lou Gehrig's Disease, because the product candidate, when administered by injection, did not produce acceptable clinical results for a specific use after a phase 3 trial, even though BDNF had progressed successfully through preclinical and earlier clinical trials. In addition, in 1998, we discontinued development of MGDF, a novel platelet growth factor, at the phase 3 trial stage after several people in platelet donation trials developed low platelet counts and neutralizing antibodies. Also, in June 2004, we announced that the phase 2 study of GDNF for the treatment of advanced Parkinson's disease did not meet the primary study endpoint upon completion of nine months of the double-blind treatment phase of the study even though a small phase 1 pilot investigator-initiated open-label study over a three-year period appeared to result in improvements for advanced Parkinson's disease patients. Subsequently, in the fall of 2004 we discontinued clinical development of GDNF in patients with advanced Parkinson's disease after several patients in the phase 2 study developed neutralizing antibodies and new preclinical data in rhesus monkeys showed that GDNF caused irreversible damage to the area of the brain critical to movement control and coordination. On February 11, 2005, we confirmed our previous decision to halt clinical trials of GDNF and, as a part of that decision and based on thorough scientific review, we also concluded that we will not provide GDNF to the 48 patients who participated in clinical trials that were terminated in the fall of 2004. Of course, there may be other factors that prevent us from marketing a product. We cannot guarantee we will be able to produce or manufacture commercially successful products. (See "— *Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit*

supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers."; "*— Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*" and "*— Before we commercialize and sell any of our product candidates or existing products for new indications, we must conduct clinical trials in humans; if we fail to adequately manage these trials we may not be able to sell future products and our sales could be adversely affected*.")

Our business may be affected by government investigations or litigation.

We and certain of our subsidiaries are involved in legal proceedings relating to various patent matters, government investigations, our business operations, government requests for information and other legal proceedings that arise from time to time in the ordinary course of our business. Matters required to be disclosed by us are set forth in Note 10, "*Contingencies*" to the Consolidated Financial Statements and are updated as required in subsequently filed Form 10-Qs. Litigation is inherently unpredictable, and the outcome can result in excessive verdicts and/or injunctive relief that affects how we operate our business. Consequently, it is possible that we could, in the future, incur judgments or enter into settlements of claims for monetary damages or change the way we operate our business, which could have a material adverse effect on our results of operations, financial position or cash flows.

We have received subpoenas from a number of government entities, including the U.S. Attorney's Offices for the Eastern District of New York and the Western District of Washington, as well as the Attorneys General of New York and New Jersey. The federal subpoenas have been issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (18 U.S.C. 3486), while the Attorneys General subpoenas have been issued pursuant to state specific statutes relating to consumer fraud laws and state false claims acts. In general, the subpoenas request documents relating to the sales and marketing of our products, and our collection and dissemination of information reflecting clinical research as to the safety and efficacy of our ESAs. To the extent it is alleged in a proceeding that we are in violation of the various federal and state laws that govern the sales and marketing of its products, then a decision adverse to our interests could result in federal criminal liability and/or federal or state civil or administrative liability, and thus could result in substantial financial damages or criminal penalties. In addition, as current macroeconomic conditions place increasing fiscal pressure on governments, we may see new governmental investigations of or actions against us citing novel theories of recovery. Any of these results could have a material adverse effect on our results of operations, financial position or cash flows in the period in which such liabilities are incurred.

We may be required to defend lawsuits or pay damages for product liability claims.

Product liability is a major risk in testing and marketing biotechnology and pharmaceutical products. We may face substantial product liability exposure in human clinical trials and for products that we sell after regulatory approval. Product liability claims, regardless of their merits, could be costly and divert management's attention, and adversely affect our reputation and the demand for our products. Amgen and Immunex have previously been named as defendants in product liability actions for certain of our products.

Our revenues may fluctuate and our operating results are subject to fluctuations and these fluctuations could cause financial results to be below expectations and our stock price is volatile, which could adversely affect your investment.

Our revenues and operating results may fluctuate from period to period for a number of reasons, some of which we cannot control. For example, primarily as a result of various regulatory and reimbursement developments involving ESA products that began in 2007, our anemia product sales, in particular sales of Aranesp®, for 2007 were materially adversely impacted. Even a relatively small revenue shortfall may cause financial results for a period to be below our expectations or projections as some of our operating expenses are fixed in the short term and cannot be reduced within a short period of time to offset reductions in revenue. Further, primarily as a

result of the various regulatory and reimbursement developments impacting ESA products, on August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure. As of December 31, 2008, we have completed substantially all of the actions initially included in our restructuring plan and have incurred approximately $887 million in charges. During 2008, we identified certain additional initiatives designed to further assist in improving our cost structure. The estimated cost of these additional initiatives is $95 million to $135 million. As a result of these initiatives and certain minor changes in expected costs associated with the actions initially included in our restructuring plan, the amount of total charges currently expected to be incurred in connection with our restructuring plan, including implementation costs, is $950 million to $985 million. Our operating results have and may continue to fluctuate and be adversely impacted as a result of these restructuring charges. (See "— *We may experience difficulties, delays or unexpected costs and not achieve or maintain anticipated cost savings from our restructuring plan*.") In addition, in the event that the actual restructuring charges exceed our latest estimate, this may cause our operating results for a period to be below our expectations or projections. As a result of the above or other challenges, including further label revisions to our ESAs, our revenues and operating results and, in turn, our stock price may be subject to significant fluctuations. Changes in credit ratings issued by nationally recognized statistical ratings organizations could adversely affect our cost of financing and have an adverse effect on the market price of our securities. Additionally, our stock price, like that of other biotechnology companies, is volatile. For example, in the fifty-two weeks prior to December 31, 2008, the trading price of our common stock has ranged from a high of $66.51 per share to a low of $39.16 per share.

Our revenues, operating results and stock price may be affected by a number of factors, such as:

- adverse developments regarding the safety or efficacy of our products
- changes in the government's or private payors' reimbursement policies, particularly for supportive cancer care products, or prescribing guidelines for our products
- current volatility and disruption of the financial markets
- evolving medical care in treating cancer requiring less use of supportive cancer care products and/or changes in chemotherapy usage patterns
- inability to maintain regulatory approval of marketed products or manufacturing facilities
- actual or anticipated clinical trial results of ours or our licensees, partners or independent investigators
- business development or licensing activities
- product development or other business announcements by us or our competitors
- regulatory matters or actions, such as label changes or risk management activities, including a REMS
- lower than expected demand for our products or a change in product mix either or both of which may result in less than optimal utilization of our manufacturing facilities and the potential to incur excess capacity or impairment charges
- changes in our product contracting and related pricing strategies
- changes in wholesaler buying patterns
- increased competition from new or existing products
- fluctuations in foreign currency exchange rates
- announcements in the scientific and research community
- intellectual property and legal matters
- actual or anticipated product supply constraints
- broader economic, industry and market trends unrelated to our performance

Of course, there may be other factors that affect our revenues, operating results and stock price in any given period. In addition, if our revenues, earnings or other financial results in any period fail to meet the investment community's expectations, there could be an immediate adverse impact on our stock price.

Current levels of market volatility are unprecedented and adverse capital and credit market conditions may affect our ability to access cost-effective sources of funding and our investment in marketable securities may be subject to market, interest and credit risk that could reduce their value.

The capital and credit markets have been experiencing extreme volatility and disruption which, particularly during the latter part of 2008 and the beginning of 2009, has led to uncertainty and liquidity issues for both borrowers and investors. We currently have sufficient cash to repay the $1.0 billion of our 4.00% notes due in November 2009. Historically, we have occasionally and opportunistically accessed the capital markets to support certain business activities including acquisitions, in-licensing activities, share repurchases and to refinance existing debt. In the future, we may not be able to obtain capital market financing on similar favorable terms, or at all, which could have a material adverse effect on our business and results of operations.

We have some exposure to financial institutions which have come under pressure as a result of the current credit crisis. For example, we have historically had 16 financial institutions participate in our $2.5 billion revolving credit facility including a subsidiary of Lehman Brothers Holdings Inc. (“Lehman”), which had a $178 million commitment. Lehman declared bankruptcy on September 15, 2008, and the subsidiary participant in our credit facility subsequently declared bankruptcy on October 5, 2008. Although we have never drawn on our credit facilities and do not currently anticipate any need to do so, we would not anticipate the ability to access this specific commitment provided by Lehman in the future. Additionally, the conversion feature of our 0.125% Convertible Senior Notes due 2011 and our 0.375% Convertible Senior Notes due 2013 are hedged pursuant to transactions entered into with two financial institutions. We have also entered into interest rate swap agreements for certain of our outstanding debt and routinely enter into foreign currency exchange contracts with financial institutions as counterparties. Additional bankruptcies in the financial sector could limit our ability to replace these transactions on favorable terms, or at all, or to manage the risks inherent in our business which could have a material adverse effect on our business and results of operations.

Additionally, we maintain a significant portfolio of fixed-income based investments disclosed as cash equivalents and marketable securities on our Consolidated Balance Sheet. The value of our investments may be adversely affected by interest rate fluctuations, downgrades in credit ratings, illiquidity in the capital markets and
other factors which may result in other than temporary declines in the value of our investments. Any of these events could cause us to record impairment charges with respect to our investment portfolio or to realize losses on the sale of investments. We seek to mitigate these risks with the help of our investment advisors by generally investing in high quality securities and continuously monitoring the overall risk of our portfolio. To date, we have not realized any material impairments within our investment portfolio.

The volatility of the current financial markets and the general economic slowdown may magnify certain risks that affect our business.

Sales of our principal products are dependent, in part, on the availability and extent of reimbursement from third-party payors, including governments and private insurance plans. (See “— *Our sales depend on coverage and reimbursement from third-party payors, and to the extent that access to and reimbursement for our products is reduced, this could negatively impact the utilization of our products.*”) As a result of the volatility of the current financial markets and the general economic slowdown, our third-party payors may delay or be unable to satisfy their reimbursement obligations. A reduction in the availability or extent of reimbursement from government programs, including Medicare and Medicaid, and/or private payor healthcare programs could have a material adverse affect on the sales of our products, our business and results of operations.

In addition, as a result of the volatile financial markets and economic slowdown, some employers may seek to reduce costs by reducing or eliminating employer group healthcare plans or transferring a greater portion of healthcare costs to their employees. Job losses or changes may also result in reduced levels of coverage for some individuals, potentially resulting in lower levels of healthcare coverage for themselves or their families. These reductions may affect patients’ ability to afford healthcare and/or cause them to forego or postpone treatment to reduce out-of-pocket healthcare costs as a result of increased co-pay or deductible obligations or for other reasons. These changes may result in reduced demand for our products, which could adversely affect our business

and results of operations. Any resulting decrease in demand for our products could also cause us to experience excess inventory write-offs and/or excess capacity charges at certain of our manufacturing facilities.

Additionally, we rely upon third-parties for certain parts of our business, including licensees and partners, wholesale distributors of our products, contract clinical trial providers, contract manufacturers and single third-party suppliers. Because of the recent volatility in the financial markets, there may be a disruption or delay in the performance or satisfaction of commitments to us by these third-parties which could have a material adverse affect on our business and results of operations. For example, current markets conditions may adversely affect the ability of our distributors, customers and suppliers to obtain liquidity required to buy inventory or raw materials and to perform their obligations under agreements with us, which could disrupt our operations. In addition, although we monitor our distributors', customers' and suppliers' financial condition and their liquidity, in order to mitigate our business risks, some of our distributors, customers and suppliers may become insolvent, which could negatively impact our business and results of operations.

We rely on single third-party suppliers for some of our raw materials, medical devices and components; if these third-parties fail to supply these items, we may be unable to supply our products.

Certain raw materials necessary for commercial and clinical manufacturing and formulation of our products are provided by single-source unaffiliated third-party suppliers. Also, certain medical devices and components necessary for formulation, fill and finish of our products are provided by single-source unaffiliated third-party suppliers. Certain of these raw materials, medical devices and components are the proprietary products of these unaffiliated third-party suppliers and, in some cases, such proprietary products are specifically cited in our drug application with regulatory agencies so that they must be obtained from that specific sole source and could not be obtained from another supplier unless and until the regulatory agency approved that other supplier.

We would be unable to obtain these raw materials, medical devices or components for an indeterminate period of time if these third-party single-source suppliers were to cease or interrupt production or otherwise fail to supply these materials or products to us for any reason, including:

- regulatory requirements or action by regulatory agencies or others
- adverse financial developments at or affecting the supplier
- unexpected demand for or shortage of raw materials, medical devices or components
- labor disputes or shortages, including the effects of an avian or pandemic flu outbreak or otherwise
- failure to comply with our quality standards which results in quality failures, product contamination and/or recall

These events could adversely affect our ability to satisfy demand for our products, which could adversely affect our product sales and operating results materially. For example, we have experienced shortages in certain components necessary for the formulation, fill and finish of certain of our products in our Puerto Rico facility without impact on our ability to supply these products. However, we may experience these or other shortages in the future resulting in delayed shipments, supply constraints and/or stock-outs of our products. Also, certain of the raw materials required in the commercial and clinical manufacturing and the formulation of our products are sourced from other countries and/or derived from biological sources, including mammalian tissues, bovine serum and HSA.

Some countries in which we market our products may restrict the use of certain biologically derived substances in the manufacture of drugs. We are investigating alternatives to certain biological sources and alternative manufacturing processes that do not require the use of certain biologically-sourced raw materials as such raw materials may be subject to contamination and/or recall. Also, some countries in which we market our products may restrict the use of certain biologically derived substances in the drug manufacturing process.

A material shortage, contamination, recall and/or restriction of the use of certain biologically derived substances or other raw materials, which may be sourced from other countries, used in the manufacture of our

products could adversely impact or disrupt our commercial manufacturing of our products or could result in a mandated withdrawal of our products from the market. This could adversely affect our ability to satisfy demand for our products, which could adversely affect our product sales and operating results materially.

Further, any disruptions or delays by us or by third-party suppliers or partners in converting to alternatives to certain biological sources and alternative manufacturing processes or our ability to gain regulatory approval for the alternative materials and manufacturing processes could increase our associated costs or result in the recognition of an impairment in the carrying value of certain related assets, which could have a material and adverse affect on our results of operations.

Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers.

We currently manufacture and market all of our principal products, and we plan to manufacture and market many of our product candidates. Manufacturing biologic human therapeutic products is difficult, complex and highly regulated. (See "— *Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*")

We currently manufacture our products and product candidates at our manufacturing facilities located in Thousand Oaks and Fremont, California; Boulder and Longmont, Colorado; West Greenwich, Rhode Island; Bothell, Washington and Juncos, Puerto Rico. (See "— *We manufacture and formulate, fill and finish substantially all our products at our Puerto Rico manufacturing facility; if significant natural disasters or production failures occur at this facility, we may not be able to supply these products.*")

Additionally, we currently use third-party contract manufacturers to produce or assist in the production of ENBREL, Sensipar®/Mimpara® and Nplate® as well as our late-stage product candidate denosumab and plan to use contract manufacturers to produce a number of our other late-stage product candidates. (See "— *We are dependent on third parties for a significant portion of our bulk supply and the formulation, fill and finish of ENBREL*.") Our ability to adequately and timely manufacture and supply our products is dependent on the uninterrupted and efficient operation of our facilities and those of our third-party contract manufacturers, which is impacted by many manufacturing variables including:

- availability or contamination of raw materials and components used in the manufacturing process, particularly those for which we have no other source or supplier
- capacity of our facilities and those of our contract manufacturers
- facility contamination by microorganisms or viruses
- labor disputes or shortages, including the effects of an avian or pandemic flu outbreak
- compliance with regulatory requirements
- changes in forecasts of future demand
- timing and actual number of production runs
- production success rates and bulk drug yields
- timing and outcome of product quality testing

If we have problems in one or more of these or other manufacturing variables, we may experience delayed shipments, supply constraints, stock-outs and/or recalls of our products. For example, in the second quarter of 2002, the prior co-marketers with respect to ENBREL experienced a brief period where no ENBREL was available to fill new patient prescriptions, primarily due to variation in the expected production yield from BI Pharma. If we are at any time unable to provide an uninterrupted supply of our products to patients, we may lose patients,

physicians may elect to prescribe competing therapeutics instead of our products, and sales of our products will be adversely affected, which could materially and adversely affect our product sales and results of operations.

We manufacture and contract manufacture, price, sell, distribute and market or co-market our products for their approved indications. These activities are subject to extensive regulation by numerous state and federal governmental authorities in the United States, such as the FDA and CMS, as well as in foreign countries, including European countries, Canada, Australia and Japan. Although we have obtained regulatory approval for our marketed products, these products and our manufacturing processes and those of our third-party contract manufacturers must undergo a potentially lengthy FDA or other regulatory approval process and are subject to continued review by the FDA and other regulatory authorities. It can take longer than five years to build and license a new manufacturing plant and it can take longer than three years to qualify and license a new contract manufacturer. In order to maintain supply, mitigate risks associated with the majority of our formulation, fill and finish operations being performed in a single facility and to adequately prepare to launch a number of our late-stage product candidates, in particular denosumab, we must successfully implement a number of manufacturing projects on schedule, operate our facilities at appropriate production capacity over the next few years, optimize manufacturing asset utilization, continue our use of third-party contract manufacturers and maintain a state of regulatory compliance. Key manufacturing projects include: (i) construction, qualification and licensure of a new formulation and filling facility at our Puerto Rico site and (ii) expansion and the related qualification and licensure of our existing bulk protein facilities at our Puerto Rico site for the production of our late-stage product candidate, denosumab.

If regulatory authorities determine that we or our third-party contract manufacturers or third-party service providers have violated regulations or if they restrict, suspend or revoke our prior approvals, they could prohibit us from manufacturing our products or conducting clinical trials or selling our marketed products until we or our third-party contract manufacturers or third-party service providers comply, or indefinitely. Because our third-party contract manufacturers and third-party service providers are subject to FDA and foreign regulatory authorities, alternative qualified third-party contract manufacturers and service providers may not be available on a timely basis or at all. If we or our third-party contract manufacturers and third-party service providers cease or interrupt production or if our third-party contract manufacturers and third-party service providers fail to supply materials, products or services to us for any reason, we may experience delayed shipments, supply constraints, stock-outs and/or recalls of our products. If we are unable to manufacture, market and sell our products, our business and results of operations would be materially and adversely affected. Additionally, we distribute a substantial volume of our commercial products through a single distribution center in Louisville, Kentucky for the United States and another in Breda, the Netherlands for Europe and the rest of the world. Our ability to timely supply products is dependent on the uninterrupted and efficient operations of our distribution and logistics centers and our third-party logistics providers.

We manufacture and formulate, fill and finish substantially all our products at our Puerto Rico manufacturing facility; if significant natural disasters or production failures occur at this facility, we may not be able to supply these products.

We currently perform all of the formulation, fill and finish for EPOGEN®, Aranesp®, Neulasta® and NEUPOGEN®, some formulation, fill and finish operations for ENBREL, and all of the bulk manufacturing for Aranesp®, Neulasta® and NEUPOGEN® at our manufacturing facility in Juncos, Puerto Rico. Our global supply of these products is significantly dependent on the uninterrupted and efficient operation of this facility. A number of factors could adversely affect our operations, including:

- power failures
- breakdown, failure or substandard performance of equipment
- improper installation or operation of equipment
- labor disputes or shortages, including the effects of an avian or pandemic flu outbreak
- inability of third-party suppliers to provide raw materials and components

- natural or other disasters, including hurricanes
- failures to comply with regulatory requirements, including those of the FDA

For example, this facility in Puerto Rico has experienced manufacturing component shortages and there was evidence of adverse trends in the microbial bioburden of the production environment that reduced the production output in the past. Although these experiences in Puerto Rico have not impacted our ability to supply product in the past, the same or other problems may result in our being unable to supply these products, which could adversely affect our product sales and operating results materially. Although we have obtained limited insurance to protect against certain business interruption losses, there can be no assurance that such coverage will be adequate or that such coverage will continue to remain available on acceptable terms, if at all. The extent of the coverage of our insurance could limit our ability to mitigate for lost sales and such losses could adversely affect our product sales and operating results materially. (See "— *Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers.*")

We are dependent on third parties for a significant portion of our bulk supply and the formulation, fill and finish of ENBREL.

Under a collaboration and global supply agreement, we and Wyeth share the total worldwide bulk supply of ENBREL produced by our Rhode Island manufacturing facility, BI Pharma's manufacturing facility in Germany and Wyeth's manufacturing facility in Ireland. (See also "— *We face uncertainties related to the recently announced Wyeth / Pfizer merger.*") Our ENBREL supply forecasts rely on certain assumptions of how much ENBREL each of these manufacturing facilities is expected to produce. If any of these manufacturing facilities are unable to produce in accordance with our or Wyeth's expectations, the worldwide supply of ENBREL could be adversely affected materially. In such cases, we may be required to allocate supply for Wyeth's benefit. To the extent that there is a shortfall in worldwide production, our supply of ENBREL could be adversely affected. Additionally, the costs associated with a shortfall or failure in production of ENBREL would be borne by both parties.

We currently produce a substantial portion of the annual ENBREL supply at our Rhode Island manufacturing facility. However, we also depend on third parties for a significant portion of our ENBREL bulk supply as well as for some of the formulation, fill and finish of ENBREL that we manufacture. BI Pharma is our third-party contract manufacturer of ENBREL bulk drug; accordingly, our U.S. and Canadian supply of ENBREL is currently significantly dependent on BI Pharma's production schedule for ENBREL. We would be unable to produce ENBREL in sufficient quantities to substantially offset shortages in BI Pharma's scheduled production if BI Pharma or other third-party contract manufacturers used for the formulation, fill and finish of ENBREL bulk drug were to cease or interrupt production or services or otherwise fail to supply materials, products or services to us for any reason, including labor shortages or disputes, regulatory requirements or action or contamination of product lots or product recalls.

For example, in the second quarter of 2002, the prior co-marketers with respect to ENBREL experienced a brief period where no ENBREL was available to fill new patient prescriptions, primarily due to variation in the expected production yield from BI Pharma. We cannot guarantee that an alternative third-party contract manufacturer would be available on a timely basis or at all. This in turn could materially reduce our ability to satisfy demand for ENBREL, which could materially and adversely affect our operating results.

Among the factors that could affect our actual supply of ENBREL at any time include, without limitation, BI Pharma's and our Rhode Island facility's bulk drug production scheduling. For example, BI Pharma does not produce ENBREL continuously; rather, it produces the bulk drug substance through a series of periodic campaigns throughout the year. Our Rhode Island manufacturing facility is currently dedicated to ENBREL production. The amount of commercial inventory available to us at any time depends on a variety of factors, including the timing and actual number of BI Pharma's production runs, the actual number of runs at our Rhode Island manufacturing facility, and, for either the Rhode Island or BI Pharma facilities, the level of production yields and success rates, the timing and outcome of product quality testing and the amount of formulation, fill and finish capacity. We are also dependent on third-parties for some formulation, fill and finish of ENBREL bulk

drug substance manufactured at our Rhode Island facility. If third-party formulation, fill and finish manufacturers are unable to provide sufficient capacity or are otherwise unable to provide services to us, the supply of ENBREL could be adversely affected materially.

Our marketed products face substantial competition and other companies may discover, develop, acquire or commercialize products before or more successfully than we do.

We operate in a highly competitive environment. Our products compete with other products or treatments for diseases for which our products may be indicated. For example, ENBREL competes in certain circumstances with products marketed by J&J, Abbott, Biogen, Barr, Genentech, BMS, Novartis and Sanofi-Aventis and others, as well as the generic drug methotrexate, and may face competition from other potential therapies being developed, including J&J's CNTO 1275 (ustekinumab) and CNTO 148 (golimumab), Roche's Actemra (tocilizumab) and UCB's Cimzia® (PEGylated anti-TNF). Additionally, in the first quarter of 2008 Abbott received approval from the FDA to market HUMIRA® as a treatment for adult patients with moderate to severe chronic plaque psoriasis and HUMIRA® now competes with ENBREL in both the rheumatology and dermatology segments and ENBREL has experienced and continues to experience share loss to competitors.

The following table reflects companies and their currently marketed products that primarily compete with Aranesp® in the United States and Europe in the supportive cancer care and nephrology segments, unless otherwise indicated:

Territory	Competitor Marketed Product	Competitor
U.S.	PROCRIT®(1)	J&J
Europe	EPREX®/ERYPO®	Janssen-Cilag(2)
Europe	NeoRecormon®	Roche
Europe	Retacrit™(3)/Silapo®(3)	Hospira/Stada
Europe	Binocrit®(3)/Epoetin alfa Hexal®(3)/Abseamed®(3)	Sandoz/Hexal/Medice
Europe	MIRCERA®(4)	Roche
Europe	Dynepo®(5)	Shire

(1) In the United States, Aranesp® competes with PROCRIT® in the supportive cancer care and pre-dialysis settings.
(2) A subsidiary of J&J.
(3) Biosimilar product approved and launched in certain EU countries.
(4) Competes with Aranesp® in the nephrology segment only.
(5) Shire announced in the second quarter of 2008 that it had decided to stop the commercialization of Dynepo®.

In addition to competition from the above-noted marketed products, a number of companies are developing products that could potentially compete with Aranesp® and/or EPOGEN® in the future. Affymax and Takeda are co-developing Hematide™, an ESA for the treatment of anemia in renal patients. FibroGen is developing FG-2216 and FG-4592, orally active ESAs, for the treatment of anemia and is also studying FG-4592 for the treatment in anemia of CKD. Ratiopharm is developing a biosimilar ESA, EpoTheta, expected to launch in the EU in 2009. Additionally in December 2008, Merck announced the formation of a new biotech division, Merck Bioventures, which is developing a pegylated ESA (MK-2578), which they have announced they expect to launch in 2012. Further, if our currently marketed products are approved for new uses, or if we sell new products, or our competitors get new or expanded indications, we may face new, additional competition that we do not face today. Further, adverse clinical developments for our current products could limit our ability to compete. (See "— *Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market*.") Our products may compete against products that have lower prices, equivalent or superior performance, are easier to administer or that are otherwise competitive with our products.

Our principal European patent relating to erythropoietin expired on December 12, 2004 and our principal European patent relating to G-CSF expired on August 22, 2006. As these patents have expired, some companies have and other companies may receive approval for and market biosimilar or other products to compete with our products in the EU, presenting additional competition to our products. For example, in September 2008, the European Commission issued marketing authorizations for the first G-CSF biosimilar products to Ratiopharm's Ratiograstim®/Filgrastim Ratiopharm®, CT Arzneimittel's Biograstim® and Teva's Tevagrastim®. Ratiopharm launched its G-CSF biosimilar product, Ratiograstim®, in the United Kingdom and Germany in October 2008 and in the Netherlands in January 2009, and is expected to launch it in other European markets in 2009. Teva has stated that it would begin marketing Tevagrastim throughout Europe in 2009. In February 2009, the European Commission issued marketing authorizations for two additional G-CSF biosimilar products to Sandoz's Zarzio® and Hexal's Filgrastim Hexal®. If these companies' launch plans are successful, there may be as many as six G-CSF biosimilars available in 2009 on the European market. These G-CSF biosimilar products would compete with Neulasta® and NEUPOGEN®. We cannot predict to what extent the entry of biosimilar products or other competing products will impact future Aranesp®, Neulasta® or NEUPOGEN® sales in the EU. Our inability to compete effectively could reduce sales which could have a material adverse effect on our results of operations.

In 2006, the EMEA developed and issued final regulatory guidelines related to the development and approval of biosimilar products. The final guidelines included clinical trial guidance for certain biosimilar products including erythropoietins and G-CSFs, which guidance recommends that applicants seeking approval of such biosimilar products conduct fairly extensive pharmacodynamic, toxicological, clinical safety studies and a pharmacovigilance program. In the United States, there currently is no legal approval pathway for the abbreviated approval of BLAs for biosimilars. A number of events would need to occur before these products could enter the market, including passage of legislation by Congress to create a new approval pathway and, depending on the specific provisions of any such legislation, promulgation of associated regulations or guidance by the FDA. In 2007, several members of Congress expressed interest in the issue, a number of bills were introduced, the House of Representatives and the Senate held hearings on biosimilars, and the Senate Committee on HELP voted on legislation in June 2007. In 2008, additional legislation was introduced in the House of Representatives, but no final legislation was considered or passed in either chamber of Congress, with all introduced bills expiring at the end of the Congressional session (end of the year). Given the continuing interest of Congress in the issue and in healthcare reform generally, it is likely that legislation on biosimilars will be introduced in 2009 and possibly passed into law. The new U.S. presidential administration has also expressed an interest in passing legislation regarding biosimilars. It is unknown what type of regulatory framework, what legal provisions, and what timeframes for issuance of regulations or guidance any final legislation would contain. Until such legislation is created, we cannot predict when biosimilars could appear in the United States.

Certain of our competitors, including biotechnology and pharmaceutical companies, market products or are actively engaged in R&D in areas where we have products or where we are developing product candidates or new indications for existing products. In the future, we expect that our products will compete with new drugs currently in development, drugs approved for other indications that may be approved for the same indications as those of our products and drugs approved for other indications that are used off-label. As with Merck's recent announcement, pharmaceutical companies and generic manufacturers that have traditionally developed and marketed "small molecule" pharmaceutical products may elect to expand into the biotechnology field, and some of these companies may seek to develop biosimilar products to compete with our products. Large pharmaceutical corporations may have greater clinical, research, regulatory, manufacturing, marketing, financial and human resources than we do. In addition, some of our competitors may have technical or competitive advantages over us for the development of technologies and processes. These resources may make it difficult for us to compete with them to successfully discover, develop and market new products and for our current products to compete with new products or new product indications that these competitors may bring to market. Business combinations among our competitors may also increase competition and the resources available to our competitors.

We must continue to build the framework for our future growth, and if we fail to execute on our initiatives our business could be adversely affected.

As a result of developments in 2007 and, in particular the regulatory and reimbursement changes to our ESA products, on August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure while continuing to make significant R&D investments and build the framework for our future growth. We face a number of risks, some of which we cannot completely control. For example:

- we will need to manage complexities associated with a large and geographically diverse organization
- we will need to manage and execute large, complex and global clinical trials
- we will need to significantly expand our sales and marketing resources to launch our late-stage product candidate, denosumab
- we will need to accurately anticipate demand for the products we manufacture and maintain adequate manufacturing capacity for both commercial and clinical supply
- we have implemented a new global enterprise resource planning ("ERP") system to support our increasing complex business and business processes and need to ensure that the new system continues to operate without disruptions to our operations

Of course, there may be other risks and we cannot guarantee that we will be able to successfully manage these or other risks. If we fail to execute on our initiatives in these ways or others, such failure could result in a material adverse effect on our business and results of operations.

Concentration of sales at certain of our wholesaler distributors and consolidation of free-standing dialysis clinic businesses may negatively impact our bargaining power and profit margins.

The substantial majority of our U.S. product sales are made to three pharmaceutical product wholesaler distributors, AmerisourceBergen Corporation, Cardinal Health, Inc. and McKesson Corporation. These distributors, in turn, sell our products to their customers, which include physicians or their clinics, dialysis centers, hospitals and pharmacies. One of these products, EPOGEN®, is primarily sold to free-standing dialysis clinics, which have experienced significant consolidation. Two organizations, DaVita Inc. and Fresenius own or manage a large number of the outpatient dialysis facilities located in the United States and account for a significant majority of all EPOGEN® sales in the free-standing dialysis clinic setting. In October 2006, we entered into a five-year sole sourcing and supply agreement with an affiliate of Fresenius, on its behalf and on behalf of certain of its affiliates, whereby they have agreed to purchase, and we have agreed to supply, all of Fresenius' commercial requirements for ESAs for use in managing the anemia of its hemodialysis patients in the United States and Puerto Rico, based on forecasts provided by Fresenius and subject to the terms and conditions of the agreement.

These entities' purchasing leverage has increased due to this concentration and consolidation which may put pressure on our pricing by their potential ability to extract price discounts on our products or fees for other services, correspondingly negatively impacting our bargaining position and profit margins. The results of these developments may have a material adverse effect on our product sales and results of operations.

Our marketing of ENBREL is dependent in part upon Wyeth.

Under a co-promotion agreement, we and Wyeth market and sell ENBREL in the United States and Canada. A management committee comprised of an equal number of representatives from us and Wyeth is responsible for overseeing the marketing and sales of ENBREL including strategic planning, the approval of an annual marketing plan and the establishment of a brand team. The brand team, with equal representation from us and Wyeth, prepares and implements the annual marketing plan, which includes a minimum level of financial and sales personnel commitment from each party, and is responsible for all sales activities. If Wyeth fails to effectively deliver on its marketing commitments to us or if we and Wyeth fail to coordinate our efforts effectively, our sales of ENBREL may be adversely affected materially. (See also "— *We face uncertainties related to the recently announced Wyeth/Pfizer merger.*")

We face uncertainties related to the recently announced Wyeth/Pfizer merger.

We are party to a number of agreements with Wyeth relating to the manufacturing, marketing and selling of ENBREL, including a co-promotion agreement and a global supply agreement. On January 26, 2009, Wyeth and Pfizer announced that they have entered into a definitive merger agreement under which Pfizer will acquire Wyeth in a cash-and-stock transaction approved by the boards of directors of both companies. Wyeth and Pfizer stated that the transaction is subject to a number of closing conditions, including the approval of Wyeth's stockholders. While our agreements with Wyeth do not include a change of control provision, if the acquisition transaction is completed, our relationship with Wyeth may be affected in ways we do not anticipate, including changes in Wyeth/Pfizer management, strategy or otherwise.

Our corporate compliance and risk mitigation programs cannot guarantee that we are in compliance with all potentially applicable U.S. federal and state regulations and all potentially applicable foreign regulations and/or that we effectively manage all operational risks.

The development, manufacturing, distribution, pricing, sales, marketing and reimbursement of our products, together with our general operations, are subject to extensive federal and state regulation in the United States and to extensive regulation in foreign countries. (See "— *Our current products and products in development cannot be sold if we do not gain or maintain regulatory approval of our products and we may be required to perform additional clinical trials or change the labeling of our products or conduct other potentially limiting or costly risk management activities if we or others identify side effects or safety concerns after our products are on the market.*" and "— *Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers.*") While we have developed and instituted a corporate compliance program, we cannot guarantee you that we, our employees, our consultants or our contractors are or will be in compliance with all potentially applicable U.S. federal and state regulations and/or laws or all potentially applicable foreign regulations and/or laws. If we or our agents fail to comply with any of these regulations and/or laws, a range of actions could result, including, but not limited to, the termination of clinical trials, the failure to approve a product candidate, restrictions on our products or manufacturing processes, withdrawal of our products from the market, significant fines, exclusion from government healthcare programs or other sanctions or litigation. Additionally, while we have implemented numerous risk mitigation measures, we cannot guarantee that we will be able to effectively mitigate all operational risks. If we fail to effectively mitigate all operational risks, our product supply may be materially adversely affected, which could have a material adverse effect on our product sales and results of operations.

Continual process improvement efforts may result in the carrying value of certain existing manufacturing facilities or other assets becoming impaired or other related charges being incurred.

In connection with our continuous process improvement activities, we evaluate our processes and procedures in order to identify opportunities to achieve greater efficiencies in how we conduct our business in order to reduce costs. In particular, we evaluate our manufacturing practices and related processes to increase production yields and/or success rates as well as capacity utilization to gain increased cost efficiencies. Depending on the timing and outcomes of these process improvement initiatives, the carrying value of certain manufacturing or other assets may not be fully recoverable and could result in the recognition of impairment charges and/or the recognition of other related charges. The recognition of such charges, if any, could have a material and adverse affect on our results of operations.

Item 1B. UNRESOLVED STAFF COMMENTS

None.

Item 2. PROPERTIES

The following table summarizes our significant properties and their primary functions as of December 31, 2008. For additional information regarding manufacturing initiatives see "*Item 1. Business — Manufacturing, Distribution and Raw Materials*."

	Number of spaces or buildings:		Manufacturing							Other Functions				
			Commercial:						Clinical					
Location	Owned	Leased	Aranesp®	Neulasta®	NEUPOGEN®	Epoetin alfa	Enbrel®	Other Products		Administrative	Research and/or Development	Sales and Marketing	Warehouse	Distribution Center
United States:														
Thousand Oaks, California	36	6							B F	✔	✔	✔	✔	✔
Fremont, California	-	5						B F	B	✔			✔	
San Francisco, California	-	5								✔	✔			
Boulder, Colorado	2	2						B	B	✔			✔	
Longmont, Colorado	6	1				B			B	✔			✔	
Washington, D.C.	-	2								✔		✔		
Louisville, Kentucky	1	-											✔	✔
Cambridge, Massachusetts	1	-									✔			
Foxboro, Massachusetts	-	1											✔	
West Greenwich, Rhode Island	6	-					B		B	✔			✔	
Bothell, Washington	2	4							B	✔			✔	
Seattle, Washington	6	2								✔	✔			
Other U.S. cities	-	6								✔		✔		
Outside United States:														
Canada	-	3								✔	✔	✔		
Puerto Rico	18	-	B F	B F	B F	F	F	F	B F	✔			✔	
Australia	-	5								✔		✔		
Japan	-	1								✔	✔			
Netherlands	8	1	F1	F1	F1			F1	F1	✔		✔	✔	✔
Ireland	-	2								✔		✔		
Switzerland	-	2								✔		✔		
United Kingdom	-	4								✔	✔	✔		
Other countries	-	28									✔	✔		

B - Bulk manufacturing

F - Formulation, Fill and Finish

F1 - Finish only

In addition to these properties, we have undeveloped land at certain locations, principally in Thousand Oaks, California; Longmont, Colorado; Louisville, Kentucky; Allentown, Pennsylvania; West Greenwich, Rhode Island; Seattle and Bothell, Washington; Cork, Ireland and Juncos, Puerto Rico, to accommodate future expansion, as required. Excluded from the table above are leased properties that have been abandoned and certain buildings that have been closed as part of our restructuring plan as further described in Note 2, "*Restructuring*" to the Consolidated Financial Statements.

We believe our facilities are suitable for their intended use and, in conjunction with our third-party contracting manufacturing agreements, provide adequate capacity. We also believe that our existing facilities, third-party contract manufacturing agreements and our anticipated additions are sufficient to meet our expected needs. There are no material encumbrances on our properties. (See "*Item 1A. Risk Factors — We manufacture and formulate, fill and finish substantially all our products at our Puerto Rico manufacturing facility; if significant natural disasters or production failures occur at this facility, we may not be able to supply these products.*" , "*— We rely on single third-party suppliers for some of our raw materials, medical devices and components; if these third-parties fail to supply these items, we may be unable to supply our products.*" and "*— Difficulties, disruptions or delays in manufacturing or failure to comply with manufacturing regulations may limit supply of our products and limit our product sales; timing of supply may also be affected by operation of our distribution and logistics centers and providers.*")

Item 3. LEGAL PROCEEDINGS

Certain of our legal proceedings in which we are involved are discussed in Note 10, "*Contingences*" to our Consolidated Financial Statements in our 2008 Form 10-K and are hereby incorporated by reference.

Item 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of our security holders during the last quarter of our fiscal year ended December 31, 2008.

PART II

Item 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Common stock

Our common stock trades on The NASDAQ Stock Market under the symbol AMGN. As of February 13, 2009, there were approximately 11,392 holders of record of our common stock. No cash dividends have been paid on the common stock to date, and we currently do not intend to pay any dividends.

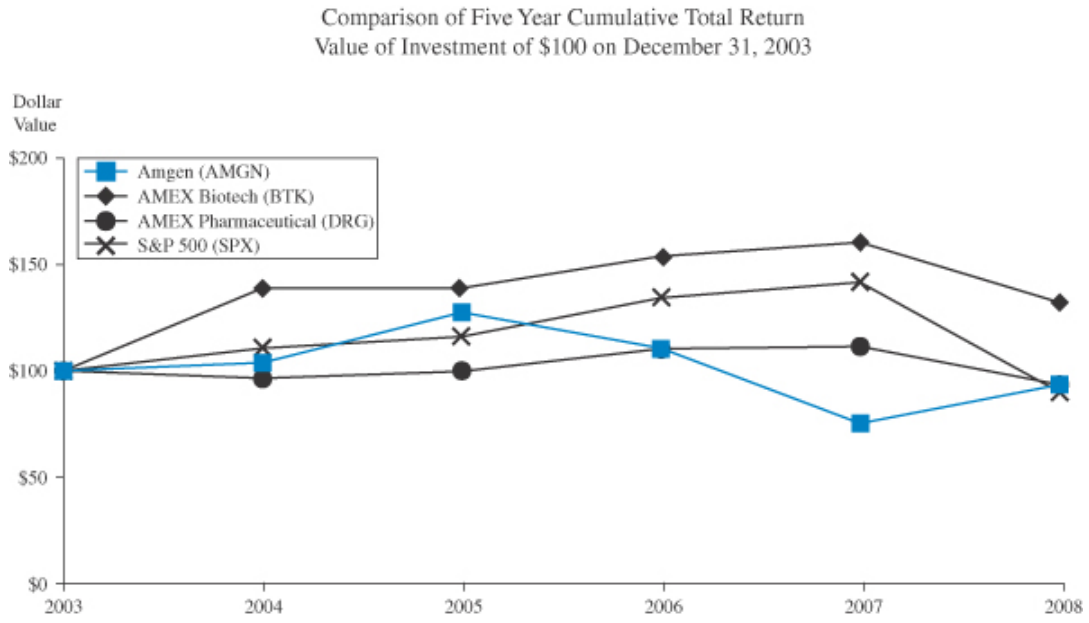
The following table sets forth, for the periods indicated, the range of high and low quarterly closing sales prices of the common stock as quoted on The NASDAQ Stock Market:

	High	Low
Year ended December 31, 2008:		
4th Quarter	$ 61.55	$ 47.76
3rd Quarter	65.89	48.64
2nd Quarter	47.16	41.49
1st Quarter	48.14	39.97
Year ended December 31, 2007:		
4th Quarter	$ 58.17	$ 46.44
3rd Quarter	57.16	49.01
2nd Quarter	65.10	53.68
1st Quarter	75.85	55.72

Performance graph

The chart set forth below shows the value of an investment of $100 on December 31, 2003 in each of Amgen Common Stock, the Amex Biotech Index, the Amex Pharmaceutical Index and Standard & Poor's 500 Index (the "S&P 500"). All values assume reinvestment of the pre-tax value of dividends paid by companies included in these indices and are calculated as of December 31st of each year. The historical stock price performance of the Company's Common Stock shown in the performance graph below is not necessarily indicative of future stock price performance.

Amgen vs. Amex Biotech, Amex Pharmaceutical and S&P 500 Indices



	12/31/2003	12/31/2004	12/31/2005	12/31/2006	12/31/2007	12/31/2008
Amgen (AMGN)	$ 100.00	$ 103.82	$ 127.63	$ 110.55	$ 75.16	$ 93.46
Amex Biotech (BTK)	$ 100.00	$ 138.93	$ 138.93	$ 153.90	$ 160.48	$ 132.05
Amex Pharmaceutical (DRG)	$ 100.00	$ 96.44	$ 99.85	$ 110.43	$ 111.55	$ 93.60
S&P 500 (SPX)	$ 100.00	$ 110.74	$ 116.09	$ 134.21	$ 141.57	$ 89.82

The material in this performance graph is not soliciting material, is not deemed filed with the SEC, and is not incorporated by reference in any filing of the Company under the Securities Act or the Exchange Act, whether made on, before or after the date of this filing and irrespective of any general incorporation language in such filing.

Stock repurchase program

Repurchases under our stock repurchase program reflect, in part, our confidence in the long-term value of our common stock. Additionally, we believe that it is an effective way of returning cash to our stockholders. The manner of purchases, the amount we spend and the number of shares repurchased will vary based on a number of factors including the stock price, blackout periods in which we are restricted from repurchasing shares, and our credit rating and may include private block purchases as well as market transactions.

During the three months ended December 31, 2008, we had one outstanding stock repurchase program. A summary of our repurchase activity for the three months ended December 31, 2008 is as follows:

	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Programs	Maximum $ Value that May Yet Be Purchased Under the Programs[1]
October 1 — October 31	—	$ —	—	$4,871,328,709
November 1 — November 30	3,750,662	53.33	3,750,259	4,671,318,474
December 1 — December 31	8,845,384	56.53	8,845,384	4,171,328,747
	12,596,046[2]	55.57	12,595,643[2]	

(1) In July 2007, the Board of Directors authorized us to repurchase up to $5.0 billion of our common stock. As of December 31, 2008, $4.2 billion was available for stock repurchases under our stock repurchase program.

(2) The difference between total number of shares purchased and the total number of shares purchased as part of publicly announced program is due to shares of common stock withheld by us for the payment of taxes upon vesting of certain employees' restricted stock.

Item 6. SELECTED FINANCIAL DATA

Consolidated Statement of Income Data:	Years ended December 31, 2008	2007	2006	2005	2004
	(In millions, except per share data)				
Revenues:					
Product sales	$14,687	$14,311	$13,858	$12,022	$ 9,977
Other revenues	316	460	410	408	573
Total revenues	15,003	14,771	14,268	12,430	10,550
Operating expenses[1][2]:					
Cost of sales (excludes amortization of acquired intangible assets presented below)	2,296	2,548	2,095	2,082	1,731
Research and development[3]	3,030	3,266	3,366	2,314	2,028
Selling, general and administrative	3,789	3,361	3,366	2,790	2,556
Amortization of acquired intangible assets[4]	294	298	370	347	333
Write-off of acquired in-process research and development[5]	—	590	1,231	—	554
Other charges[6]	380	728	—	49	—
Net income	4,196	3,166	2,950	3,674	2,363
Diluted earnings per share	3.90	2.82	2.48	2.93	1.81
Cash dividends declared per share	—	—	—	—	—

Consolidated Balance Sheet Data:	At December 31, 2008	2007	2006	2005	2004
			(In millions)		
Total assets[2]	$36,443	$34,639	$33,788	$29,297	$29,221
Total debt[7][8][9][10][11]	10,176	11,177	9,012	3,957	3,937
Stockholders' equity[9][10][12]	20,386	17,869	18,964	20,451	19,705

In addition to the following notes, see "*Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations*" and the consolidated financial statements and accompanying notes and previously filed Form 10-K's for further information regarding our consolidated results of operations and financial position for periods reported therein and for known factors that will impact comparability of future results.

(1) In 2008 and 2007, we incurred restructuring charges of $148 million ($111 million, net of tax) and $739 million ($576 million, net of tax), respectively, primarily related to staff separation costs, asset impairment charges, accelerated depreciation (in 2007) and loss accruals for leases for certain facilities that will not be used in our business.

(2) In 2008, we completed the acquisition of Dompé Biotec, S.p.A ("Dompé"). The purchase price paid was approximately $168 million, which included the carrying value of our existing 49% ownership in Dompé. In July 2007, we acquired all of the outstanding shares of Ilypsa, Inc. ("Ilypsa") for a net purchase price of approximately $400 million. Also in July 2007, we acquired all of the outstanding shares of Alantos Pharmaceuticals Holding, Inc. ("Alantos") for a net purchase price of approximately $300 million. In October 2006, we acquired all of the outstanding stock of Avidia, Inc. ("Avidia") for a net purchase price of approximately $275 million. In April 2006, we acquired all of the outstanding common stock of Abgenix for a purchase price of approximately $2.2 billion. In August 2004, we acquired all of the outstanding common stock of Tularik Inc. ("Tularik") for a purchase price of approximately $1.5 billion. Included in operating expenses are acquisition-related charges of $1 million, $37 million, $41 million, $12 million and $53 million, in 2008, 2007, 2006, 2005 and 2004, respectively. Acquisition charges, net of tax, for the three years ended December 31, 2008 were $1 million, $22 million and $26 million, respectively. Acquisition charges consist of, where applicable, the incremental compensation provided to certain employees under short-term retention plans, including non-cash compensation expense associated with stock options assumed in connection with the acquisition, non-cash expense related to valuing the inventory acquired at fair value, which is in excess of our manufacturing cost, and external, incremental consulting and systems integration costs directly associated with integrating the acquired company.

(3) Included in R&D expenses for 2008, 2007 and 2006 is the non-cash amortization of acquired R&D technology rights of $70 million ($44 million, net of tax), $71 million ($44 million, net of tax) and $48 million ($30 million, net of tax), respectively.

(4) Primarily represents the non-cash amortization of acquired product technology rights, primarily ENBREL, related to the Immunex acquisition. Amortization charges, net of tax, for the three years ended December 31, 2008 were $183 million, $185 million and $200 million, respectively.

(5) As part of the accounting for the acquisitions of Alantos and Ilypsa in 2007, Avidia and Abgenix in 2006 and Tularik in 2004, we recorded charges to write-off acquired in-process R&D ("IPR&D") of $270 million and $320 million in 2007, respectively, $130 million and $1.1 billion in 2006, respectively, and $554 million in 2004. These charges represent the estimated fair values of the IPR&D that, as of the respective acquisition dates, had not reached technological feasibility and had no alternative future use.

(6) In 2008, we recorded loss accruals for settlements of certain commercial legal proceedings aggregating $288 million, principally related to the settlement of the Ortho Biotech antitrust suit. In 2007, we recorded a loss accrual for an ongoing commercial legal proceeding and recorded an expense of $34 million. In 2005, we settled certain legal matters, primarily related to a patent legal proceeding, and recorded an expense of $49 million, net of amounts previously accrued. The remaining amounts included in "Other charges" in 2008 and 2007, primarily relate to restructuring charges (see Note 2, "*Restructuring*" to the Consolidated Financial Statements).

(7) In May 2008, we issued $500 million aggregate principal amount of notes due in 2018 (the "2018 Notes") and $500 million aggregate principal amount of notes due in 2038 (the "2038 Notes").

(8) In 2008, we repaid our $2.0 billion of floating rate notes.

(9) In May 2007, we issued $2.0 billion aggregate principal amount of floating rate notes due in 2008, $1.1 billion aggregate principal amount of notes due in 2017 and $900 million aggregate principal amount of notes due in 2037. A total of $3.2 billion of the net proceeds raised from the issuance of these notes were used to repurchase shares of our common stock under an accelerated share repurchase program ("ASR") entered into in May 2007.

(10) In February 2006, we issued $2.5 billion principal amount of convertible notes due in 2011 and $2.5 billion principal amount of convertible notes due in 2013. In connection with the issuance of these notes, a total of $3.0 billion of our common stock was repurchased under our stock repurchase program. Also, concurrent with the issuance of these notes, we purchased convertible note hedges in private transactions. The cost of the convertible note hedges, which aggregated approximately $1.5 billion, was recorded as a reduction of equity. Also, concurrent with the issuance of these notes, we sold warrants to acquire shares of our common stock. Proceeds received from the issuance of the warrants totaled approximately $774 million.

(11) On March 2, 2007, as a result of holders of substantially all of our outstanding 2032 Modified Convertible Notes exercising their March 1, 2007 put option, we repurchased $2.3 billion aggregate principal amount, or the majority of the then outstanding convertible notes, at their then-accreted value for $1.7 billion in cash.

(12) Throughout the five years ended December 31, 2008, we have had share repurchase programs authorized by the Board of Directors through which we have repurchased $2.3 billion, $5.1 billion, $5.0 billion, $4.4 billion and $4.1 billion of Amgen common stock in 2008, 2007, 2006, 2005 and 2004, respectively.

Item 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Forward looking statements

This report and other documents we file with the SEC contain forward looking statements that are based on current expectations, estimates, forecasts and projections about us, our future performance, our business or others on our behalf, our beliefs and our management's assumptions. In addition, we, or others on our behalf, may make forward looking statements in press releases or written statements, or in our communications and discussions with investors and analysts in the normal course of business through meetings, webcasts, phone calls and conference calls. Words such as "expect," "anticipate," "outlook," "could," "target," "project," "intend," "plan," "believe," "seek," "estimate," "should," "may," "assume," "continue," variations of such words and similar expressions are intended to identify such forward looking statements. These statements are not guarantees of future performance and involve certain risks, uncertainties and assumptions that are difficult to predict. We describe our respective risks, uncertainties and assumptions that could affect the outcome or results of operations in "*Item 1A. Risk Factors*." We have based our forward looking statements on our management's beliefs and assumptions based on information available to our management at the time the statements are made. We caution you that actual outcomes and results may differ materially from what is expressed, implied or forecast by our forward looking statements. Reference is made in particular to forward looking statements regarding product sales, reimbursement, expenses, earnings per share ("EPS"), liquidity and capital resources and trends. Except as required under the federal securities laws and the rules and regulations of the SEC, we do not have any intention or obligation to update publicly any forward looking statements after the distribution of this report, whether as a result of new information, future events, changes in assumptions or otherwise.

Overview

The following management's discussion and analysis ("MD&A") is intended to assist the reader in understanding the business of Amgen. MD&A is provided as a supplement to, and should be read in conjunction with, our consolidated financial statements and accompanying notes.

We are a global biotechnology company that discovers, develops, manufactures and markets human therapeutics based on advances in cellular and molecular biology. Our mission is to serve patients. As a science-based, patient-focused organization, we discover and develop innovative therapies to treat grievous illness. We operate in one business segment — human therapeutics. Therefore, our results of operations are discussed on a consolidated basis.

We primarily earn revenues and income and generate cash from sales of human therapeutic products in the areas of supportive cancer care, nephrology and inflammation. Our principal products include Aranesp®, EPOGEN®, Neulasta®/NEUPOGEN® and ENBREL all of which are sold in the United States. ENBREL is marketed under a co-promotion agreement with Wyeth in the United States and Canada. Our international product sales consist principally of European sales of Aranesp® and Neulasta®/NEUPOGEN®. For additional information about our principal products, their approved indications and where they are marketed, see "*Item 1. Business — Marketed Products and Selected Product Candidates*."

We operate in a highly regulated industry and various U.S. and foreign regulatory bodies have substantial authority over how we conduct our business in those countries. Government authorities in the United States and in other countries regulate the manufacturing and marketing of our products and our ongoing R&D activities. (See "*Government Regulation.*") For example, prior to obtaining regulatory approval to market a product, we must conduct extensive clinical studies designed to establish the safety and effectiveness of the product candidate for use in humans in the indications sought. Furthermore, in order to maintain regulatory approval to market a product, we may be required to conduct further clinical trials and to provide additional information on safety and effectiveness. The regulatory environment is evolving and there is increased scrutiny on drug safety and increased authority being granted to regulatory bodies, in particular the FDA, to assist in ensuring the safety of therapeutic products, which may lead to fewer products being approved by the FDA or other regulatory bodies or

additional safety-related requirements. Safety signals, trends, adverse events or results from clinical trials, studies or meta-analyses performed by us or by others (including our licensees or independent investigators) or from the marketed use of our products may expand safety labeling, restrict the use for our approved products or may result in additional regulatory requirements, such as requiring risk management activities, including a REMS, and/or additional or more extensive clinical trials as part of PMCs or a pharmacovigilance program. (See *"Item 1. Business — Key Developments"* and *"Item 1. Business — Postmarketing Safety Activities*.")

Most patients receiving our products are covered by either government and/or private payor healthcare programs. The reimbursement environment is evolving with greater emphasis on cost containment. For example, we believe that the new U.S. presidential administration, together with Congress, will shape U.S. healthcare policy in the coming months and years, and we expect that healthcare reform efforts could include long-term changes to coverage and reimbursement that may have a significant impact on our business. Furthermore, due to the increasing expectations and demands of healthcare payors, we believe that we and others in our industry will be under increased pressure to further demonstrate the efficacy and economic value of our products. Therefore, sales of our products are and will continue to be affected by the availability and extent of reimbursement from third-party payors, including government and private insurance plans and administration of those programs. Governments may regulate access to, prices or reimbursement levels of our products to control costs or to affect levels of use of our products and private insurers may be influenced by government reimbursement methodologies. Worldwide use of our products may be affected by these cost containment pressures and cost shifting from governments and private insurers to healthcare providers or patients in response to ongoing initiatives to reduce or reallocate healthcare expenditures. Further, safety signals, trends, adverse events or results from clinical trials, studies or meta-analyses or from the marketed use of our products may negatively impact worldwide reimbursement for our products. For additional information on reimbursement and its impact on our business, see "*Item 1. Business — Reimbursement*."

For the year ended December 31, 2008, our total revenues were $15.0 billion and net income was $4.2 billion, or $3.90 per share on a diluted basis. In addition to the negative impact of the regulatory and reimbursement developments on sales of our ESA products, as discussed below, our results of operations for the year ended December 31, 2008 were negatively impacted by charges of $288 million for legal settlements and $148 million in connection with our previously announced restructuring plan.

As of December 31, 2008, cash, cash equivalents and marketable securities were $9.6 billion, of which approximately $8.8 billion was generated from operations in foreign tax jurisdictions and is intended for use in our foreign operations. If these funds were repatriated for use in the United States, we would be required to pay additional U.S. and state income taxes at the applicable marginal tax rates. Our total debt outstanding was $10.2 billion as of December 31, 2008, of which $1.0 billion is due in November 2009. Our cash flow from operations was $6.0 billion for the year ended December 31, 2008.

Our worldwide product sales for the year ended December 31, 2008 were $14.7 billion representing an increase of $376 million, or 3%, over product sales for the year ended December 31, 2007. This increase reflects growth primarily in ENBREL and Neulasta®/NEUPOGEN® sales significantly offset by a decline in U.S. Aranesp® sales. Product sales in the United States for the year ended December 31, 2008 totaled $11.5 billion and were relatively unchanged from 2007 as the decline in Aranesp® sales, in particular in the supportive cancer care setting, was offset by the overall growth in our other products. The decline in sales of Aranesp® reflects a decrease in demand resulting from various regulatory and reimbursement developments which principally occurred in the second half of 2007, additional product label changes in 2008 and, to a lesser extent, loss of segment share as discussed below.

International product sales totaled $3.2 billion, reflecting an increase of 13% over 2007. International product sales comprised 22% of total product sales in 2008 compared to 20% in 2007 and consisted principally of European sales of Aranesp® and Neulasta®/NEUPOGEN®. Growth in international product sales for the year ended December 31, 2008 was principally driven by favorable foreign currency exchange rate changes, which totaled $213 million for the year, and sales of Neulasta®/NEUPOGEN®. Excluding the impact of foreign currency exchange rate changes for the year ended December 31, 2008, worldwide product sales increased 1% and international product sales increased 5%.

Beginning in late 2008 and continuing into 2009, foreign currency rates have also been experiencing extreme volatility. Changes in foreign currency rates result in increases or decreases in our reported international product sales. However, the benefit or detriment of any resulting increases or decreases that movements in foreign currency exchange rates have on our international product sales are largely offset by corresponding increases or decreases in our international operating expenses and as a result of our related foreign currency hedging activities. Our hedging activities seek to offset the impact, both positive and negative, that foreign currency exchange rate changes may have on our net income by hedging our net foreign currency exposure, primarily with respect to the Euro.

As discussed in more detail in "*Item 1. Business — Key Developments*," certain of our products, principally our marketed ESA products, have experienced a number of regulatory and reimbursement challenges, including safety-related revisions to product labels and the loss of or significant restrictions on reimbursement. The developments with respect to our marketed ESA products have had a material adverse impact on Aranesp® sales, in particular, in the U.S. supportive cancer care setting. Furthermore, our ESA products will continue to face future challenges. For example, in response to the FDA's request, we have submitted a proposed REMS for the class of ESA products. We believe that a REMS program for our ESA products could have a material adverse impact on the future sales of Aranesp®, especially in the U.S. supportive cancer care setting. Additionally, future Aranesp® sales could also be materially adversely impacted by further changes in reimbursement, including as a result of future regulatory developments. In addition, certain of our marketed products are also under increased competitive pressures, including from biosimilar and other products in Europe, which compete or are expected to compete with Aranesp®, Neulasta® and NEUPOGEN®, as well as our marketed products in the United States, including ENBREL.

In addition, capital and credit markets have been experiencing extreme volatility and disruption, particularly during the latter part of 2008 and the beginning of 2009. We are working to manage our business effectively despite the unprecedented conditions in the financial markets both in the United States and around the world. To date, these macro economic challenges have not affected us to a large degree. The extent and/or the duration of any potential adverse economic impact that such financial disruption may have on our third-party payors, including governments and private insurance plans, wholesale distributors, customers, service providers and suppliers is unclear. However, it may result in reduced demand for our products. (See "*Item 1A. Risk Factors — The volatility of the current financial markets and the general economic slowdown may magnify certain risks that affect our business.*")

As a result of the challenges facing certain of our products and, in particular, the regulatory and reimbursement developments involving our marketed ESA products that began in 2007 and their resulting impact on our operations, on August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure while continuing to make significant R&D investments and build the framework for our future growth. Key components of our restructuring plan initially included: (i) worldwide staff reductions aggregating approximately 2,500 positions, (ii) rationalization of our worldwide network of manufacturing facilities in order to gain cost efficiencies while continuing to meet future commercial and clinical demand for our products and product candidates and, to a lesser degree, changes to certain R&D capital projects and (iii) abandoning leases primarily for certain R&D facilities that will not be used in our operations. Through December 31, 2008, we have completed substantially all of the actions initially included in our restructuring plan, including the divestiture of certain less significant marketed products discussed below. During 2008, we identified certain additional initiatives designed to further assist in improving our cost structure, including outsourcing certain non-core business functions, most notably certain of our information systems' infrastructure services, as well as abandoning leases for certain additional facilities that will no longer be used in our operations. The estimated cost of these additional initiatives is $95 million to $135 million. As a result of these additional initiatives and certain minor changes in the expected costs for the actions initially included in our restructuring plan, the total charges currently expected to be incurred in connection with our restructuring plan, including related implementation costs, has been increased to $950 million to $985 million, as compared to our prior estimate of $775 million to $825 million as of December 31, 2007. Through December 31, 2008 we have incurred $887 million of these costs and estimate that all remaining amounts will be incurred through 2009. Such cost estimates and amounts incurred are net of amounts recovered from our ENBREL co-promotion partner, Wyeth.

In September 2008, we entered into an agreement with Biovitrum whereby they acquired from us the marketed biologic therapeutic products Kepivance® (palifermin) and Stemgen® (ancestim), and also obtained from us a worldwide exclusive license to Kineret® (anakinra) for its current approved indication. In connection with the disposal of these less significant marketed products, we incurred a $10 million loss. For the year ended December 31, 2008, worldwide product sales for these marketed products were approximately $70 million.

There are many factors that affect us and our industry in general, including, among others, those relating to increased complexity and cost of R&D due, in part, to greater scrutiny of clinical trials with respect to safety which may lead to fewer treatments being approved by the FDA or other regulatory bodies and/or safety-related label changes for approved products; increasingly intense competition for marketed products and product candidates; reimbursement changes; healthcare provider prescribing behavior, regulatory or private healthcare organization medical guidelines and reimbursement practices; complex and expanding regulatory requirements; and intellectual property protection. (See "*Item 1. Business*" and "*Item 1A. Risk Factors*" for further information on these economic and industry-wide factors and their impact and potential impact on our business.)

Results of Operations

Product sales

For the years ended December 31, 2008, 2007 and 2006, worldwide product sales and total product sales by geographic region were as follows (dollar amounts in millions):

	2008	Change	2007	Change	2006
Aranesp®	$ 3,137	(13)%	$ 3,614	(12)%	$ 4,121
EPOGEN®	2,456	(1)%	2,489	(1)%	2,511
Neulasta®/NEUPOGEN®	4,659	9%	4,277	9%	3,923
ENBREL	3,598	11%	3,230	12%	2,879
Sensipar®	597	29%	463	44%	321
Other	240	1%	238	131%	103
Total product sales	$14,687	3%	$14,311	3%	$13,858
Total U.S.	$11,460	0%	$11,443	0%	$11,397
Total International	3,227	13%	2,868	17%	2,461
Total product sales	$14,687	3%	$14,311	3%	$13,858

Product sales are influenced by a number of factors, including demand, third-party reimbursement availability and policies, government programs, regulatory developments or guidelines, clinical trial outcomes, clinical practice, contracting and pricing strategies, wholesaler and end-user inventory management practices, patient population growth, fluctuations in foreign currency exchange rates, general economic conditions, new product launches and indications, competitive products, product supply and acquisitions. (See "*Item 1. Business — Marketed Products and Selected Product Candidates*" for a discussion of our principal products and their approved indications.)

Total product sales for the year ended December 31, 2008 increased 3%. This increase reflects growth primarily in ENBREL and Neulasta®/NEUPOGEN® sales significantly offset by a decline in U.S. Aranesp® sales. Product sales in the United States for the year ended December 31, 2008 totaled $11.5 billion and were relatively unchanged from 2007 as the decline in Aranesp® sales was offset by the overall growth in other products. International product sales for the year ended December 31, 2008 totaled $3.2 billion reflecting an increase of 13% over 2007. International product sales for the year ended December 31, 2008 reflect favorable foreign currency exchange rate changes of $213 million. Excluding the impact of foreign currency exchange rate changes for the year ended December 31, 2008, total product sales increased 1% and international product sales increased 5%.

Aranesp®

For the years ended December 31, 2008, 2007 and 2006, total Aranesp® sales by geographic region were as follows (dollar amounts in millions):

	2008	Change	2007	Change	2006
Aranesp® — U.S.	$1,651	(23)%	$2,154	(23)%	$2,790
Aranesp® — International	1,486	2%	1,460	10%	1,331
Total Aranesp®	$3,137	(13)%	$3,614	(12)%	$4,121

The decrease in U.S. Aranesp® sales for the year ended December 31, 2008 reflects the negative impact on demand, primarily in the supportive cancer care setting, of physician conformance to regulatory and reimbursement developments which principally occurred in the second half of 2007, additional product label changes which occurred in 2008, and to a lesser extent, loss of segment share. The decline in demand was partially offset by an increase in the average net sales price. In addition, U.S. sales of Aranesp® for the year ended December 31, 2008 benefited from a slight change in an accounting estimate related to product sales return reserves. The regulatory and reimbursement developments negatively impacting sales, discussed in more detail in "*Item 1. Business — Key Developments*," include (i) the loss of Aranesp® for use in the treatment of AoC in 2007 (ii) the March 9, 2007, November 8, 2007, March 7, 2008 and August 6, 2008 product safety-related label changes in the United States, and (iii) the CMS' Decision Memorandum issued in July 2007, which significantly restricted Medicare reimbursement for use of Aranesp® in CIA and which we believe has also negatively impacted Aranesp® use in CIA for patients covered by private insurance plans.

The increase in international Aranesp® sales for the year ended December 31, 2008 is due to changes in foreign currency exchange rates, which positively impacted sales growth by approximately $104 million. Excluding the impact of foreign currency exchange rate changes, international Aranesp® sales decreased 5%. This decrease reflects dosing conservatism in the oncology segment and pricing pressures across all ESAs in Europe, which has resulted in an overall decrease in the ESA market. Through December 31, 2008, biosimilars and other recently introduced marketed products in Europe have not had a significant impact on total international Aranesp® segment share.

The decrease in U.S. Aranesp® sales for the year ended December 31, 2007 was principally driven by a decline in demand. This decline primarily reflects physician conformance to label and reimbursement changes that occurred throughout 2007, primarily in the supportive cancer care setting, which are discussed in more detail in "*Item 1. Business — Key Developments,*" and, to a lesser extent, loss of segment share.

The increase in international Aranesp® sales for the year ended December 31, 2007 was primarily driven by favorable foreign currency exchange rate changes of $100 million. Excluding the impact of foreign currency exchange rate changes, international Aranesp® sales increased 2%. International sales were negatively impacted in Europe by dosing conservatism in the oncology segment and pricing pressures across all ESAs.

In addition to the factors mentioned in the "*Product sales*" section above, future worldwide Aranesp® sales will be dependent, in part, on such factors as:

- regulatory developments, including those resulting from:
  - the proposed REMS for the class of ESAs, which we have submitted to the FDA, or other risk management activities undertaken by us or required by the FDA or other regulatory authorities;
  - product labeling changes occurring in October 2008 in Europe for the class of ESAs, including Aranesp®, by the European Commission and the potential for further changes;
  - future product label changes;
- reimbursement developments, including those resulting from:
  - government's and/or third-party payor's reaction to regulatory developments, including the proposed REMS, which we have submitted to the FDA, and recent or future product label changes;

- current or future cost containment pressures by third-party payors, including governments and private insurance plans;

- adverse events or results from clinical trials or studies or meta-analyses performed by us, including our pharmacovigilance clinical trials, or by others (including our licensees or independent investigators), such as those referred to in "*Item 1. Business — Key Developments*," which have and could further impact product safety labeling, negatively impact healthcare provider prescribing behavior, use of our product, regulatory or private healthcare organization medical guidelines and reimbursement practices;
- governmental or private organization regulations or guidelines relating to the use of our product;
- our ability to maintain worldwide segment share and differentiate Aranesp® from current and potential future competitive products, including J&J's Epoetin alfa product marketed in the United States and certain other locations outside of the United States and other competitors' products outside of the United States, including biosimilar products that have been or are expected to be launched in the future;
- our current and future contracting and related pricing strategies;
- patient population growth; and
- development of new treatments for cancer and future chemotherapy treatments. For example, targeted therapies and other treatments that are less myelosuppressive may require less Aranesp®.

Certain of the above factors could have a material adverse impact on future sales of Aranesp®.

See "*Item 1. Business — Key Developments*" and "*Item 1A. Risk Factors*" herein for further discussion of certain of the above factors that could impact our future product sales.

EPOGEN®

For the years ended December 31, 2008, 2007 and 2006, total EPOGEN® sales were as follows (dollar amounts in millions):

	2008	Change	2007	Change	2006
EPOGEN® — U.S.	$2,456	(1)%	$2,489	(1)%	$2,511

The 1% decrease in EPOGEN® sales for the year ended December 31, 2008 was primarily due to a decrease in demand, reflecting a decline in the average net sales price. The increase in demand resulting from patient population growth was offset by a decline in dose/utilization in certain settings. The decline in dose/utilization is related to the ESA label changes and the CMS revision to its EMP, which became effective January 1, 2008, as discussed in more detail in "*Item 1. Business — Key Developments.*" We believe that the EMP implementation significantly impacted physician behavior resulting in declines in dosing trends, as particularly noted in the quarter of implementation. However, this dose decline subsequently moderated throughout 2008.

The decline in EPOGEN® sales for the year ended December 31, 2007 reflects a decrease in demand due to a decline in dose/utilization, partially offset by patient population growth. The decline in dose/utilization was due to physician behavior in making treatment and dosing decisions in response to regulatory and reimbursement developments that occurred throughout 2007, including anticipation of the implementation of the CMS revision to its EMP, as discussed in more detail in "*Item 1. Business — Key Developments.*" The decline in sales for the year ended December 31, 2007 was partially offset by favorable changes in wholesaler inventory and spillover. Spillover is a result of the Company's contractual relationship with J&J (see Note 1, "*Summary of significant accounting policies — Product sales*" to the Consolidated Financial Statements for further discussion).

In addition to the factors mentioned in the "*Product sales*" section above, future EPOGEN® sales will be dependent, in part, on such factors as:

- reimbursement developments, including those resulting from:
  - changes in healthcare providers' prescribing behavior resulting in dose fluctuations due to the CMS' revisions to its EMP, which became effective January 1, 2008;

- the federal government's reaction to regulatory developments, including recent or future product label changes;
- changes in reimbursement rates or changes in the basis for reimbursement by the federal and state governments, including Medicare and Medicaid;
- cost containment pressures from the federal and state governments on healthcare providers;

- regulatory developments, including those resulting from:
  - future product label changes;
  - risk management activities, including a REMS, undertaken by us or required by the FDA;
- governmental or private organization regulations or guidelines relating to the use of our products, including changes in medical guidelines and legislative actions;
- adverse events or results from clinical trials or studies or meta-analyses performed by us, including our pharmacovigilance clinical trials, or by others (including our licensees or independent investigators), such as those referred to in "*Item 1. Business — Key Developments*," which have and could further impact product safety labeling, negatively impact healthcare provider prescribing behavior, use of our product, regulatory or private healthcare organization medical guidelines and reimbursement practices;
- our current and future contracting and related pricing strategies;
- changes in future patient population growth or dose/utilization; and
- development of new modalities to treat anemia associated with CRF.

See "*Item 1. Business — Key Developments*" and "*Item 1A. Risk Factors*" for further discussion of certain of the above factors that could impact our future product sales.

Neulasta®/NEUPOGEN®

For the years ended December 31, 2008, 2007 and 2006, total Neulasta®/NEUPOGEN® sales by geographic region were as follows (dollar amounts in millions):

	2008	Change	2007	Change	2006
Neulasta® — U.S.	$2,505	7%	$2,351	6%	$2,217
NEUPOGEN® — U.S.	896	4%	861	4%	830
U.S. Neulasta®/NEUPOGEN® — Total	3,401	6%	3,212	5%	3,047
Neulasta® — International	813	25%	649	32%	493
NEUPOGEN® — International	445	7%	416	9%	383
International Neulasta®/NEUPOGEN® — Total	1,258	18%	1,065	22%	876
Total Worldwide Neulasta®/NEUPOGEN®	$4,659	9%	$4,277	9%	$3,923

The increase in U.S. Neulasta®/NEUPOGEN® sales for the year ended December 31, 2008 primarily reflects an increase in demand for Neulasta® driven by an increase in the average net sales price partially offset by a slight decline in units sold. The increase in international Neulasta®/NEUPOGEN® sales for the year ended December 31, 2008 reflects increased demand driven by continued conversion from NEUPOGEN® to Neulasta® as well as changes in foreign currency exchange rates, which positively impacted the growth in combined international sales by $86 million. Excluding the favorable impact of foreign currency exchange rate changes, international Neulasta®/NEUPOGEN® sales increased 10% versus the prior year.

The increase in U.S. Neulasta®/NEUPOGEN® sales for the year ended December 31, 2007 was driven by demand for Neulasta® primarily due to segment growth and, to a lesser degree, favorable changes in wholesaler inventory levels. The increase in international Neulasta®/NEUPOGEN® sales for the year ended December 31,

2007 was driven by the continued conversion to Neulasta® from NEUPOGEN® and changes in foreign exchange, which positively impacted the growth in combined international sales by $74 million. Excluding the impact of foreign currency exchange rate changes, combined international Neulasta®/NEUPOGEN® sales increased 13%.

In addition to the factors mentioned in the "*Product sales*" section above, future worldwide Neulasta®/NEUPOGEN® sales will be dependent, in part, on such factors as:

- penetration of existing segments;
- competitive products or therapies, including biosimilar products that have been or may be approved and launched in the EU (see "*Item 1. Business — Marketed Products and Selected Product Candidates*" for additional discussion);
- the availability, extent and access to reimbursement by government and third-party payors;
- adverse events or results from clinical trials or studies or meta-analyses performed by us or by others (including our licensees or independent investigators), which could impact product safety labeling and may negatively impact healthcare provider prescribing behavior, use of our products, regulatory or private healthcare organization medical guidelines and reimbursement practices;
- governmental or private organization regulations or guidelines relating to the use of our products;
- cost containment pressures from governments and private insurers on healthcare providers;
- our current and future contracting and related pricing strategies;
- patient population growth; and
- development of new treatments for cancer and future chemotherapy treatments. For example, targeted therapies and other treatments that are less myelosuppressive, and changes in chemotherapy usage patterns, may require less Neulasta®/NEUPOGEN®.

See "*Item 1. Business — Key Developments*" and "*Item 1A. Risk Factors*" for further discussion of certain of the above factors that could impact our future product sales.

ENBREL

For the years ended December 31, 2008, 2007 and 2006, total ENBREL sales by geographic region were as follows (dollar amounts in millions):

	2008	Change	2007	Change	2006
ENBREL — U.S.	$3,389	11%	$3,052	12%	$2,736
ENBREL — International	209	17%	178	24%	143
Total ENBREL	$3,598	11%	$3,230	12%	$2,879

ENBREL sales growth for the year ended December 31, 2008 reflects higher demand principally due to increases in average net sales price. ENBREL sales were also favorably impacted by approximately $100 million due to a change in our distribution model for ENBREL. Previously, ENBREL was shipped directly to pharmacies. However, beginning in the three months ended March 31, 2008, we commenced using a wholesaler distributor model, similar to our other marketed products. Also, ENBREL sales growth for the year ended December 31, 2008 was affected by share declines in the rheumatology and dermatology segments in the United States compared to the prior year due to increased competitive activity. However, sales growth continued in both rheumatology and dermatology, and ENBREL continues to maintain a leading position in both segments.

ENBREL sales growth for the year ended December 31, 2007 was driven by demand due to increases in both patients and average net sales price. While ENBREL continued to maintain a leading position in both rheumatology and dermatology, the sales growth during the year ended December 31, 2007 was affected by slight share declines in the United States in both segments compared to the prior year due to increased competitive activity.

In addition to the factors mentioned in the "*Product sales*" section above, future worldwide ENBREL sales will be dependent, in part, on such factors as:

- the effects of competing products or therapies, including new competitive products coming to market, such as J&J's CNTO 1275 (ustekinumab) and CNTO 148 (golimumab) (see "*Item 1. Business — Marketed Products and Selected Product Candidates*") and, in part, our ability to differentiate ENBREL based on its safety profile and efficacy;
- recent or future product label changes;
- risk management activities, including a REMS, undertaken by us or required by the FDA or other regulatory authorities;
- growth in the rheumatology and dermatology segments;
- the availability, extent and access to reimbursement by government and third-party payors;
- adverse events or results from clinical trials or studies or meta-analyses performed by us or by others (including our licensees or independent investigators), which could impact product safety labeling and may negatively impact healthcare provider prescribing behavior, use of our product, regulatory or private healthcare organization medical guidelines and reimbursement practices;
- governmental or private organization regulations or guidelines relating to the use of our product;
- cost containment pressures from governments and private insurers on healthcare providers;
- current and future contracting and related pricing strategies;
- patient population growth; and
- penetration of existing segments.

See "*Item 1. Business — Key Developments*" and "*Item 1A. Risk Factors*" for further discussion of certain of the above factors that could impact our future product sales.

Selected operating expenses

The following table summarizes our product sales and operating expenses for the years ended December 31, 2008, 2007 and 2006 (dollar amounts in millions):

	2008	Change	2007	Change	2006
Product sales	$ 14,687	3%	$ 14,311	3%	$ 13,858
Operating expenses:					
Cost of sales (excludes amortization of acquired intangible assets)	$ 2,296	(10)%	$ 2,548	22%	$ 2,095
% of product sales	16%		18%		15%
Research and development	$ 3,030	(7)%	$ 3,266	(3)%	$ 3,366
% of product sales	21%		23%		24%
Selling, general and administrative	$ 3,789	13%	$ 3,361	0%	$ 3,366
% of product sales	26%		23%		24%
Amortization of acquired intangible assets	$ 294		$ 298		$ 370
Write-off of acquired in-process research and development	$ —		$ 590		$ 1,231
Other charges	$ 380		$ 728		$ —

Cost of sales

Cost of sales, which excludes the amortization of acquired intangible assets, decreased 10% for the year ended December 31, 2008. The decrease was primarily driven by lower restructuring charges incurred in 2008, as

discussed below. In addition, the decline in cost of sales was due to lower inventory write-offs and lower cost ENBREL, partially offset by higher sales volume and excess capacity charges.

Cost of sales increased 22% for the year ended December 31, 2007, primarily driven by restructuring charges, as discussed below, product mix due to higher sales of ENBREL, excess capacity charges and the write-off of excess inventory related to certain new product presentations and due to changing regulatory and reimbursement environments.

Cost of sales for the year ended December 31, 2008 included $6 million of restructuring charges. Cost of sales for the year ended December 31, 2007 included $150 million of restructuring charges, primarily related to accelerated depreciation resulting from the decision to accelerate closure of one of our ENBREL commercial bulk manufacturing operations in connection with the rationalization of our worldwide network of manufacturing facilities. See Note 2, "*Restructuring*" to the Consolidated Financial Statements for further discussion.

Research and development

R&D costs are expensed as incurred and primarily include salaries, benefits and other staff-related costs; facilities and overhead costs; clinical trial and related clinical manufacturing costs; contract services and other outside costs; information systems' costs and amortization of acquired technology used in R&D with alternative future uses. R&D expenses include costs incurred under R&D arrangements with our corporate partners, such as activities performed on behalf of KA, and costs associated with collaborative R&D and in-licensing arrangements, including upfront fees and milestones paid to collaboration partners in connection with technologies that have no alternative future use. Net payment or reimbursement of R&D costs for R&D collaborations are recognized as the obligation has been incurred or as we become entitled to the cost recovery.

R&D expenses decreased 7% for the year ended December 31, 2008, which was principally due to $102 million of lower staff-related costs and discretionary expenses; $133 million of lower clinical trial costs; $100 million of cost recoveries derived from our licensing agreements, primarily with Daiichi Sankyo and Takeda and a $16 million decline in restructuring-related costs, as discussed below, partially offset by a $100 million expense in the year ended December 31, 2008 for the upfront payment under our licensing agreement with Kyowa Hakko. Our clinical trial costs were lower for the year ended December 31, 2008 primarily due to the completion of enrollment of our large denosumab clinical trials and the related significant costs associated with site initiation and patient enrollment no longer being incurred, partially offset by increased clinical costs for our emerging pipeline.

R&D expenses decreased 3% for the year ended December 31, 2007, which was primarily attributable to reductions in in-licensing expenses of approximately $95 million primarily due to our agreement with Cytokinetics entered into in 2006 and a $50 million benefit in 2007 from our licensing agreement with Daiichi Sankyo. These decreases in R&D expenses for the year ended December 31, 2007 were partially offset by $19 million of restructuring costs, as discussed below.

For the year ended December 31, 2008, restructuring-related R&D costs totaled $3 million. R&D expense for the year ended December 31, 2007 include $19 million of restructuring costs, primarily comprised of $38 million in charges related to asset impairments offset by a $19 million benefit associated with the reversal of previously accrued expenses for bonuses and stock-based compensation awards, which were forfeited as a result of the employees' termination.

Selling, general and administrative

Selling, general and administrative ("SG&A") expenses are primarily comprised of salaries, benefits and other staff-related costs associated with sales and marketing, finance, legal and other administrative personnel; facilities and overhead costs; outside marketing, advertising and legal expenses and other general and administrative costs. In connection with a co-promotion agreement, we and Wyeth market and sell ENBREL in the United States and Canada and Wyeth is paid a share of the related profits, as defined. The share of ENBREL's profits owed to Wyeth is included in SG&A expenses.

SG&A expense increased 13% for the year ended December 31, 2008 compared to 2007, in part due to the impact of our restructuring plan which contributed $161 million to the increase in expenses, as discussed below. The increase was also due to higher expense associated with the Wyeth profit share of $211 million, product promotional spending of $39 million and staff-related costs of $94 million, partially offset by lower litigation expense of $50 million. For the years ended December 31, 2008 and 2007, the expense associated with the Wyeth profit share, excluding recoveries recorded as part of our restructuring, as discussed below, was $1,195 million and $984 million, respectively.

SG&A remained relatively unchanged for the year ended December 31, 2007. During the year ended December 31, 2007, outside legal costs increased $53 million and outside marketing costs increased approximately $59 million. The increase in outside marketing is primarily due to an increase in the expense associated with the Wyeth profit share, partially offset by reductions in promotion and advertising on marketed products. These increases were offset by approximately $125 million in expense recoveries associated with our restructuring, as discussed below. For the year ended December 31, 2006, the expense associated with the Wyeth profit share was $837 million. See Note 2, "*Restructuring*" to the Consolidated Financial Statements for further discussion.

For the year ended December 31, 2008, we recorded $37 million for certain restructuring charges, which primarily included $17 million in asset impairments, $12 million in loss accruals for leases principally related to certain facilities that will not be used in our business and $9 million in implementation costs associated with certain restructuring initiatives. For the year ended December 31, 2007, we recorded $114 million in cost recoveries for certain restructuring charges, principally with respect to accelerated depreciation, in connection with our co-promotion agreement with Wyeth and $11 million of benefit associated with the reversal of previously accrued expenses for bonuses and stock-based compensation awards, which were forfeited as a result of the employees' termination. See Note 2, "*Restructuring*" to the Consolidated Financial Statements for further discussion.

Amortization of acquired intangible assets

Amortization of acquired intangible assets relates to products technology rights acquired in connection with the Immunex acquisition. For the years ended December 31, 2007 and 2006, amortization expense also included $3 million and $49 million, respectively, related to the impairment of a non-ENBREL related intangible asset previously acquired in the Immunex acquisition.

Write-off of acquired in-process research and development

For acquisitions prior to January 1, 2009, the fair value of acquired IPR&D projects, which have no alternative future use and which have not reached technological feasibility at the date of acquisition, were immediately expensed (see "*Recent accounting pronouncements"* below). In 2007, we wrote-off $270 million and $320 million of acquired IPR&D related to the acquisitions of Alantos and Ilypsa, respectively. The Alantos IPR&D amount is related to an orally administered treatment for type II diabetes that, at the date of acquisition, was in phase 2a clinical trials. The Ilypsa IPR&D amount is related to a phosphate binder that, at the date of acquisition, was in phase 2 clinical trials for the treatment of hyperphosphatemia in CKD patients on hemodialysis. In 2006, we wrote-off $1.1 billion and $130 million of acquired IPR&D related to the acquisitions of Abgenix and Avidia, respectively. The Abgenix IPR&D amount is primarily comprised of approximately $770 million related to the rights which we did not own pursuant to our agreement with Abgenix to jointly develop and commercialize panitumumab and approximately $330 million related to a royalty that we would have owed to Abgenix with respect to future sales of denosumab as a result of using certain of Abgenix's patented technologies in the development of this product candidate. Panitumumab was Abgenix's fully human monoclonal antibody which, at acquisition, was in phase 2/3 clinical trials for the treatment of certain types of cancer. Denosumab is a fully human monoclonal antibody that is a key mediator of osteoclast formation, function and survival and was in phase 2/3 clinical trials for various types of bone diseases at the time of the Abgenix acquisition. There were no individually significant IPR&D projects acquired and written off in the acquisition of Avidia.

We used the "income method" to determine the estimated fair values of acquired IPR&D, which uses a discounted cash flow model and applies a probability weighting based on estimates of successful product development and commercialization to estimated future net cash flows resulting from projected revenues and related costs. These success rates take into account the stages of completion and the risks surrounding successful development and commercialization of the underlying product candidates. These cash flows were then discounted to present value using a discount rate of 10%. The estimated after-tax cash flows were probability weighted at success rates of 38% for the Alantos product candidate, 77% for the Ilypsa product candidate, and 43% to 85% for the Abgenix product candidates. The incremental R&D expenses assumed to be incurred to obtain necessary regulatory approval for the Alantos and Ilypsa product candidates are immaterial. The incremental R&D expenses assumed to be incurred to obtain necessary regulatory approvals for the various indications of panitumumab were estimated at the time of acquisition at approximately $300 million and would be incurred through 2011. The elimination of the royalty on potential future sales of denosumab did not result in us incurring any incremental R&D expenses.

The above assumptions were used solely for the purposes of estimating fair values of these product candidates as of the date of their acquisition. However, we cannot provide assurance that the underlying assumptions used to forecast the cash flows or the timely and successful completion of development and commercialization will materialize, as estimated. The major risks and uncertainties associated with the timely and successful completion of development and commercialization of these product candidates are our ability to confirm their safety and efficacy based on data from clinical trials, our ability to obtain necessary regulatory approvals and our ability to successfully complete these tasks within budgeted costs. We are not able to market a human therapeutic without obtaining regulatory approvals, and such approvals require completing clinical trials that demonstrate a product candidate is safe and effective. Consequently, the eventual realized value of the acquired IPR&D may vary from its estimated value at the date of acquisition.

At the date of acquisition, we intended to develop panitumumab for treatment of various types of cancer. Panitumumab received FDA approval in late September 2006 for the treatment of mCRC after disease progression on, or following, fluoropyrimidine-, oxaliplatin- and irinotecan- containing chemotherapy regimens and is marketed under the trademark Vectibix®. In December 2007, the European Commission granted a conditional marketing authorization for Vectibix® as monotherapy for the treatment of patients with EGFr expressing mCRC with non-mutated (wild-type) KRAS genes after failure of standard chemotherapy regimens. This conditional approval is reviewed annually by the CHMP, and in December 2008 we agreed as a condition of the renewal of approval to conduct an additional clinical trial in the existing approved indication. We are continuing to develop or are evaluating plans to develop Vectibix® in all of the remaining indications we had intended at the date of acquisition. However, since the acquisition, there have been several events that have affected the development plans for Vectibix®, such as the results of our PACCE trial and KRAS biomarker analysis. Because of these developments, our expected time to obtain regulatory approvals for the remaining indications has been delayed compared to our original expectations. Our development efforts with respect to denosumab are continuing. In December 2008, we submitted a BLA to the FDA for denosumab for the treatment and prevention of PMO in women and bone loss in patients undergoing hormone ablation for either prostate or breast cancer. On February 18, 2009, the FDA accepted our BLA and informed us that it will target an FDA action within ten months of the BLA's submission date. Additionally, in January 2009, we submitted an application to the EMEA for the approval of denosumab for treatment of PMO in women and treatment of bone loss associated with hormone ablation therapy in patients with breast and prostate cancer. In addition, we are continuing to develop the product candidate acquired in the Alantos acquisition. We have reviewed data from recently-completed phase 1 and 2 clinical trials for AMG 223, the product candidate acquired in the Ilypsa acquisition. The results were consistent with what is likely required for registration of a phosphate-binding therapy. However, in the context of our overall development portfolio, the Company will be reviewing other options for the commercialization of this investigational product.

Other charges

As discussed in Note 2, "*Restructuring*" to the Consolidated Financial Statements, on August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure while continuing

to make significant R&D investments and build the framework for our future growth. As a result of this restructuring plan, we recorded in "Other charges" in 2008 and 2007 expenses for staff separation costs of $7 million and $209 million, respectively, asset impairments of $36 million and $366 million, respectively, and charges of $49 million and $119 million, respectively, primarily related to the loss accruals for leases for certain facilities that will not be used in our business.

Also, in 2008, the Company recorded in "Other charges" loss accruals for settlements of certain commercial legal proceedings aggregating $288 million, principally related to the settlement of the Ortho Biotech antitrust suit. In addition, in 2007, the Company recorded a $34 million loss accrual for an ongoing commercial legal proceeding.

Income taxes

Our effective tax rate was 20.1%, 20.1% and 26.6% for 2008, 2007 and 2006, respectively. Our effective tax rate for 2008 remained relatively unchanged from 2007. Although the 2007 effective tax rate benefited from the favorable resolution of certain income tax examinations, this benefit was substantially offset by the write-off of nondeductible acquired IPR&D costs, resulting in a comparable effective tax rate between the two years.

Our effective tax rate for 2007 decreased over 2006 primarily due to the lesser amount of the write-off of nondeductible acquired IPR&D costs in 2007 than in 2006 and the greater tax benefit from the favorable resolutions of our prior years' income tax examinations in 2007 than in 2006.

As permitted in Accounting Principles Board Opinion ("APB") No. 23, "*Accounting for Income Taxes — Special Areas*," we do not provide for U.S. income taxes on undistributed earnings of our foreign operations that are intended to be invested indefinitely outside of the United States.

(See Note 5, "*Income taxes*" to the Consolidated Financial Statements for further discussion.)

Recent accounting pronouncements

In May 2008, the Financial Accounting Standards Board ("FASB") issued FASB Staff Position ("FSP") No. APB 14-1, "*Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)*" ("FSP APB 14-1") that changes the method of accounting for convertible debt securities that require or permit settlement in cash either in whole or in part upon conversion, including our convertible debt securities (see Note 6, "*Financing arrangements*" to the Consolidated Financial Statements). We will adopt FSP APB 14-1, effective January 1, 2009, and retrospectively apply this change in accounting to all prior periods presented for which we had applicable outstanding convertible debt, as required by this new standard. Under this new method of accounting, the debt and equity components of our convertible debt securities will be bifurcated and accounted for separately in a manner that will result in recognizing interest expense on these securities at effective rates reflective of what we would have incurred had we issued nonconvertible debt with otherwise similar terms. The equity component of our convertible debt securities will be included in "Stockholders' equity" on our Consolidated Balance Sheets and, accordingly, the initial carrying values of these debt securities will be reduced. Our net income for financial reporting purposes will be reduced by recognizing the accretion of the reduced carrying values of our convertible debt securities to their face amounts as additional non-cash interest expense. The adoption of FSP APB 14-1 will result in a reduction in the carrying value of our convertible debt by approximately $824 million as of December 31, 2008 and will increase interest expense, net by approximately $234 million, $168 million and $197 million, for the years ended December 31, 2008, 2007 and 2006, respectively. This new standard will also materially increase interest expense in future periods that our convertible debt is outstanding, but will have no impact on past or future cash flows.

In December 2007, the FASB issued SFAS No. 141(R), "*Business Combinations*" ("SFAS 141(R)") and SFAS No. 160, "*Accounting and Reporting of Noncontrolling Interests in Consolidated Financial Statements — an amendment of ARB No. 51*" ("SFAS 160"). These standards will significantly change the accounting and reporting for business combination transactions and noncontrolling (minority) interests in consolidated financial statements, including capitalizing the fair value of acquired IPR&D at the acquisition date and subsequently testing these assets for impairment. These new standards will be applied prospectively for business combinations

that occur on or after January 1, 2009, except that presentation and disclosure requirements of SFAS 160 regarding noncontrolling interests will be applied retrospectively.

In June 2008, the FASB ratified EITF Issue No. 07-5, "*Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock*" ("EITF 07-5"). Equity-linked instruments (or embedded features) that otherwise meet the definition of a derivative as outlined in SFAS No. 133, "*Accounting for Derivative Instruments and Hedging Activities*," are not accounted for as derivatives if certain criteria are met, one of which is that the instrument (or embedded feature) must be indexed to the entity's own stock. EITF 07-5 provides guidance on how to determine if equity-linked instruments (or embedded features) such as warrants to purchase our stock, our convertible notes and convertible note hedges are considered indexed to our stock. We will adopt EITF 07-5, effective January 1, 2009, and apply its provisions to outstanding instruments as of that date. The adoption of EITF 07-5 will not have a material impact on our consolidated results of operations, financial position or cash flows.

In December 2007, the FASB ratified EITF 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, which includes certain arrangements the Company has entered into regarding development and commercialization of products and product candidates. EITF 07-1 is effective for the Company as of January 1, 2009, and its adoption will not have a material impact on our consolidated results of operations, financial position or cash flows.

Financial Condition, Liquidity and Capital Resources

The following table summarizes selected financial data (in millions):

	December 31,	
	2008	2007
Cash, cash equivalents and marketable securities	$ 9,552	$ 7,151
Total assets	36,443	34,639
Current debt	1,000	2,000
Non-current debt	9,176	9,177
Stockholders' equity	20,386	17,869

We believe that existing funds, including those generated from our $2.0 billion debt offering in January 2009, cash generated from operations and existing sources of and access to financing are adequate to satisfy our working capital, capital expenditure and debt service requirements for the foreseeable future. In addition, we plan to opportunistically pursue our stock repurchase programs and other business initiatives, including acquisitions and licensing activities. Our liquidity needs can be met through a variety of sources, including: cash provided by operating activities, sale of marketable securities, borrowings through commercial paper and/or our syndicated credit facility and other debt markets and equity markets. (See *"Item 1A. Risk Factors — Current levels of market volatility are unprecedented and adverse capital and credit market conditions may affect our ability to access cost-effective sources of funding and our investment in marketable securities may be subject to market, interest and credit risk that could reduce their value."*)

Cash, cash equivalents and marketable securities

Of the total cash, cash equivalents and marketable securities at December 31, 2008, approximately $8.8 billion was generated from operations in foreign tax jurisdictions and is intended for use in our foreign operations. If these funds were repatriated for use in the United States, we would be required to pay additional U.S. and state income taxes at the applicable marginal tax rates.

The primary objectives for our marketable security investment portfolio are liquidity and safety of principal. Investments are made with the objective of achieving the highest rate of return, consistent with these two objectives. Our investment policy limits investments to certain types of debt and money market instruments issued by institutions primarily with investment grade credit ratings and places restrictions on maturities and concentration by type and issuer.

Financing arrangements

The following table reflects the carrying value of our long-term borrowings under our various financing arrangements as of December 31, 2008 and 2007 (in millions):

	2008	2007
0.125% convertible notes due 2011 (2011 Convertible Notes)	$ 2,500	$ 2,500
0.375% convertible notes due 2013 (2013 Convertible Notes)	2,500	2,500
Floating rate notes due 2008 (2008 Floating Rate Notes)	—	2,000
5.85% notes due 2017 (2017 Notes)	1,099	1,099
4.85% notes due 2014 (2014 Notes)	1,000	1,000
4.00% notes due 2009 (2009 Notes)	1,000	999
6.375% notes due 2037 (2037 Notes)	899	899
6.15% notes due 2018 (2018 Notes)	499	—
6.90% notes due 2038 (2038 Notes)	498	—
Zero coupon 30 year modified convertible notes due in 2032 (2032 Modified Convertible Notes)	81	80
Other	100	100
Total borrowings	10,176	11,177
Less current portion	1,000	2,000
Total non-current debt	$ 9,176	$ 9,177

In May 2008, we issued $500 million aggregate principal amount of notes due in 2018 (the “2018 Notes”) and $500 million aggregate principal amount of notes due in 2038 (the “2038 Notes”) in a registered offering. The 2018 Notes and 2038 Notes pay interest at fixed annual rates of 6.15% and 6.90%, respectively. The 2018 Notes and 2038 Notes may be redeemed at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a “make-whole” amount, as defined. In the event of a change in control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2018 Notes and 2038 Notes at a price equal to 101% of the principal amount of the notes plus accrued interest. Debt issuance costs totaled approximately $6 million and are being amortized over the life of the notes.

In May 2007, we issued $2.0 billion aggregate principal amount of floating rate notes due in November 2008 (the “2008 Floating Rate Notes”), $1.1 billion aggregate principal amount of notes due in 2017 (the “2017 Notes”) and $900 million aggregate principal amount of notes due in 2037 (the “2037 Notes”). The annual interest rate on our 2008 Floating Rate Notes was equal to LIBOR plus 0.08%, which was reset quarterly. The 2017 Notes and 2037 Notes pay interest at fixed annual rates of 5.85% and 6.375%, respectively. The 2017 Notes and 2037 Notes may be redeemed at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a “make-whole” amount, as defined. In the event of a change in control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2017 Notes and 2037 Notes at a price equal to 101% of the principal amount of the notes plus accrued interest. A total of $3.2 billion of the net proceeds raised from the issuance of these notes were used to repurchase shares of our common stock under an ASR entered into in May 2007. Upon the receipt of the proceeds from the issuance of the 2018 Notes and 2038 Notes discussed above, in June 2008 we exercised our right to call and retired $1.0 billion of the 2008 Floating Rate Notes which were scheduled to mature in November 2008. The remaining $1.0 billion of the 2008 Floating Rate Notes matured and were retired in November 2008.

In February 2006, we issued $2.5 billion principal amount of convertible notes due in 2011 (the “2011 Convertible Notes”) and $2.5 billion principal amount of convertible notes due in 2013 (the “2013 Convertible Notes”). The 2011 Convertible Notes and the 2013 Convertible Notes were issued at par and pay interest at a rate of 0.125% and 0.375%, respectively. The 2011 Convertible Notes and 2013 Convertible Notes may be converted based on an initial conversion rate of 12.5247 shares and 12.5814 shares, respectively, per $1,000 principal amount of notes (which represents an initial conversion price of approximately $79.84 and $79.48 per share, respectively). The 2011 Convertible Notes and 2013 Convertible Notes may only be converted (i) during any

calendar quarter if the closing price of our common stock exceeds 130% of the respective conversion price per share during a defined period at the end of the previous quarter, (ii) if we make specified distributions to holders of our common stock or specified corporate transactions occur or (iii) one month prior to the respective maturity date. Upon conversion, a holder would receive (i) cash equal to the lesser of the principal amount of the note or the conversion value, as defined, and (ii) to the extent the conversion value exceeds the principal amount of the note, shares of our common stock, cash or a combination of common stock and cash, at our option (the "excess conversion value"). In addition, upon a change in control, as defined, the holders may require us to purchase for cash all or a portion of their notes for 100% of the principal amount of the notes plus accrued interest. See "*Recent accounting pronouncements*" above.

In connection with the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, a total of $3.0 billion of our common stock was repurchased under our stock repurchase program. Also, concurrent with the issuance of these convertible notes, we purchased convertible note hedges. The convertible note hedges allow us to receive shares of our common stock and/or cash from the counterparties to the transactions equal to the amounts of common stock and/or cash related to the excess conversion value that we would issue and/or pay to the holders of the 2011 Convertible Notes and 2013 Convertible Notes upon conversion. These transactions will terminate at the earlier of the maturity dates of the related notes or the first day none of the related notes remain outstanding due to conversion or otherwise. The cost of the convertible note hedges, which aggregated approximately $1.5 billion, was recorded as a reduction of equity. The net proceeds from the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, the repurchase of our common stock and the purchase of the convertible note hedges was $439 million.

Also, concurrent with the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, we sold warrants to acquire shares of our common stock at an exercise price of $107.90 per share. Pursuant to these transactions, warrants for approximately 31.3 million shares of our common stock may be settled in May 2011 and warrants for approximately 31.5 million shares of our common stock may be settled in May 2013 (the "settlement dates"). If the average price of our common stock during a defined period ending on or about the respective settlement dates exceeds the exercise price of the warrants, the warrants will be net settled, at our option, in cash or shares of our common stock. Proceeds received from the issuance of the warrants totaled approximately $774 million.

As of December 31, 2008, we had $2.2 billion of additional notes outstanding. The notes consisted of (i) $1.0 billion of notes that bear interest at a fixed rate of 4.00% and mature in November of 2009 ("2009 Notes"), (ii) $1.0 billion of notes that bear interest at a fixed rate of 4.85% and mature in 2014 ("2014 Notes"), (iii) $100 million of long-term debt securities that bear interest at a fixed rate of 8.125% and mature in 2097 ("Century Notes") and (iv) zero coupon convertible notes due in 2032 with an accreted value of $81 million and having an aggregate face amount of $105 million and yield to maturity of 1.125%. See "*Recent accounting pronouncements*" above.

To achieve a desired mix of fixed and floating interest rate debt, we enter into interest rate swap agreements that effectively convert a fixed rate interest coupon to a LIBOR-based floating rate coupon over the life of the respective note. These interest rate swap agreements qualify and are designated as fair value hedges. As of December 31, 2008, we had interest rate swap agreements for our 2009 Notes, 2014 Notes, 2018 Notes and Century Notes, with an aggregate face value of $2.6 billion. As of December 31, 2007, we had interest rate swap agreements for our 2009 Notes, 2014 Notes and Century Notes, with an aggregate face value of $2.1 billion.

In addition to the outstanding debt noted above, in January 2009, we issued $1.0 billion aggregate principal amount of notes due in 2019 (the "2019 Notes") and $1.0 billion aggregate principal amount of notes due in 2039 (the "2039 Notes") in a registered offering. The 2019 Notes and 2039 Notes pay interest at fixed annual rates of 5.70% and 6.40%, respectively. The 2019 Notes and 2039 Notes may be redeemed at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a "make-whole" amount, as defined. In the event of a change in control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2019 Notes and 2039 Notes at a price equal to 101% of the principal amount of the notes plus accrued interest. Debt issuance costs totaled approximately $12 million and are being amortized over the life of the notes.

On April 17, 2008, we filed a shelf registration statement with the SEC, which replaced our previous $1.0 billion shelf registration statement and allows us to issue an unspecified amount of debt securities; common stock; preferred stock; warrants to purchase debt securities, common stock, preferred stock or depository shares; rights to purchase common stock or preferred stock; securities purchase contracts; securities purchase units and depository shares. Under this registration statement, all of the securities available for issuance may be offered from time to time with terms to be determined at the time of issuance.

In May 2008, we increased our commercial paper program by $1.3 billion, which provides for unsecured, short-term borrowings of up to an aggregate of $2.5 billion. We also have a $2.5 billion syndicated unsecured revolving credit facility which matures in November 2012 and is available for general corporate purposes, or as a liquidity backstop to our commercial paper program; however, $178 million of such commitment was provided by a subsidiary of Lehman. Lehman declared bankruptcy on September 15, 2008, and the subsidiary participant in our credit facility subsequently declared bankruptcy on October 5, 2008. As a result, we would not anticipate the ability to access this specific commitment provided by Lehman in the future. No amounts were outstanding under the commercial paper program or credit facility as of December 31, 2008.

As of December 31, 2008, we have $400 million remaining under a shelf registration statement that was established in 1997. In connection with this shelf registration, we established a $400 million medium-term note program. All of the $400 million of debt securities available for issuance may be offered from time to time under our medium-term note program with terms to be determined at the time of issuance. As of December 31, 2008, no securities were outstanding under the $400 million medium-term note program.

Certain of our financing arrangements contain non-financial covenants and we were in compliance with all applicable covenants as of December 31, 2008. None of our financing arrangements contain any financial covenants. Our outstanding convertible notes and other outstanding long-term debt are rated “A+” with a stable outlook by Standard & Poor’s, “A3” with a stable outlook by Moody’s Investors Service, Inc. and “A” with a stable outlook by Fitch, Inc.

Cash flows

The following table summarizes our cash flow activity for the years ended December 31, 2008, 2007 and 2006 (in millions):

	2008	2007	2006
Net cash provided by operating activities	$ 5,988	$ 5,401	$ 5,389
Net cash used in investing activities	(3,165)	(1,992)	(5,131)
Net cash used in financing activities	(3,073)	(2,668)	(815)

Operating

Cash provided by operating activities has been and is expected to continue to be our primary recurring source of funds. Cash provided by operating activities increased in 2008 primarily as a result of improvement in operating income.

Cash provided by operating activities remained relatively unchanged in 2007 as higher cash receipts from customers were substantially offset by the timing of payments in the ordinary course of business.

Investing

Net purchases of marketable securities were $2.6 billion for the year ended December 31, 2008 compared to net purchases of $52 million for the year ended December 31, 2007 and net purchases of $1.5 billion for the year ended December 31, 2006.

Capital expenditures totaled $672 million in 2008 and were significantly lower compared to $1.3 billion in 2007 and $1.2 billion in 2006 as we reassessed our capital spending needs. Capital expenditures in 2008 were primarily associated with manufacturing capacity expansions in Puerto Rico, Fremont and other site developments and

investment in our global ERP system and other information systems' projects. Capital expenditures in 2007 were primarily associated with manufacturing capacity and site expansions in Puerto Rico and other locations and investment in our global ERP system. Capital expenditures in 2006 were primarily associated with manufacturing capacity and site expansions in Ireland, Puerto Rico and other locations and costs associated with implementing our ERP system. We currently estimate 2009 spending on capital projects and equipment to be approximately $700 million.

On January 4, 2008, we completed our acquisition of Dompé and pursuant to the merger agreement, we paid $56 million in cash, net of cash acquired and transaction costs of $2 million.

On July 18, 2007, we completed our acquisition of Ilypsa and pursuant to the merger agreement, we paid $398 million in cash, net of cash acquired and transaction costs of $2 million. On July 16, 2007, we completed our acquisition of Alantos and pursuant to the merger agreement, we paid $299 million in cash, net of cash acquired and transaction costs of $1 million.

On October 24, 2006, we completed our acquisition of Avidia and paid $275 million in cash, net of cash acquired and our existing equity stake in Avidia. In addition, we may be subject to pay additional amounts upon the achievement of certain future events. On April 1, 2006, we completed our acquisition of Abgenix and paid $2.1 billion in cash to the shareholders of Abgenix to acquire all outstanding shares. In addition, we acquired $252 million in cash, and subsequent to the completion of the acquisition, we paid off $653 million of debt assumed in this transaction.

Financing

In July 2007, the Board of Directors authorized us to repurchase up to $5.0 billion of common stock. As of December 31, 2008, we had $4.2 billion available for stock repurchases as authorized by our Board of Directors. The manner of purchases, the amount we spend and the number of shares repurchased will vary based on a variety of factors, including the stock price, blackout periods in which we are restricted from repurchasing shares, and our credit rating and may include private block purchases as well as market transactions. A summary of our repurchase activity under our stock repurchase programs for the years ended December 31, 2008, 2007 and 2006 is as follows (in millions):

	2008		2007		2006	
	Shares	Dollars	Shares	Dollars	Shares	Dollars
First quarter	—	$ —	8.8	$ 537	46.6	$3,374
Second quarter	32.7	1,549[1]	73.9[2]	4,463	13.0	876
Third quarter	—	19[1]	2.5[2]	—	7.3	505
Fourth quarter	12.6	700	1.8	100	3.3	245
Total	45.3	$2,268	87.0	$5,100	70.2	$5,000

(1) The total cost of shares repurchased during the three months ended June 30, 2008 excludes approximately $19 million paid in July 2008 in connection with the final settlement of an ASR entered into in May 2008.

(2) The total number of shares repurchased during the three months ended June 30, 2007 excludes 2.5 million shares received in July 2007 in connection with the final settlement of an ASR entered into in May 2007.

As discussed above, in May 2008, we issued $500 million aggregate principal amount of notes due in 2018 and $500 million aggregate principal amount of notes due in 2038 resulting in net proceeds received of $991 million. In June 2008, upon receipt of the proceeds from the issuance of these notes, we exercised our right to call and retired $1.0 billion of floating rate notes scheduled to mature in November 2008 and in November 2008, we retired the remaining $1.0 billion of floating rate notes that matured.

In May 2007, we issued $2.0 billion aggregate principal amount of 2008 Floating Rate Notes, $1.1 billion aggregate principal amount of 5.85% notes due in 2017 and $900 million aggregate principal amount of 6.375% notes due in 2037, resulting in net proceeds of $4.0 billion. A total of $3.2 billion of the net proceeds raised from the issuance of these notes were used to repurchase shares of our common stock under an ASR entered into in May 2007.

On March 2, 2007, as a result of holders of substantially all of our outstanding 2032 Modified Convertible Notes exercising their March 1, 2007 put option, we repurchased $2.3 billion aggregate principal amount, or the majority of the then outstanding convertible notes at their then-accreted value for $1.7 billion in cash. In addition $135 million of other debt securities matured and were repaid in 2007.

In February 2006, we issued $5.0 billion of convertible notes, of which $2.5 billion pay interest at 0.125% and are due in 2011 and $2.5 billion pay interest at 0.375% and are due in 2013. In connection with the issuance of these convertible notes, a total of $3.0 billion of our common stock was repurchased under our stock repurchase program. Also, concurrent with the issuance of these convertible notes, we purchased convertible note hedges at a cost of approximately $1.5 billion. The net proceeds received from the issuance of the 2011 and 2013 Convertible Notes, the repurchase of common stock and the purchase of the convertible note hedges was $439 million. Also, concurrent with the issuance of the convertible notes, we sold 62.8 million warrants to acquire shares of our common stock for proceeds of $774 million, 31.3 million of which may be settled in May 2011 and 31.5 million of which may be settled in May 2013.

We receive cash from the exercise of employee stock options. Employee stock option exercises provided $155 million, $277 million and $528 million of cash during the years ended December 31, 2008, 2007 and 2006, respectively. Proceeds from the exercise of employee stock options will vary from period to period based upon, among other factors, fluctuations in the market value of our stock relative to the exercise price of such options.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that are material or reasonably likely to be material to our consolidated financial position or consolidated results of operations.

Contractual Obligations

Contractual obligations represent future cash commitments and liabilities under agreements with third parties, and exclude contingent liabilities for which we cannot reasonably predict future payment. Additionally, the expected timing of payment of the obligations presented below is estimated based on current information. Timing of payments and actual amounts paid may be different depending on the timing of receipt of goods or services or changes to agreed-upon terms or amounts for some obligations.

The following table represents our contractual obligations as of December 31, 2008, aggregated by type (in millions):

		Payments Due by Period			
Contractual Obligations	Total	Less than 1 Year	2-3 Years	4-5 Years	More than 5 Years
Long-term debt obligations[1]	$14,277	$ 1,236	$2,914	$3,022	$ 7,105
Operating lease obligations	1,064	126	222	186	530
Purchase obligations[2]	2,959	850	1,012	409	688
Unrecognized tax benefits[3]	120	120	—	—	—
Total contractual obligations	$18,420	$ 2,332	$4,148	$3,617	$ 8,323

(1) The long-term debt obligation amounts include future interest payments. Future interest payments are included on the 2009 Notes at a fixed rate of 4.00%, the 2011 Convertible Notes at a fixed rate of 0.125%, the 2013 Convertible Notes at a fixed rate of 0.375%, the 2014 Notes at a fixed rate of 4.85%, the 2017 Notes at a fixed rate of 5.85%, the 2018 Notes at a fixed rate of 6.15%, the 2037 Notes at a fixed rate of 6.375%, the

2038 Notes at a fixed rate of 6.90% and the Century Notes at a fixed rate of 8.125%. To achieve a desired mix of fixed and floating interest rate debt, we enter into interest rate swap agreements. These interest rate swap agreements effectively convert a fixed rate interest coupon to a LIBOR-based floating rate coupon over the life of the respective note. We used an interest rate forward curve at December 31, 2008 to compute the net amounts to be included in the table above for future interest payments on our variable rate interest rate swaps.

(2) Purchase obligations primarily relate to (i) our long-term supply agreement with BI Pharma for the manufacture of commercial quantities of ENBREL, which are based on firm commitments for the purchase of production capacity for ENBREL and reflect certain estimates such as production run success rates and bulk drug yields achieved; (ii) R&D commitments (including those related to clinical trials) for new and existing products; (iii) capital expenditures; (iv) open purchase orders for the acquisition of goods and services in the ordinary course of business and (v) our agreement with International Business Machines Corporation ("IBM"), which we entered into on October 22, 2008, for certain information systems' infrastructure services. The term of the agreement is five years with three one-year renewals, at our option, for a total of up to eight years. The cost to us for the initial five-year term, included in the table above, is estimated to be $505 million. The estimated aggregate additional cost of the three one-year renewal options not included in the table above is approximately $254 million. Our obligation to pay certain of these amounts may be reduced based on certain future events.

(3) In addition to the current liabilities for unrecognized tax benefits ("UTBs") included in the table above, long-term liabilities for UTBs (net of federal tax benefits on state taxes) and related accrued interest totaling approximately $915 million at December 31, 2008 are not included in the table above because, due to their nature, there is a high degree of uncertainty regarding the timing of future cash outflows and other events that extinguish these liabilities.

On February 4, 2009, we entered into an agreement for certain integrated facilities management services. The contract has an initial term of five years and automatically renews annually thereafter at the Company's option. The cost to the Company for the initial five-year term is estimated to be approximately $500 million. The contractual obligations under this contract are not included in the table above given the timing of entering into the agreement.

In addition to the above table, we have committed to make potential future milestone payments to third-parties as part of in-licensing and product development programs all of which are contingent upon the occurrence of certain future events. Such events could include, but are not limited to, development milestones, regulatory approvals and product sales. Because the achievement of these milestones is neither probable nor reasonably estimable, such contingencies have not been included in the table above or recorded on our Consolidated Balance Sheets. Individually, these arrangements are not material in any one reporting period. However, if the achievement of the milestones covered by these arrangements would happen to be reached in the same reporting period, the resulting payment obligation would be approximately $1.3 billion.

Summary of Critical Accounting Policies

The preparation of our consolidated financial statements in conformity with accounting principles generally accepted in the United States ("GAAP") requires management to make estimates and assumptions that affect the amounts reported in the financial statements and the notes to the financial statements. Some of those judgments can be subjective and complex, and therefore, actual results could differ materially from those estimates under different assumptions or conditions.

Product sales, sales incentives and returns

Sales of our products are recognized when shipped and title and risk of loss have passed. Product sales are recorded net of accruals for estimated rebates, wholesaler chargebacks, discounts and other incentives (collectively "sales incentives") and returns.

In the United States, we utilize wholesalers as the principal means of distributing our products to healthcare providers, such as physicians or their clinics, dialysis centers, hospitals and pharmacies. Products we sell outside the United States are principally distributed to hospitals and/or wholesalers depending upon the distribution practice in each country for which the product has been launched. We monitor the inventory levels of our products at our wholesale distributors using third-party data and we believe that wholesaler inventories have been maintained at appropriate levels (generally two to three weeks) given end-user demand. Accordingly, historical fluctuations in wholesaler inventory levels have not significantly impacted our method of estimating sales incentives and returns.

Accruals for sales incentives are recorded in the same period that the related sales are recorded and are recognized as a reduction in product sales. Sales incentive accruals are based on estimates of the amounts earned or to be claimed on the related sales. These estimates take into consideration current contractual and statutory requirements, specific known market events and trends, internal and external historical data and forecasted customer buying patterns. Sales incentives are product-specific and, therefore, for any given year, can be impacted by the mix of products sold.

For the years ended December 31, 2008, 2007 and 2006, reductions in product sales relating to sales incentives were comprised of the following (dollar amounts in millions):

	2008	2007	2006
Rebates	$ 1,813	$ 2,156	$ 2,164
Wholesaler chargebacks	1,635	1,649	1,636
Discounts and other incentives	790	694	653
Total sales incentives	$ 4,238	$ 4,499	$ 4,453
Percent of gross product sales	22%	24%	24%

Rebates earned by healthcare providers, such as physicians or their clinics, dialysis centers and hospitals in the United States may include performance-based offers, such as attaining contractually-specified segment share or other performance-based measures. As a result, the calculation of the accrual for these rebates is complicated by the need to estimate customer buying patterns and the resulting applicable contractual rebate rate(s) to be earned over a contractual period. These rebates totaled $1.8 billion in 2008, $2.2 billion in 2007 and $2.2 billion in 2006. We believe that the methodology we use to accrue for rebates is reasonable and appropriate given current facts and circumstances. However, actual results may differ. Based on our recent experience, changes in annual estimates related to prior annual periods have been less than 3.5% of the estimated rebate amounts charged against product sales for such periods. These changes in annual estimates substantially relate to sales made in the immediately preceding annual period. A 3.5% change in our rebate estimate attributable to rebates recognized in 2008 would have had an impact of approximately $63 million on our 2008 product sales and a corresponding impact on our financial condition and liquidity.

Wholesaler chargebacks are another type of arrangement included in “sales incentives” that relate to our contractual agreements to sell products to healthcare providers in the United States at fixed prices that are lower than the prices we charge wholesalers. When the healthcare providers purchase our products through wholesalers at these reduced prices, the wholesaler charges us for the difference between the prices they pay us and the prices they sold the products to the healthcare providers. These chargebacks from wholesalers totaled $1.6 billion for each of the three years ended December 31, 2008. Accruals for wholesaler chargebacks are less difficult to estimate than rebates and closely approximate actual results since chargeback amounts are fixed at the date of purchase by the healthcare provider and we settle these deductions generally within a few weeks of incurring the liability.

Amounts accrued for sales incentives are adjusted when trends or significant events indicate that adjustment is appropriate. Accruals are also adjusted to reflect actual results. However, such adjustments to date have not been material to our results of operations or financial position. The following table summarizes amounts recorded in accrued liabilities regarding sales incentives (in millions):

	Balance at Beginning of Period	Amounts Charged Against Product Sales[1]	Payments	Balance at End of Period
Year ended:				
December 31, 2008	$ 1,064	$ 4,238	$ 4,426	$ 876
December 31, 2007	$ 1,079	$ 4,499	$ 4,514	$ 1,064

(1) Includes immaterial amounts related to prior year product sales based on changes in estimates. Such amounts represented less than 2% of incentive amounts charged against product sales for 2008 and 2007.

Accruals for estimated sales returns are recorded in the same period that the related product sales are recorded and are recognized as reductions in product sales. Returns are estimated through comparison of historical return data to their related sales on a production lot basis. Historical rates of return are determined for each product and are adjusted for known or expected changes in the marketplace specific to each product, when appropriate. Historically, sales return provisions have been insignificant, amounting to less than 1% of gross product sales. Furthermore, changes in estimates for prior year sales return provisions have historically also been insignificant.

Deferred income taxes

Our effective tax rate reflects the impact of undistributed foreign earnings for which no U.S. taxes have been provided because such earnings are intended to be invested indefinitely outside the United States based on our projected cash flow, working capital and long-term investment requirements of our U.S. and foreign operations. If future events, including material changes in estimates of cash, working capital and long-term investment requirements necessitate that certain assets associated with these earnings be repatriated to the United States, an additional tax provision and related liability would be required at the applicable U.S. and state marginal income tax rates which could materially impact our future effective tax rate.

Contingencies

In the ordinary course of business, we are involved in various legal proceedings such as intellectual property disputes, contractual disputes, governmental investigations and class action suits. Certain of these proceedings are discussed in Note 10, "*Contingencies*" to the Consolidated Financial Statements. We record accruals for such contingencies to the extent we conclude their occurrence is both probable and estimable. We consider all relevant factors when making assessments regarding these contingencies.

In addition, our income tax returns are routinely audited by the Internal Revenue Service ("IRS") and various state and foreign tax authorities. Significant disputes may arise with these tax authorities involving issues of the timing and amount of deductions and allocations of income among various tax jurisdictions because of differing interpretations of tax laws and regulations.

While it is not possible to accurately predict or determine the eventual outcome of these items, one or more of these items currently pending could have a material adverse effect on our consolidated results of operations, financial position or cash flows.

Valuation of acquired intangible assets

We have acquired and continue to acquire intangible assets primarily by acquiring biotechnology companies. These intangible assets primarily consist of technology associated with human therapeutic products and in-process product candidates as well as goodwill arising in business combinations. Discounted cash flow

models are typically used in these valuations, and these models require the use of significant estimates and assumptions including but not limited to:

- determining the timing and expected costs to complete the in-process projects,
- projecting regulatory approvals,
- estimating future cash flows from product sales resulting from completed products and in-process projects and
- developing appropriate discount rates and probability rates by project.

We believe the fair values assigned to the intangible assets acquired are based upon reasonable estimates and assumptions given available facts and circumstances as of the acquisition dates.

Fair value measurement of financial instruments

The Company adopted the provisions of the FASB's Statement of Financial Accounting Standards ("SFAS") No. 157, "*Fair Value Measurements*" ("SFAS 157"), effective January 1, 2008, for its financial assets and liabilities. Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date.

In determining the fair value of its financial assets and liabilities, the Company uses various valuation approaches. SFAS 157 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the inputs that market participants would use in pricing the asset or liability and are developed based on the best information available in the circumstances. The availability of observable inputs can vary among the various types of financial assets and liabilities. To the extent that the valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment.

Whenever the estimated fair value of any of our available-for-sale securities is less than their related cost, we perform an impairment analysis in accordance with the FASB's SFAS No. 115, "*Accounting for Certain Investments in Debt and Equity Securities*," and related guidance issued by the FASB and the SEC, in order to determine the classification of the impairment as "temporary" or "other-than-temporary". A temporary impairment results in an unrealized loss being recorded in the other comprehensive income component of stockholders' equity. Such an unrealized loss does not affect net income for the applicable accounting period. However, an other-than-temporary impairment charge is recorded as a realized loss in the consolidated statement of income and reduces net income for the applicable accounting period. The primary factors we consider to differentiate our impairments between temporary and other-than-temporary impairments include the length of the time and the extent to which the market value has been less than cost, the financial condition and near-term prospects of the issuer and our intent and ability to retain our investment in the issuer for a period of time sufficient to allow for any anticipated recovery in market value.

As of December 31, 2008, the Company's available-for-sale securities were comprised of U.S. Treasury securities, obligations of U.S. government agencies, FDIC guaranteed bank debt, corporate debt securities, mortgage and asset backed securities, other short-term interest bearing securities, including money market funds, and publicly traded equity investments. U.S. Treasury securities, money market funds and publicly traded equity investments are valued using quoted market prices with no valuation adjustments applied. Obligations of U.S. government agencies, FDIC guaranteed bank debt, corporate debt securities, mortgage and asset backed securities and other short-term interest bearing securities are valued using quoted market prices of recent transactions or are benchmarked to transactions of very similar securities.

Our derivatives assets and liabilities include interest rate swaps and foreign currency forward and option contracts. The fair values of these derivatives are determined using models based on market observable inputs, including interest rate curves and both forward and spot prices for foreign currencies.

We believe that the values assigned to our available-for-sale securities and derivative instruments as of December 31, 2008 and 2007 are fairly stated in accordance with GAAP and are based upon reasonable estimates and assumptions. In addition, we believe that the cost basis for our available-for-sale securities as of December 31, 2008 and 2007 was recoverable in all material respects. In 2008, the U.S. economy continued to be adversely affected by tightening in the credit markets and volatility in capital markets. Interest rates on U.S. treasury instruments declined considerably during this crisis while other interest rates fluctuated in excess of historical norms. In addition, the U.S. dollar strengthened dramatically over the second half of the year against most other currencies during a period of extremely high levels of currency volatility. Continuing distress in the economic environment could ultimately result in other-than-temporary impairments of the carrying values of our available-for-sale securities and/or a material adverse impact on the carrying values of our financial instruments.

Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are a global biotechnology company with operations in various countries. We are exposed to market risks that may result from changes in interest rates, foreign currency exchange rates, prices of equity instruments as well as changes in the general economic conditions in the countries where we conduct business. To reduce certain of these risks, we monitor the financial condition of our larger customers and limit our credit exposure by setting credit limits, requiring letters of credit and obtaining credit insurance, as we deem appropriate. In addition, we have an investment policy that limits investments to certain types of debt and money market instruments, primarily with investment grade credit ratings and places restriction on maturities and concentrations by type and issuer. We also enter into various types of foreign exchange and interest rate derivative hedging transactions as part of our risk management program. We do not use derivatives for speculative trading purposes and are not a party to leveraged derivatives.

In 2008, the U.S. economy continued to be adversely affected by a tightening in the credit markets and volatility in the capital markets. In an attempt to increase liquidity and stabilize the global financial markets, the U.S. federal government acted in concert with other foreign governments through various forms of direct market intervention. Short-term interest rates on U.S. treasury instruments have declined considerably during this crisis while other short-term rates have fluctuated in excess of historical norms. As a result, in the discussion that follows, we have assumed a hypothetical change in interest rates of 100 basis points or 20%, as applicable, from those at December 31, 2008. As this crisis deepened, it spread to the economies of many countries worldwide. This resulted in increased demand for the U.S. dollar due to the financial market’s perception of its relatively higher quality and liquidity. Consequently, the U.S. dollar strengthened dramatically over the second half of the year against most other currencies but also experienced unprecedented levels of volatility. Our analysis which follows assumes a hypothetical 20% change in foreign exchange rates against the U.S. dollar based on its position relative to other currencies as of December 31, 2008.

Interest rate sensitive financial instruments

Our investment portfolio of available-for-sale securities at December 31, 2008 and 2007 was comprised primarily of U.S. treasury securities and obligations of U.S. government agencies, money market funds whose underlying securities were U.S. treasury and agency obligations, corporate debt instruments, commercial paper and mortgage backed securities that are guaranteed by U.S. government agencies. The fair value of our investment portfolio was $9.4 billion and $6.7 billion at December 31, 2008 and 2007, respectively. Duration is a sensitivity measure that can be used to approximate the change in the value of a security that will result from a 100 basis point change in interest rates. Applying a duration model, a hypothetical 100 basis point increase in interest rates at December 31, 2008 and December 31, 2007 would not have a material effect on the fair values of these securities. In addition a hypothetical 100 basis point decrease in interest rates at December 31, 2008 and December 31, 2007 would not have a material effect on the income or cash flows.

On December 31, 2008, we had outstanding debt with a carrying value and a fair value of $10.2 billion, including $5.1 billion of convertible debt with a fair value of $4.8 billion. Our outstanding debt at December 31, 2008 was comprised entirely of debt with fixed interest rates. On December 31, 2007, we had $11.2 billion of outstanding debt with a fair value of $10.6 billion, including $5.1 billion of convertible debt with a fair value of $4.5 billion. Our outstanding debt at December 31, 2007 was comprised of $9.2 billion of debt with fixed interest rates and $2.0 billion of debt with variable interest rates. Changes in interest rates do not affect interest expense or cash flows on our fixed rate debt but would impact our variable rate debt outstanding at December 31, 2007. A hypothetical 20% increase in interest rates relative to interest rates at December 31, 2007 would not have a material impact on income or cash flows with respect to our $2.0 billion of variable rate debt that was outstanding at December 31, 2007.

Changes in interest rates would, however, affect the fair values of all of the outstanding debt at December 31, 2008 and 2007, including, to a lesser extent, our variable rate debt outstanding at December 31, 2007 for which the interest rate reset quarterly. A hypothetical 20% decrease in interest rates relative to interest rates at December 31, 2008 would result in an increase of approximately $550 million in the aggregate fair value of our outstanding debt. A hypothetical 20% decrease in interest rates relative to the interest rates at December 31, 2007 would result in an increase of approximately $460 million in the aggregate fair value of our outstanding debt.

To achieve a desired mix of fixed and floating interest rate debt, we enter into interest rate swap agreements, which qualify and are designated as fair value hedges, for certain of our fixed rate debt with carrying values totaling $2.6 billion and $2.1 billion at December 31, 2008 and 2007, respectively. These derivative contracts effectively convert a fixed rate interest coupon to a LIBOR-based floating rate coupon over the life of the respective note. A hypothetical 20% increase in interest rates relative to interest rates at December 31, 2008 and 2007 would not have a material effect on the fair value, cash flows or income of our interest rate swap agreements.

Market price sensitive instruments

As noted above, a portion of our outstanding debt may be converted into our common stock in certain circumstances. Accordingly, the price of our common stock may affect the fair value of our convertible debt. A hypothetical 20% increase in the price of Amgen stock from the price at December 31, 2008 would have increased the fair value of our then outstanding convertible debt by approximately $325 million. A hypothetical 10% increase in the price of Amgen stock from the price at December 31, 2007 would have increased the fair value of our then outstanding convertible debt by approximately $78 million.

On December 31, 2008 and 2007, we were also exposed to price risk on equity securities included in our portfolio of investments, which were acquired primarily for the promotion of business and strategic objectives. These investments are generally in small capitalization stocks in the biotechnology industry sector. Price risk relative to our equity investment portfolio on December 31, 2008 and 2007 was not material.

Foreign currency sensitive instruments

Our results of operations are affected by fluctuations in the value of the U.S. dollar as compared to foreign currencies, predominately the Euro, as a result of the sales of our products in foreign markets. Increases and decreases in our international product sales from movements in foreign exchange rates are partially offset by the corresponding increases or decreases in our international operating expenses. To further reduce our net exposure to foreign exchange rate fluctuations on our results of operations, we have entered into foreign currency forward and option contracts.

On December 31, 2008, we had outstanding forward and options contracts, primarily Euro based, with notional amounts of $2.5 billion and $386 million, respectively. On December 31, 2007, we had outstanding forward and options contracts, primarily Euro based, with notional amounts of $1.4 billion and $788 million, respectively. These contracts are designated for accounting purposes as cash flow hedges of certain anticipated foreign currency transactions. As of December 31, 2008 the net unrealized gains and as of December 31, 2007

the net unrealized losses on these contracts were not material. With regard to these contracts, a hypothetical 20% adverse movement in foreign exchange rates compared with the U.S. dollar relative to exchange rates on December 31, 2008 would result in a reduction in fair value of approximately $550 million, a reduction in income of $270 million in the ensuing year and no material impact on cash flows. A hypothetical 10% adverse movement in foreign exchange rates compared with the U.S. dollar relative to exchange rates on December 31, 2007 would result in a reduction in fair value of approximately $160 million and no material reductions in income or cash flows.

Also on December 31, 2008 and 2007, we had outstanding forward contracts with notional amounts totaling $472 million and $622 million, respectively, that hedge fluctuations of certain assets and liabilities denominated in foreign currencies but have not been designated as hedges for accounting purposes. These contracts had no material net unrealized gains or losses as of December 31, 2008 and 2007. With regard to these contracts, a hypothetical 20% adverse movement in foreign exchange rates compared with the U.S. dollar relative to exchange rates on December 31, 2008 would not have a material impact on fair value, income or cash flows. A hypothetical 10% adverse movement in foreign exchange rates compared with the U.S. dollar relative to exchange rates on 2007 would not have a material impact on fair value, income or cash flows.

The analysis above does not consider the impact that hypothetical changes in foreign currency exchange rates would have on anticipated transactions and assets and liabilities that these foreign currency sensitive instruments were designed to offset.

Counterparty credit risks

Our financial instruments, including derivatives, are subject to counterparty credit risk which we consider as part of the overall fair value measurement. We attempt to mitigate this risk through credit monitoring procedures.

Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information required by this item is incorporated herein by reference to the financial statements and schedule listed in Item 15(a)1 and (a)2 of Part IV and included in this Form 10-K Annual Report.

Item 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURES

None.

Item 9A. CONTROLS AND PROCEDURES

We maintain “disclosure controls and procedures,” as such term is defined under Exchange Act Rule 13a-15(e), that are designed to ensure that information required to be disclosed in Amgen’s Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms, and that such information is accumulated and communicated to Amgen’s management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosures. In designing and evaluating the disclosure controls and procedures, Amgen’s management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives and in reaching a reasonable level of assurance Amgen’s management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible controls and procedures. We have carried out an evaluation under the supervision and with the participation of our management, including Amgen’s Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of Amgen’s disclosure controls and procedures. Based upon their evaluation and subject to the foregoing, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2008.

Management determined that, as of December 31, 2008, there were no changes in our internal control over financial reporting that occurred during the fiscal quarter then ended that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control over Financial Reporting

Management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rule 13a-15(f) under the Securities Exchange Act of 1934. The Company's internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States. However, all internal control systems, no matter how well designed, have inherent limitations. Therefore, even those systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and reporting.

Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2008. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control-Integrated Framework. Based on our assessment, management believes that the Company maintained effective internal control over financial reporting as of December 31, 2008, based on those criteria.

The effectiveness of the Company's internal control over financial reporting has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report appearing below, which expresses an unqualified opinion on the effectiveness of the Company's internal control over financial reporting as of December 31, 2008.

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of Amgen Inc.

We have audited Amgen Inc.'s (the "Company") internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Amgen Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

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

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

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

In our opinion, Amgen Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2008, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Consolidated Balance Sheets of Amgen Inc. as of December 31, 2008 and 2007, and the related Consolidated Statements of Income, Stockholders' Equity, and Cash Flows for each of the three years in the period ended December 31, 2008 of Amgen Inc. and our report dated February 23, 2009 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Los Angeles, California
February 23, 2009

Item 9B. OTHER INFORMATION

Not applicable.

PART III

Item 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE OF THE REGISTRANT

Information about our Directors is incorporated by reference from the section entitled "ELECTION OF DIRECTORS" in our Proxy Statement for the 2009 Annual Meeting of Stockholders to be filed with the SEC within 120 days of December 31, 2008 (the "Proxy Statement"). Information about compliance with Section 16(a) of the Securities Exchange Act of 1934 is incorporated by reference from the section entitled "OTHER MATTERS — Section 16(a) Beneficial Ownership Reporting Compliance" in our Proxy Statement. Information about our Audit Committee, members of the committee and our Audit Committee financial experts is incorporated by reference from the section entitled "CORPORATE GOVERNANCE — Board Committees — Audit committee" in our Proxy Statement. Information about our executive officers is contained in the discussion entitled *"Item 1. Business — Executive Officers of the Registrant."*

Changes to Procedures for Recommending Director Nominees

On December 9, 2008, our Board approved an amendment (the "Amendment") to our Amended and Restated Bylaws (the "Bylaws"), which became effective upon the Amendment's adoption by the Board on December 9, 2009. Among other things, the Amendment modifies the advance notice provisions in our Amended and Restated Bylaws by requiring that additional information be furnished in connection with nominations and other business proposals, clarifying that the advance notice provisions apply to all stockholder nominations and other business proposals and effecting other technical changes to the requirements applicable to stockholder nominations and other business proposals.

Section 15(a)(2) of the Amendment requires, among other things, that the following disclosure be provided with respect to nominations and business proposals that stockholders seek to present at any meeting of stockholders:

- information regarding nominees for election to the Board, including information regarding the nominee's eligibility to serve as a director, whether the proponent received payment for making the nomination and required disclosure under federal securities laws;
- information regarding business proposals, including a description of why the proposal was made and whether the proponent received payment relating to the proposal; and
- information regarding the proponent, including disclosure regarding the class or series and number of shares beneficially owned by the proponent, a description of any agreement among any group of persons making the proposal and disclosure regarding hedging and derivative transactions entered into by such group.

In addition, Section 15(c)(3) of the Amendment clarifies that the advance notice provisions apply to all stockholder nominations and other business proposals, whether or not they are to be included in our annual proxy statement, and provides that such provisions are the exclusive means of making nominations or other business proposals. However, the Amendment continues to treat business proposals that are submitted in compliance with Rule 14a-8 (or any successor thereof) promulgated under the Securities Exchange Act of 1934, as amended, and included in our proxy statement as having been made in compliance with the advance notice bylaw.

The preceding disclosure is qualified in its entirety by reference to the Amendment, a copy of which is attached as Exhibit 3.1 to the Form 8-K we filed on December 10, 2008, and is incorporated herein by reference.

Code of Ethics

We maintain a code of ethics applicable to our principal executive officer, principal financial officer, principal accounting officer or controller, and other persons performing similar functions. To view this code of ethics free of charge, please visit our website at www.amgen.com (This website address is not intended to function as a hyperlink, and the information contained in our website is not intended to be a part of this filing). We intend to satisfy the disclosure requirements under Item 5.05 of Form 8-K regarding an amendment to, or waiver from, a provision of this code of ethics, if any, by posting such information on our website as set forth above.

Item 11. EXECUTIVE COMPENSATION

Information about director and executive compensation is incorporated by reference from the sections entitled “EXECUTIVE COMPENSATION” and “CORPORATE GOVERNANCE” in our Proxy Statement.

Item 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Securities Authorized for Issuance Under Equity Compensation Plans

The following table sets forth certain information as of December 31, 2008 concerning our common stock that may be issued upon the exercise of options or pursuant to purchases of stock under all of our equity compensation plans approved by stockholders and equity compensation plans not approved by stockholders in effect as of December 31, 2008:

Plan Category	(a) Number of Securities to be Issued Upon Exercise of Outstanding Options and Rights	(b) Weighted Average Exercise Price Outstanding Options and Rights	(c) Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a))
Equity compensation plans approved by Amgen security holders:			
Amended and Restated 1991 Equity Incentive Plan	27,991,005	$ 36.54	15,461,792
Amended and Restated Employee Stock Purchase Plan[1]	—	$ —	7,037,126
Total Approved Plans	27,991,005	$ 36.54	22,498,918
Equity compensation plans not approved by Amgen security holders:			
Amended and Restated 1993 Equity Incentive Plan[2]	948,840	$ 39.66	—
Amended and Restated 1999 Equity Incentive Plan[2]	13,350,798	$ 61.12	915,364
Amended and Restated 1997 Equity Incentive Plan[3]	1,597,099	$ 51.64	—
Amended and Restated 1997 Special Non-Officer Equity Incentive Plan[4]	15,568,320	$ 58.80	—
Amended and Restated 1996 Stock Incentive Plan[5]	364,238	$ 66.84	—
Amended and Restated 1999 Stock Incentive Plan[5]	2,425,145	$ 48.20	98,390
Amended and Restated Assumed Avidia Equity Plan[6]	24,222	$ 1.98	—
Foreign Affiliate Plans:			
Amgen Limited Sharesave Plan[7]	—	$ —	372,839
The Amgen Limited 2000 U.K. Company Employee Share Option Plan[8]	—	$ —	300,000
The Amgen Technology Ireland Irish Tax Approved Share Plan[9]	—	$ —	592,168
Total Unapproved Plans	34,278,662	$ 58.14	2,278,761
Total All Plans	62,269,667	$ 48.43	24,777,679

(1) The purchases occurred on September 30, 2008 (the "Purchase Date") with a purchase of an aggregate 217,612 shares of Common Stock at a purchase price of $56.31 per share on September 30, 2008. Such purchase price reflects 95% of the closing price of the Common Stock on the Purchase Date.

(2) These plans were assumed pursuant to the terms of the merger agreement between Amgen and Immunex which was approved by our stockholders in May 2002. Both plans were previously approved by Immunex's shareholders. The Amended and Restated 1993 Equity Incentive Plan terminated on March 11, 2003 and no shares are available for issuance under the 1993 Plan for future grants.

(3) This plan was assumed by Amgen in connection with the merger of Tularik with and into Amgen SF, LLC, a wholly owned subsidiary of Amgen, on August 13, 2004. This plan was previously approved by Tularik's shareholders. This plan terminated on March 2, 2007 and no shares are available for issuance under this plan for future grants.

(4) This plan terminated on December 9, 2007 and no shares are available for issuance under this plan for future grants.

(5) These plans were assumed by Amgen in connection with the merger of Abgenix with and into Amgen Fremont Inc., a wholly owned subsidiary of Amgen, on April 1, 2006. The Amended and Restated 1996 Stock Incentive Plan (the "1996 Plan") was previously approved by Abgenix's shareholders. The 1996 Plan terminated on July 16, 2006 and no shares are available for issuance for future grants.

(6) This plan was assumed by Amgen in connection with the merger of Avidia with and into Amgen Mountain View Inc., a wholly owned subsidiary of Amgen, on October 24, 2006. This plan was terminated on November 23, 2006 and no shares are available for issuance for future grants.

(7) As of December 31, 2003, there were no further offerings under the Amgen Limited Sharesave Plan and the last share purchase under this plan was March 31, 2003.

(8) Although 300,000 shares of Common Stock are authorized for issuance under the Amgen Limited 2000 U.K. Company Employee Share Option Plan, no shares have been issued under this plan.

(9) The Amgen Technology Ireland Irish Tax Approved Share Plan was approved by the Board of Directors on March 6, 2007 and 7,832 shares were purchased on March 27, 2007.

Summary of Equity Compensation Plans Not Approved by Stockholders

The following is a summary of the equity compensation plans, which have shares available for issuance for future grants as of December 31, 2008 and were adopted or assumed by the Board of Directors without the approval of our stockholders:

Amended and Restated 1999 Equity Incentive Plan

The Amended and Restated 1999 Equity Incentive Plan (formerly known as the Immunex Corporation 1999 Stock Option Plan) (the "1999 Plan") was assumed pursuant to the terms of the merger agreement between the Company and Immunex which was approved by the Company's stockholders in May 2002. The plan was previously approved by Immunex's shareholders. The 1999 Plan consists of two articles — Article I which governs awards granted prior to July 15, 2002 (the "Restatement Date") and Article II which governs awards granted on or after the Restatement Date. As the terms of Stock Awards (as defined below) made pursuant to the 1999 Plan going forward are governed exclusively by Article II of the plan, the following is a description of the material provisions of Article II of the 1999 Plan. This description is qualified in its entirety by reference to the 1999 Plan itself, which was filed as an exhibit to the Company's Form S-8 dated July 16, 2002.

Stock Subject to the 1999 Plan. Subject to adjustments upon certain changes in the common stock, the shares available for issuance under the 1999 Plan upon exercise of the outstanding grants made pursuant to the 1999 Plan are Amgen's common stock. The number of shares authorized for issuance under the 1999 Plan is 19,273,852. Awards of (i) incentive stock options, (ii) nonqualified stock options, (iii) stock bonuses and (iv) rights to purchase restricted stock ("Stock Award") may be granted under the 1999 Plan. Pursuant to the 1999 Plan, no incentive stock options may be granted under the 1999 Plan after February 22, 2009.

Administration. The 1999 Plan is administered by the Board of Directors. The Board of Directors has delegated administration of the 1999 Plan to the committees of the Board of Directors.

Eligibility. Incentive stock options may be granted under the 1999 Plan to all employees (including officers) of Amgen or its affiliates. All employees (including officers) and directors of Amgen or its affiliates and consultants to Amgen or its affiliates, or trusts for the benefit of such an employee, director or consultant or his or her spouse or members of their immediate family ("permitted trusts") designated by any such employee, director or consultant, are eligible to receive Stock Awards other than incentive stock options under the 1999 Plan. For incentive stock options granted under the 1999 Plan, the aggregate fair market value, determined at the time of grant, of the shares of common stock with respect to which such options are exercisable for the first time by an optionee during any calendar year (under all such plans of Amgen or any affiliate of Amgen) may not exceed $100,000. No person may receive Stock Awards for more than 649,455 shares of common stock in any calendar year.

Terms of Discretionary Options. The following is a description of the permissible terms of options granted under the 1999 Plan, other than options awarded to non-employee directors which are described below under the heading "*Terms of Non-Discretionary Options Awarded to Non-Employee Directors*" (the options described in this section are referred to as "Discretionary Options"). Individual Discretionary Option grants may be more restrictive as to any or all of the permissible terms described below. The exercise price of Discretionary Options must be equal to at least 100% of the fair market value of the underlying stock on the date of the option grant. The exercise price of Discretionary Options must be paid either: (i) in cash at the time the option is exercised or (ii) at the discretion of the Board of Directors, (a) by delivery of common stock of Amgen that has been held for the period required to avoid a charge to Amgen's earnings, (b) pursuant to a deferred payment or other arrangement or (c) in any other form of legal consideration acceptable to the Board of Directors. Generally, optionees may designate certain specified trusts as beneficiaries with respect to Discretionary Options. In the absence of such a designation, after the death of the optionee, Discretionary Options shall be exercisable by the person(s) to whom the optionee's rights pass by will or by the laws of descent and distribution. Generally, during the lifetime of an optionee who is a natural person, only the optionee may exercise the Discretionary Option.

The maximum term of Discretionary Options is ten years. Absent death, disability or voluntary retirement in certain circumstances, Discretionary Options generally terminate three months after termination of the optionee's employment or relationship as a consultant or director of Amgen or any affiliate of Amgen. Individual options by their terms may provide for exercise within a longer period of time following termination of employment or the relationship as a director or consultant. Discretionary Options either become exercisable in cumulative increments or are exercisable in full immediately. The Board of Directors has the power to accelerate the beginning of the period during which an option may be exercised (the "vesting date"). Options granted from the Restatement Date under the 1999 Plan typically vest at the rate of 25% per year during the optionee's employment or service as a consultant and expire seven years from the date of grant. The grants typically provide for the continuation of the vesting of options if the optionee voluntarily retires at or after age 65 or after age 55, after having been an employee of Amgen or its affiliate for at least ten consecutive years, and such retirement is not the result of permanent and total disability ("Voluntary Retirement"). Generally, if any optionee shall terminate his or her employment or relationship as a director or consultant with Amgen or an affiliate due to death or disability, then, in such event, the Discretionary Options granted to such employee, director or consultant or to the permitted trust of such employee, director or consultant which have not vested as of the date of such employee's, director's or consultant's termination for reasons of death or disability shall automatically be accelerated in full. In the case of Voluntary Retirement death or disability, Discretionary Options terminate the earlier of the termination date set forth in the applicable grant agreement or five years.

The Board of Directors also has the power to accelerate the time during which a Discretionary Option may be exercised. To the extent provided by the terms of a Discretionary Option, an optionee may satisfy any federal, state or local tax withholding obligations relating to the exercise of such option by (i) a cash payment upon exercise, (ii) by authorizing Amgen to withhold a portion of the stock otherwise issuable to the optionee, (iii) by delivering already-owned stock of Amgen or (iv) by a combination of these means.

Terms of Non-Discretionary Options Awarded to Non-Employee Directors. The Board of Directors may from time to time adopt award programs under the 1999 Plan providing for the grant of formula or

non-discretionary Stock Awards to directors of Amgen who are not employees of Amgen or any affiliate. The terms and conditions of any such program shall be established by the Board of Directors in its sole discretion, subject to the terms and conditions of the 1999 Plan.

Terms of Stock Bonuses and Purchases of Restricted Stock. Stock bonuses and purchases of restricted stock shall be in such form and contain such terms and conditions as the Board of Directors shall deem appropriate. The following is a description of some of the permissible terms of stock bonuses and purchases of restricted stock under the 1999 Plan. Individual stock bonuses or purchases of restricted stock may be more restrictive as to any or all of the permissible terms described below or on different terms and conditions.

The purchase price under each stock purchase agreement shall be determined by the Board of Directors and may provide for a nominal purchase price or a purchase price that is less than fair market value of the underlying common stock on the award date. The Board of Directors may determine that eligible participants may be awarded stock pursuant to a stock bonus agreement in consideration for past services actually rendered to Amgen or for its benefit. The purchase price of stock acquired pursuant to a stock purchase agreement must be paid in accordance with the same terms as Discretionary Options. See "*Terms of Discretionary Options*." Shares of common stock sold or awarded under the 1999 Plan may, but need not, be subject to a repurchase option in favor of the Company in accordance with a vesting schedule determined by the Board of Directors. To the extent provided by the terms of a stock bonus or restricted stock purchase agreement, a participant may satisfy any federal, state or local tax withholding obligations relating to the lapsing of a repurchase option or vesting of a stock bonus or a restricted stock award in the same manner as that of Discretionary Options. See "*Terms of Discretionary Options*." Generally, rights under a stock bonus or restricted stock purchase agreement shall not be assignable by any participant under the 1999 Plan.

Adjustment Provisions. If there is any change in the stock subject to the 1999 Plan or subject to any Stock Award granted under the 1999 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 1999 Plan and outstanding Stock Awards thereunder will be appropriately adjusted as to the class and the maximum number of shares subject to such plan, the maximum number of shares which may be granted to a participant in a calendar year, the class, number of shares and price per share of stock subject to such outstanding Stock Awards.

Change in Control. For purposes of the 1999 Plan, a Change in Control occurs at the following times: (i) upon the acquisition of beneficial ownership of 50% or more of either the then outstanding shares of common stock or the combined voting power of the Company's then outstanding voting securities entitled to vote generally in the election of directors; (ii) at the time individuals making up the Incumbent Board (as defined in the 1999 Plan) cease for any reason to constitute at least a majority of the Board; (iii) immediately prior to the consummation by the Company of a reorganization, merger or consolidation with respect to which persons who were the stockholders of the Company immediately prior to such transaction do not, immediately thereafter, own more than 50% of the combined voting power of the reorganized, merged or consolidated company's voting securities entitled to vote generally in the election of directors, or a liquidation or dissolution of the Company or the sale of all or substantially all of the assets of the Company or (iv) the occurrence of any other event which the Incumbent Board determines is a Change of Control. Upon the occurrence of a Change in Control, to the extent permitted by applicable law, the vesting and exercisability of any outstanding Stock Awards under the 1999 Plan will accelerate. Upon and following such acceleration, at the election of the holder of the Stock Award, the Stock Award may be (i) exercised with respect to stock options or, if the surviving or acquiring corporation agrees to assume the Stock Awards or substitute similar awards, (ii) assumed or (iii) replaced with substitute Stock Awards. Options not exercised, substituted or assumed prior to or upon the Change in Control shall be terminated.

Duration, Amendment and Termination. The Board of Directors may suspend or terminate the 1999 Plan without stockholder approval or ratification at any time or from time to time. No amendment, suspension or termination may impair the rights or obligations under any Stock Award except with the consent of the person to whom the Stock Award was granted.

Amgen Inc. Amended and Restated 1999 Stock Incentive Plan

The Amgen Inc. Amended and Restated 1999 Stock Incentive Plan (formerly known as the Abgenix, Inc. 1999 Nonstatutory Stock Option Plan, as amended) (the "Acquired 1999 Plan") was assumed by Amgen in connection with the merger of Abgenix with and into Amgen Fremont Inc., a wholly owned subsidiary of Amgen, on April 1, 2006. The Acquired 1999 Plan consists of two articles — Article I which governs awards granted prior to April 1, 2006 (the "Restatement Date") and Article II which governs awards granted on or after the Restatement Date. As the terms of option grants made pursuant to the Acquired 1999 Plan going forward are governed exclusively by Article II of the plan, the following is a description of the material provisions of Article II of the Acquired 1999 Plan. This description is qualified in its entirety by reference to the Acquired 1999 Plan itself, which was filed as an exhibit to the Company's Form S-8 dated April 3, 2006. Except as described below, the material provisions of Article II of the Acquired 1999 Plan are substantially similar to those of Article II of the 1999 Plan described above (reference to the 1999 Plan are deemed to be replaced with references to the Acquired 1999 Plan, as applicable):

- The Acquired 1999 Plan will terminate on October 4, 2009;
- Subject to adjustments upon certain changes in the common stock, the number of shares authorized for issuance under Article II of the Acquired 1999 Plan is 1,950,597;
- No Stock Award may be granted to any person under Article II of the Acquired 1999 Plan who is an employee or director of or consultant to the Company or its affiliates (other than Abgenix) on the Restatement Date;
- Under Article II of the Acquired 1999 Plan, no person may receive Stock Awards for more than 2,000,000 shares of common stock in any calendar year;
- The purchase price under each stock purchase agreement shall be not less than fifty (50%) of the fair market value of the Company's Common Stock on the date such award is made; and
- The Board of Directors shall have the power to condition the grant or vesting of stock bonuses and rights to purchase restricted stock under Article II of the Acquired 1999 Plan upon attainment of performance goals with respect to any one or more of the following business criteria with respect to the Company, any affiliate, any division, any operating unit or any product line: (i) return on capital, assets or equity, (ii) sales or revenue, (iii) net income, (iv) cash flow, (v) earnings per share, (vi) adjusted earnings or adjusted net income (as defined by the plan), (vii) working capital, (viii) total shareholder return, (ix) economic value or (x) product development, research, in-licensing, out-licensing, litigation, human resources, information services, manufacturing, manufacturing capacity, production, inventory, site development, plant, building or facility development, government relations, product market share, mergers, acquisitions or sales of assets or subsidiaries.

The Amgen Limited Sharesave Plan

The Amgen Limited Sharesave Plan (the "Sharesave Plan") was adopted by the Board of Directors of Amgen Limited, the Company's indirectly wholly-owned U.K. subsidiary, and approved by the Board of Directors of the Company in October 1998. In general, the Sharesave Plan authorizes Amgen Limited to grant options to certain employees of Amgen Limited to buy shares of the Company's common stock during three-year offering periods through savings contributions and guaranteed company bonuses. The principal purposes of the Sharesave Plan are to provide the Company's eligible Amgen Limited employees with benefits comparable to those received by U.S. employees under the Company's Amended and Restated Employee Stock Purchase Plan through the granting of options. Under the Sharesave Plan, not more than 400,000 shares of Common Stock are authorized for issuance upon exercise of options subject to adjustment upon certain changes in the Company's Common Stock. The Sharesave Plan is administered by the Board of Directors of Amgen Limited. Options are generally exercisable during the six months following the three-year offering period at an exercise price determined by the Board of Directors, which cannot be less than 80% of the market value of the Company's Common Stock determined in accordance with sections 272 and 273 of the U.K. Taxation of Chargeable Gains Act of 1992 (the "Act of 1992") and agreed for the

purpose of the Sharesave Plan with the Shares Valuation Division (the "Division") of the Inland Revenue for the business day last preceding the date of invitation (the "Exercise Price Determination Process") at the commencement of the offering. Amounts in the Sharesave Plan are paid to the participants to the extent that options are not exercised.

Amgen Limited 2000 U.K. Company Employee Share Option Plan

The Amgen Limited 2000 U.K. Company Employee Share Option Plan ("CSOP") was adopted by the Board of Directors of Amgen Limited and approved by the Board of Directors of the Company in June 1999. The CSOP was established to provide stock option grants to employees of Amgen Limited in accordance with certain U.K. tax laws. The terms of the CSOP are, to the extent permitted under U.K. laws, consistent with the Company's 1999 Plan, as described above, with the exception of the following variations: (i) options cannot be granted to consultants, (ii) options cannot be transferred, (iii) options outstanding after an employee's death must be exercised within 12 months of the date of such death and (iv) the change in control provision is eliminated. No termination date has been specified for the CSOP. Although 300,000 shares of common stock are authorized for issuance under the CSOP, no shares have been issued under the CSOP.

The Amgen Technology Ireland Irish Tax Approved Share Plan

The Amgen Technology Ireland Irish Tax Approved Share Plan (the "Ireland Share Plan") was adopted by the Board of Directors of Amgen Technology (Ireland) Limited ("ATI"), the Company's indirectly wholly-owned Ireland subsidiary, and approved by the Board of Directors of the Company in March 2007. In general, the Ireland Share Plan permits certain employees of Amgen Limited to buy shares of the Company's common stock during annual offering periods. The principal purpose of the Share Plan is to enable the Company's eligible ATI employees to use their bonus or salary to acquire shares of the Company's stock in a tax efficient manner, subject to certain terms and holding requirements under the plan. Under the Ireland Share Plan, not more than 600,000 shares of common stock are authorized for issuance subject to adjustment upon certain changes in the Company's common stock. The Ireland Share Plan is administered by the Board of Directors of ATI.

Security Ownership of Directors and Executive Officers and Certain Beneficial Owners

Information about security ownership of certain beneficial owners and management is incorporated by reference from the sections entitled "SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT" in our Proxy Statement.

Item 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS AND DIRECTOR INDEPENDENCE

Information about security ownership of certain beneficial owners and management is incorporated by reference from the sections entitled "CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS" and "CORPORATE GOVERNANCE — Board Independence" in our Proxy Statement.

Item 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Information about the fees for professional services rendered by our independent registered public accountants is incorporated by reference from the section entitled "AUDIT MATTERS — Independent Registered Public Accountants" in our Proxy Statement.

PART IV

Item 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a)1. Index to Financial Statements

The following Consolidated Financial Statements are included herein:

(a)2. Index to Financial Statement Schedules

The following Schedule is filed as part of this Form 10-K Annual Report:

All other schedules are omitted because they are not applicable, not required or because the required information is included in the Consolidated Financial Statements or notes thereto.

(a)3. Exhibits

Exhibit No.	Description
3.1	Restated Certificate of Incorporation (As Restated December 6, 2005). (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
3.2	Certificate of Amendment of the Restated Certificate of Incorporation (As Amended May 24, 2007). (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
3.3	Certificate of Correction of the Restated Certificate of Incorporation (As Corrected May 24, 2007). (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
3.4*	Certificate of Elimination of the Certificate of Designations of the Series A Junior Participating Preferred Stock (As Eliminated December 10, 2008).
3.5	Amended and Restated Bylaws of Amgen Inc. (As Amended and Restated February 14, 2007). (Filed as an exhibit to Form 8-K filed on February 20, 2007 and incorporated herein by reference.)
3.6	Amendment to Amended and Restated Bylaws of Amgen Inc. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
3.7	Second Amendment to Amended and Restated Bylaws of Amgen Inc. (Filed as an exhibit to Form 8-K on December 10, 2008 and incorporated herein by reference.)
4.1	Form of stock certificate for the common stock, par value $.0001 of the Company. (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 1997 on May 13, 1997 and incorporated herein by reference.)
4.2	Form of Indenture, dated January 1, 1992. (Filed as an exhibit to Form S-3 Registration Statement filed on December 19, 1991 and incorporated herein by reference.)

Exhibit No.	Description
4.3	Agreement of Resignation, Appointment and Acceptance dated February 15, 2008. (Filed as an exhibit to Form 10-K for the year ended December 31, 2007 on February 28, 2008 and incorporated herein by reference.)
4.4	Two Agreements of Resignation, Appointment and Acceptance in the same form as the previously filed Exhibit 4.3 hereto are omitted pursuant to instruction 2 to Item 601 of Regulation S-K. Each of these agreements, which are dated December 15, 2008, replaces the current trustee under the agreements listed as Exhibits 4.8 and 4.16, respectively, with Bank of New York Mellon. Amgen Inc. hereby agrees to furnish copies of these agreements to the Securities and Exchange Commission upon request.
4.5	First Supplemental Indenture, dated February 26, 1997. (Filed as an exhibit to Form 8-K on March 14, 1997 and incorporated herein by reference.)
4.6	8- 1/8% Debentures due April 1, 2097. (Filed as an exhibit to Form 8-K filed on April 8, 1997 and incorporated herein by reference.)
4.7	Officer's Certificate, dated as of January 1, 1992, as supplemented by the First Supplemental Indenture, dated as of February 26, 1997, establishing a series of securities entitled "8 1/8% Debentures due April 1, 2097." (Filed as an exhibit to Form 8-K filed on April 8, 1997 and incorporated herein by reference.)
4.8	Form of Liquid Yield Option™ Note due 2032. (Filed as an exhibit to Form 8-K on March 1, 2002 and incorporated herein by reference.)
4.9	Indenture, dated as of March 1, 2002. (Filed as an exhibit to Form 8-K on March 1, 2002 and incorporated herein by reference.)
4.10	First Supplemental Indenture, dated March 2, 2005. (Filed as an exhibit to Form 8-K filed on March 4, 2005 and incorporated herein by reference.)
4.11	Indenture, dated as of August 4, 2003. (Filed as an exhibit to Form S-3 Registration Statement on August 4, 2003 and incorporated herein by reference.)
4.12	Form of 4.00% Senior Note due 2009. (Filed as an exhibit to Form 8-K on November 19, 2004 and incorporated herein by reference.)
4.13	Form of 4.85% Senior Notes due 2014. (Filed as an exhibit to Form 8-K on November 19, 2004 and incorporated herein by reference.)
4.14	Officers' Certificate, dated November 18, 2004, including forms of the 4.00% Senior Notes due 2009 and 4.85% Senior Notes due 2014. (Filed as an exhibit to Form 8-K on November 19, 2004 and incorporated herein by reference.)
4.15	Form of Zero Coupon Convertible Note due 2032. (Filed as an exhibit to Form 8-K on May 6, 2005 and incorporated herein by reference.)
4.16	Indenture, dated as of May 6, 2005. (Filed as an exhibit to Form 8-K on May 6, 2005 and incorporated herein by reference.)
4.17	Indenture, dated as of February 17, 2006 and First Supplemental Indenture, dated as of June 8, 2006 (including form of 0.125% Convertible Senior Note due 2011). (Filed as exhibit to Form 10-Q for the quarter ended June 30, 2006 on August 9, 2006 and incorporated herein by reference.)

Exhibit No.	Description
4.18	Indenture, dated as of February 17, 2006 and First Supplemental Indenture, dated as of June 8, 2006 (including form of 0.375% Convertible Senior Note due 2013). (Filed as exhibit to Form 10-Q for the quarter ended June 30, 2006 on August 9, 2006 and incorporated herein by reference.)
4.19	Corporate Commercial Paper - Master Note between and among Amgen Inc., as Issuer, Cede & Co., as Nominee of The Depository Trust Company, and Citibank, N.A., as Paying Agent. (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 1998 on May 13, 1998 and incorporated herein by reference.)
4.20	Officers' Certificate of Amgen Inc. dated as of May 30, 2007, including forms of the Company's Senior Floating Rate Notes due 2008, 5.85% Senior Notes due 2017 and 6.375% Senior Notes due 2037. (Filed as an exhibit to Form 8-K on May 30, 2007 and incorporated herein by reference.)
4.21	Registration Rights Agreement, dated as of May 30, 2007, among Amgen Inc. and Morgan Stanley & Co. Incorporated, Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays Capital Inc., Credit Suisse Securities (USA) LLC, Goldman, Sachs & Co., Citigroup Global Markets Inc., J.P. Morgan Securities Inc. and Lehman Brothers Inc. (Filed as an exhibit to Form 8-K on May 30, 2007 and incorporated herein by reference.)
10.1+	Amgen Inc. Amended and Restated 1991 Equity Incentive Plan (As Amended and Restated October 1, 2008). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.2+*	Amgen Inc. Amended and Restated Director Equity Incentive Program (As Amended and Restated December 10, 2007) (Filed as an exhibit to Form 10-K for the year ended December 31, 2007 on February 28, 2008 and incorporated herein by reference.), forms of Stock Option Grant Agreement and Restricted Stock Unit Agreement (Filed as an exhibit to Form 10-K for the year ended December 31, 2007 on February 28, 2008 and incorporated herein by reference.) and Forms of Stock Option Grant Agreement and Restricted Stock Unit Agreement for Ex-U.S. Grants (filed herewith).
10.3+	Amgen Inc. Amended and Restated 1999 Equity Incentive Plan (As Amended and Restated of October 1, 2008). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.4+	Amgen Inc. Amended and Restated 1999 Incentive Stock Plan (As Amended and Restated October 1, 2008). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.5+	Forms of Stock Option Grant Agreement and Restricted Stock Unit Agreement for the Amgen Inc. Amended and Restated 1991 Equity Incentive Plan, the Amgen Inc. Amended and Restated 1999 Equity Incentive Plan and the Amgen Inc. Amended and Restated 1999 Incentive Stock Plan. (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.6+	Amgen Inc. Amended and Restated Employee Stock Purchase Plan. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2000 on August 1, 2000 and incorporated herein by reference.)
10.7+	First Amendment to the Amgen Inc. Amended and Restated Employee Stock Purchase Plan, effective July 12, 2005. (Filed as an exhibit to Form 8-K on July 14, 2005 and incorporated herein by reference.)
10.8+	Second Amendment to the Amgen Inc. Amended and Restated Employee Stock Purchase Plan, effective January 1, 2008. (Filed as an exhibit to Form 10-K for the year ended December 31, 2007 on February 28, 2008 and incorporated herein by reference.)

Exhibit No.	Description
10.9+	Amgen Supplemental Retirement Plan (As Amended and Restated effective January 1, 2009.) (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.10+	Amgen Inc. Change of Control Severance Plan. (Filed as an exhibit to Form 10-K for the year ended December 31, 1998 on March 16, 1999 and incorporated herein by reference.)
10.11+	First Amendment to Amgen Inc. Change of Control Severance Plan (As Amended May 10, 2000). (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2000 on August 1, 2000 and incorporated herein by reference.)
10.12+	Second Amendment to the Amgen Inc. Change in Control Severance Plan (As Amended October 16, 2001). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2001 on October 26, 2001 and incorporated herein by reference.)
10.13+	Third Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended January 1, 2004). (Filed as an exhibit to Form 10-K for the year ended December 31, 2004 on March 9, 2005 and incorporated herein by reference.)
10.14+	Fourth Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended June 1, 2004). (Filed as an exhibit to Form 10-K for the year ended December 31, 2004 on March 9, 2005 and incorporated herein by reference.)
10.15+	Fifth Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended December 6, 2004). (Filed as an exhibit to Form 8-K on December 9, 2004 and incorporated herein by reference.)
10.16+	Sixth Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended May 10, 2006). (Filed as an exhibit to Form 8-K on May 16, 2006 and incorporated herein by reference.)
10.17+	Seventh Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended October 4, 2006). (Filed as exhibit to Form 8-K on October 6, 2006 and incorporated herein by reference.)
10.18+	Eighth Amendment to the Amgen Inc. Change of Control Severance Plan (As Amended December 15, 2006). (Filed as an exhibit to Form 10-K for the year ended December 31, 2006 on February 28, 2007 and incorporated herein by reference.)
10.19+*	Amendment and Restatement of the Amgen Change of Control Severance Plan (As Amended December 9, 2008).
10.20+	Amgen Inc. Executive Incentive Plan. (As Amended and Restated effective January 1, 2009.) (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.21+	Amgen Inc. Executive Nonqualified Retirement Plan. (As Amended and Restated effective January 1, 2009.) (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.22+	Amgen Nonqualified Deferred Compensation Plan (As Amended and Restated effective January 1, 2009.) (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.23+	Amended and Restated Amgen Inc. Performance Award Program (As Amended and Restated effective October 1, 2008.) (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.24+	Form of Performance Unit Agreement. (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2008 on May 12, 2008 and incorporated herein by reference.)

Exhibit No.	Description
10.25+	2002 Special Severance Pay Plan for Amgen Employees. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2002 on August 13, 2002 and incorporated herein by reference.)
10.26+	Restricted Stock Purchase Agreement, dated March 3, 2003, between Amgen Inc. and Brian M. McNamee. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2003 on July 30, 2003 and incorporated herein by reference.)
10.27+	Agreement, dated February 11, 2004, between Amgen Inc. and David J. Scott. (Filed as an exhibit to Form 10-K for the year ended December 31, 2003 on March 11, 2004 and incorporated herein by reference.)
10.28	Product License Agreement, dated September 30, 1985, and Technology License Agreement, dated, September 30, 1985 between Amgen and Ortho Pharmaceutical Corporation. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2000 on August 1, 2000 and incorporated herein by reference.)
10.29	Shareholders' Agreement, dated May 11, 1984, among Amgen, Kirin Brewery Company, Limited and Kirin-Amgen, Inc. (Filed as an exhibit to Form 10-K for the year ended December 31, 2000 on March 7, 2001 and incorporated herein by reference.)
10.30	Amendment No. 1 dated March 19, 1985, Amendment No. 2 dated July 29, 1985 (effective July 1, 1985), and Amendment No. 3, dated December 19, 1985, to the Shareholders' Agreement dated May 11, 1984. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2000 on August 1, 2000 and incorporated herein by reference.)
10.31	Amendment No. 4 dated October 16, 1986 (effective July 1, 1986), Amendment No. 5 dated December 6, 1986 (effective July 1, 1986), Amendment No. 6 dated June 1, 1987, Amendment No. 7 dated July 17, 1987 (effective April 1, 1987), Amendment No. 8 dated May 28, 1993 (effective November 13, 1990), Amendment No. 9 dated December 9, 1994 (effective June 14, 1994), Amendment No. 10 effective March 1, 1996, and Amendment No. 11 effective March 20, 2000 to the Shareholders' Agreement, dated May 11, 1984. (Filed as exhibits to Form 10-K for the year ended December 31, 2000 on March 7, 2001 and incorporated herein by reference.)
10.32	Amendment No. 12 to the Shareholders' Agreement, dated January 31, 2001. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2005 on August 8, 2005 and incorporated herein by reference.)
10.33	Amendment No. 13 to the Shareholders' Agreement, dated June 28, 2007 (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
10.34	Product License Agreement, dated September 30, 1985, and Technology License Agreement, dated September 30, 1985, between Kirin-Amgen, Inc. and Ortho Pharmaceutical Corporation. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2000 on August 1, 2000 and incorporated herein by reference.)
10.35	Research, Development Technology Disclosure and License Agreement: PPO, dated January 20, 1986, by and between Kirin Brewery Co., Ltd. and Amgen Inc. (Filed as an exhibit to Amendment No. 1 to Form S-1 Registration Statement on March 11, 1986 and incorporated herein by reference.)
10.36	Amendment Agreement, dated June 30, 1988, to Research, Development, Technology Disclosure and License Agreement: GM-CSF dated March 31, 1987, between Kirin Brewery Company, Limited and Amgen Inc. (Filed as an exhibit to Form 8 amending the Quarterly Report on Form 10-Q for the quarter ended June 30, 1988 on August 25, 1988 and incorporated herein by reference.)

Exhibit No.	Description
10.37	Assignment and License Agreement, dated October 16, 1986 (effective July 1, 1986, between Amgen and Kirin-Amgen, Inc. (Filed as an exhibit to Form 10-K for the year ended December 31, 2000 on March 7, 2001 and incorporated herein by reference.)
10.38	G-CSF United States License Agreement, dated June 1, 1987 (effective July 1, 1986), Amendment No. 1, dated October 20, 1988, and Amendment No. 2, dated October 17, 1991 (effective November 13, 1990), between Kirin-Amgen, Inc. and Amgen Inc. (Filed as exhibits to Form 10-K for the year ended December 31, 2000 on March 7, 2001 and incorporated herein by reference.)
10.39	G-CSF European License Agreement, dated December 30, 1986, between Kirin-Amgen and Amgen, Amendment No. 1 to Kirin-Amgen, Inc./Amgen G-CSF European License Agreement, dated June 1, 1987, Amendment No. 2 to Kirin-Amgen, Inc./Amgen G-CSF European License Agreement, dated March 15, 1998, Amendment No. 3 to Kirin-Amgen, Inc./Amgen G-CSF European License Agreement, dated October 20, 1988, and Amendment No. 4 to Kirin-Amgen, Inc./Amgen G-CSF European License Agreement, dated December 29, 1989, between Kirin-Amgen, Inc. and Amgen Inc. (Filed as exhibits to Form 10-K for the year ended December 31, 2000 on March 7, 2001 and incorporated herein by reference.)
10.40	Enbrel® Supply Agreement among Immunex Corporation, American Home Products Corporation and Boehringer Ingelheim Pharma KG, dated as of November 5, 1998 (with certain confidential information deleted therefrom). (Filed as an exhibit to the Immunex Corporation Annual Report on Form 10-K for the year ended December 31, 1998 on March 23, 1998 and incorporated herein by reference.)
10.41	Amendment No. 1 to the Enbrel® Supply Agreement, dated June 27, 2000, among Immunex Corporation, American Home Products Corporation and Boehringer Ingelheim Pharma KG, (with certain confidential information deleted therefrom). (Filed as an exhibit to the Immunex Corporation Form 10-Q for the quarter ended June 30, 2000 on August 11, 2000 and incorporated herein by reference.)
10.42	Amendment No. 2 to the Enbrel® Supply Agreement, dated June 3, 2002, among Immunex Corporation, Wyeth (formerly known as American Home Products Corporation) and Boehringer Ingelheim Pharma KG (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2002 on August 13, 2002 and incorporated herein by reference.)
10.43	Amendment No. 1 to Amendment No. 2 to the Enbrel® Supply Agreement, dated June 23, 2008, among Immunex Corporation, Wyeth (formerly “American Home Products Corporation”) and Boehringer Ingelheim Pharma KG (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2008 on August 8, 2008 and incorporated herein by reference.)
10.44	Amendment No. 3 to the Enbrel® Supply Agreement, dated December 18, 2002, among Immunex Corporation, Wyeth (formerly, “American Home Products Corporation”) and Boehringer Ingelheim Pharma KG (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-K for the year ended December 31, 2002 on March 10, 2003 and incorporated herein by reference.)
10.45	Amendment No. 4 to the Enbrel® Supply Agreement, dated May 21, 2004, among Immunex Corporation, Wyeth (formerly, “American Home Products Corporation”) and Boehringer Ingelheim Pharma KG. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2005 on August 8, 2005 and incorporated herein by reference.)
10.46	Amendment No. 5 to the Enbrel® Supply Agreement, dated August 30, 2005, among Immunex Corporation, Wyeth (formerly, “American Home Products Corporation”) and Boehringer Ingelheim Pharma KG. (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2005 on November 9, 2005 and incorporated herein by reference.)

Exhibit No.	Description
10.47	Amendment No. 6 to the Enbrel® Supply Agreement, dated November 27, 2007, among Immunex Corporation, Wyeth (formerly, "American Home Products Corporation") and Boehringer Ingelheim Pharma KG (with certain confidential information deleted therefrom) (Filed as an exhibit to Form 10-K for the year ended December 31, 2007 on February 28, 2008 and incorporated herein by reference.)
10.48	Amendment No. 2 to Amendment No. 6, dated August 26, 2008, to the Enbrel® Supply Agreement, dated November 27, 2007, among Immunex Corporation, Wyeth (formerly, "American Home Products Corporation") and Boehringer Ingelheim Pharma KG (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2008 on November 7, 2008 and incorporated herein by reference.)
10.49	Agreement Regarding Governance and Commercial Matters, dated December 16, 2001, by and among American Home Products Corporation, American Cyanamid Company and Amgen Inc. (with certain confidential information deleted therefrom). (Filed as an exhibit to Amendment No. 1 to Form S-4 Registration Statement on March 22, 2002 and incorporated herein by reference.)
10.50	Amended and Restated Promotion Agreement, dated as of December 16, 2001, by and among Immunex Corporation, American Home Products Corporation and Amgen Inc. (with certain confidential information deleted therefrom). (Filed as an exhibit to Amendment No. 1 to Form S-4 Registration Statement on March 22, 2002 and incorporated herein by reference.)
10.51	Description of Amendment No. 1 to Amended and Restated Promotion Agreement, effective as of July 8, 2003, among Wyeth, Amgen Inc. and Immunex Corporation, (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-K for the year ended December 31, 2003 on March 11, 2004 and incorporated herein by reference.)
10.52	Description of Amendment No. 2 to Amended and Restated Promotion Agreement, effective as of April 20, 2004, by and among Wyeth, Amgen Inc. and Immunex Corporation. (Filed as an exhibit to Form S-4/A on June 29, 2004 and incorporated herein by reference.)
10.53	Amendment No. 3 to Amended and Restated Promotion Agreement, effective as of January 1, 2005, by and among Wyeth, Amgen Inc. and Immunex Corporation (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2005 on May 4, 2005 and incorporated herein by reference.)
10.54	Confirmation of OTC Convertible Note Hedge related to 2011 Notes, dated February 14, 2006, to Amgen Inc. from Merrill Lynch International related to the 0.125% Convertible Senior Notes Due 2011. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
10.55	Confirmation of OTC Convertible Note Hedge related to 2013 Notes, dated February 14, 2006, to Amgen Inc. from Merrill Lynch International related to 0.375% Convertible Senior Notes Due 2013. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
10.56	Confirmation of OTC Convertible Note Hedge related to 2011 Notes, dated February 14, 2006, to Amgen Inc. from Morgan Stanley & Co. International Limited related to the 0.125% Convertible Senior Notes Due 2011 Notes. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
10.57	Confirmation of OTC Warrant Transaction, dated February 14, 2006, to Amgen Inc. from Merrill Lynch International for warrants expiring in 2011. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)

Exhibit No.	Description
10.58	Confirmation of OTC Warrant Transaction, dated February 14, 2006, to Amgen Inc. from Merrill Lynch International for warrants expiring in 2013. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
10.59	Confirmation of OTC Warrant Transaction, dated February 14, 2006, to Amgen Inc. from Morgan Stanley & Co. International Limited for warrants maturing in 2011. (Filed as an exhibit to Form 10-K for the year ended December 31, 2005 on March 10, 2006 and incorporated herein by reference.)
10.60	Purchase Agreement, dated May 24, 2007, among Amgen Inc., Morgan Stanley & Co. Incorporated, Merrill Lynch, Pierce, Fenner & Smith Incorporated and the Initial Purchasers Names in Schedule A thereof. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
10.61	Purchase Agreement, dated May 29, 2007, between Amgen Inc. and Merrill Lynch International. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2007 on August 9, 2007 and incorporated herein by reference.)
10.62	Collaboration Agreement, dated July 11, 2007, between Amgen Inc. and Daiichi Sankyo Company (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended September 30, 2007 on November 9, 2007 and incorporated herein by reference.)
10.63	Credit Agreement, dated November 2, 2007, among Amgen Inc., with Citicorp USA, Inc., as administrative agent, Barclays Bank PLC, as syndication agent, Citigroup Global Markets, Inc. and Barclays Capital, as joint lead arrangers and joint book runners, and the other banks party thereto. (Filed as an exhibit to Form 8-K filed on November 2, 2007 and incorporated herein by reference.)
10.64	Multi-product License Agreement with Respect to Japan between Amgen Inc. and Takeda Pharmaceutical Company Limited dated February 1, 2008 (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2008 on May 12, 2008 and incorporated herein by reference.)
10.65	License Agreement for motesanib diphosphate between Amgen Inc. and Takeda Pharmaceutical Company Limited dated February 1, 2008 (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2008 on May 12, 2008 and incorporated herein by reference.)
10.66	Supply Agreement between Amgen Inc. and Takeda Pharmaceutical Company Limited dated February 1, 2008 (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2008 on May 12, 2008 and incorporated herein by reference.)
10.67	Sale and Purchase Agreement between Amgen Inc. and Takeda Pharmaceutical Company Limited dated February 1, 2008 (with certain confidential information deleted therefrom). (Filed as an exhibit to Form 10-Q for the quarter ended March 31, 2008 on May 12, 2008 and incorporated herein by reference.)
10.68	Variable Term Accelerated Share Repurchase Transaction dated May 28, 2008, between Amgen Inc. and Lehman Brothers, Inc. acting as Agent Lehman Brothers OTC Derivatives Inc., acting as Principal. (Filed as an exhibit to Form 10-Q for the quarter ended June 30, 2009 on August 8, 2008 and incorporated herein by reference.)
10.69	Underwriting Agreement, dated May 20, 2008, among Amgen Inc. with Goldman, Sachs & Co. and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as the representatives of the underwriters. (Filed as an exhibit to Form 8-K on May 23, 2008 and incorporated herein by reference.)

Exhibit No.	Description
10.70	Underwriting Agreement, dated January 13, 2009, by and among the Company and Goldman, Sachs & Co., Merrill Lynch, Pierce, Fenner & Smith Incorporated and Morgan Stanley & Co. Incorporated, as representatives of the several underwriters named therein. (Filed as an exhibit to Form 8-K on January 16, 2009 and incorporated herein by reference.)
10.71*	Master Services Agreement, dated October 22, 2008, between Amgen Inc. and International Business Machines Corporation (with certain confidential information deleted therefrom).
10.72*	Integrated Facilities Management Services Agreement, dated February 4, 2009 between Amgen Inc. and Jones Lang LaSalle Americas, Inc (with certain confidential information deleted therefrom).
21*	Subsidiaries of the Company.
23	Consent of Independent Registered Public Accounting Firm. The consent is set forth on pages 118 and 119 of this Annual Report on Form 10-K.
24	Power of Attorney. The Power of Attorney is set forth on pages 116 and 117 of this Annual Report on Form 10-K.
31*	Rule 13a-14(a) Certifications.
32**	Section 1350 Certifications.

(* = filed herewith)
(** = furnished herewith and not “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended)
(+ = management contract or compensatory plan or arrangement.)

SIGNATURES

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

AMGEN INC.
(Registrant)

Date: 02/27/09

By: /s/ ROBERT A. BRADWAY
Robert A. Bradway
Executive Vice President
and Chief Financial Officer

EXHIBIT 24

POWER OF ATTORNEY

KNOW ALL MEN AND WOMEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Robert A. Bradway and Michael A. Kelly, or either of them, his or her attorney-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any amendments to this Report, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his or her substitute or substitutes, may do or cause to be done by virtue hereof.

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

Signature	Title	Date
/S/ KEVIN W. SHARER **Kevin W. Sharer**	Chairman of the Board, Chief Executive Officer and President, and Director (Principal Executive Officer)	02/27/09
/S/ ROBERT A. BRADWAY **Robert A. Bradway**	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	02/27/09
/S/ MICHAEL A. KELLY **Michael A. Kelly**	Vice President Finance and Chief Accounting Officer (Principal Accounting Officer)	02/27/09
/S/ DAVID BALTIMORE **David Baltimore**	Director	02/27/09
/S/ FRANK J. BIONDI, JR. **Frank J. Biondi, Jr.**	Director	02/27/09
/S/ JERRY D. CHOATE **Jerry D. Choate**	Director	02/27/09
/S/ VANCE D. COFFMAN **Vance D. Coffman**	Director	02/27/09
/S/ FRANÇOIS DE CARBONNEL **François de Carbonnel**	Director	02/27/09
/S/ FREDERICK W. GLUCK **Frederick W. Gluck**	Director	02/24/09
/S/ FRANK C. HERRINGER **Frank C. Herringer**	Director	02/27/09
/S/ GILBERT S. OMENN **Gilbert S. Omenn**	Director	02/27/09

Signature	Title	Date
/S/ JUDITH C. PELHAM **Judith C. Pelham**	Director	02/27/09
/S/ J. PAUL REASON **J. Paul Reason**	Director	02/27/09
/S/ LEONARD D. SCHAEFFER **Leonard D. Schaeffer**	Director	02/27/09

EXHIBIT 23

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form S-8 No. 33-5111) pertaining to the 1984 Stock Option Plan, 1981 Incentive Stock Option Plan and Nonqualified Stock Option Plan of Amgen Inc., in the Registration Statement (Form S-8 No. 33-24013) pertaining to the Amended and Restated 1988 Stock Option Plan of Amgen Inc., in the Registration Statement (Form S-8 No. 33-39183) pertaining to the Amended and Restated Employee Stock Purchase Plan, in the Registration Statement (Form S-8 No. 33-39104) pertaining to the Amended and Restated Amgen Retirement and Savings Plan, in the Registration Statements (Form S-3/S-8 No. 33-29791 and Form S-8 No. 33-42501) pertaining to the Amended and Restated 1987 Directors' Stock Option Plan, in the Registration Statement (Form S-8 No. 33-42072) pertaining to the Amgen Inc. Amended and Restated 1991 Equity Incentive Plan, in the Registration Statement (Form S-8 No. 33-47605) pertaining to the Retirement and Savings Plan for Amgen Puerto Rico, Inc., in the Registration Statement (Form S-8 No. 333-44727) pertaining to the Amgen Inc. 1997 Special Non-Officer Equity Incentive Plan, in the Registration Statement (Form S-3 No. 333-19931) of Amgen Inc., in the Registration Statement (Form S-3 No. 333-40405) of Amgen Inc., in the Registration Statement (Form S-8 No. 333-62735) pertaining to the Amgen Inc. Amended and Restated 1997 Special Non-Officer Equity Incentive Plan, in the Registration Statement (Form S-3 No. 333-53929) pertaining to the Amgen Inc. 1997 Special Non-Officer Equity Incentive Plan, the Amgen Inc. Amended and Restated 1991 Equity Incentive Plan, the Amended and Restated 1988 Stock Option Plan of Amgen Inc. and the Amended and Restated 1987 Directors' Stock Option Plan, in the Registration Statement (Form S-8 No. 333-74585) pertaining to the Amgen Limited Sharesave Plan, in the Registration Statement (Form S-8 No. 333-81284) pertaining to the Amgen Nonqualified Deferred Compensation Plan, in the Registration Statement (Form S-8 No. 333-56672) pertaining to the Amended and Restated 1997 Special Non-Officer Equity Incentive Plan, in the Registration Statement (Form S-3 No. 333-56664 and Amendment No. 1 thereto) pertaining to the Amgen Inc. 1997 Special Non-Officer Equity Incentive Plan, the Amgen Inc. Amended and Restated 1991 Equity Incentive Plan, the Amended and Restated 1988 Stock Option Plan of Amgen Inc., and the Amended and Restated 1987 Directors' Stock Option Plan, in the Registration Statement (Form S-8 No. 333-83824) pertaining to the Amgen Inc. Amended and Restated 1997 Special Non-Officer Equity Incentive Plan, in the Registration Statement (Form S-3 No. 333-88834) pertaining to Amgen Inc.'s Liquid Yield Option™ Notes, in the Registration Statement (Form S-3 No. 333-92450 and Amendment No. 1 thereto) pertaining to Amgen Inc.'s Common Stock, in the Registration Statement (Form S-8 No. 333-92424 and Amendment No. 1 thereto) pertaining to the Amgen Inc. Amended and Restated 1993 Equity Incentive Plan (formerly known as the Immunex Corporation 1993 Stock Option Plan), the Amgen Inc. Amended and Restated 1999 Equity Incentive Plan (formerly known as the Immunex Corporation 1999 Stock Option Plan), the Amgen Inc. Amended and Restated 1999 Employee Stock Purchase Plan (formerly known as the Immunex Corporation 1999 Employee Stock Purchase Plan), the Immunex Corporation Stock Option Plan for Nonemployee Directors, and the Amgen Inc. Profit Sharing 401(k) Plan and Trust (formerly known as the Immunex Corporation Profit Sharing 401(k) Plan and Trust), in the Registration Statement (Form S-3 No. 333-107639 and Amendment 1 thereto) relating to debt securities, common stock and associated preferred share repurchase rights, preferred stock, warrants to purchase debt securities, common stock or preferred stock, securities purchase contracts, securities purchase units and depositary shares of Amgen Inc. and in the related Prospectuses, in the Registration Statement (Form S-8 No. 333-118254) pertaining to the Amgen Inc. Amended and Restated 1997 Equity Incentive Plan (formerly known as the Tularik Inc. 1997 Equity Incentive Plan, as amended), the Tularik Inc. 1991 Stock Plan, as amended, the Tularik Inc. Amended and Restated 1997 Non-Employee Directors' Stock Option Plan, as amended, the Amgen Salary Savings Plan (formerly known as Tularik Salary Savings Plan), a Nonstatutory Stock Option Agreement, in the Registration Statement (Form S-3 No. 333-132286) relating to the potential resale of securities acquired from Amgen Inc. by selling security holders in unregistered private offerings, in the Registration Statement (Form S-8 No. 333-132932) pertaining to the Amgen Inc. Amended and Restated 1996 Incentive Stock Plan (formerly known as Abgenix, Inc. 1996 Incentive Stock Plan, as amended and restated) Abgenix, Inc. 1998 Director Option Plan, as amended and restated Amgen Inc. Amended and Restated 1999 Incentive Stock Plan (formerly known as Abgenix, Inc. 1999 Nonstatutory Stock Option Plan, as amended and restated), in the Registration Statement (Form S-8 No. 333-133002) pertaining to the Amgen Inc.

Amended and Restated 1996 Incentive Stock Plan (formerly known as Abgenix, Inc. 1996 Incentive Stock Plan, as amended and restated) Abgenix, Inc. 1998 Director Option Plan, as amended and restated Amgen Inc. Amended and Restated 1999 Incentive Stock Plan (formerly known as Abgenix, Inc. 1999 Nonstatutory Stock Option Plan, as amended and restated), in the Registration Statement (Form S-8 No. 333-138325) pertaining to the Amgen Inc. Amended and Restated Assumed Avidia Equity Incentive Plan (formerly known as the Avidia, Inc. Amended and Restated 2003 Equity Incentive Plan), in the Registration Statement (Form S-8 No. 333-141304) pertaining to the Amgen Technology Ireland Irish Tax Approved Share Plan, in the Registration Statement (Form S-8 No. 333-144579) pertaining to the Amgen Inc. Amended and Restated 1991 Equity Incentive Plan, in the Registration Statement (Form S-8 No. 333-144580) pertaining to the Retirement and Savings Plan for Amgen Manufacturing, Limited, in the Registration Statement (Form S-8 No. 333-144581) pertaining to the Amgen Retirement and Savings Plan, in the Registration Statement (Form S-8 No. 333-144678) pertaining to the Amgen Inc. Assumed Ilypsa, Inc. Stock Plan (formerly known as the Ilypsa Inc. 2003 Stock Plan), in the Registration Statement (Form S-8, Registration No. 33-39104) pertaining to the Amgen Retirement and Savings Plan, in the Registration Statement (Form S-8 No. 033-47605) pertaining to the Retirement and Savings Plan for Amgen Manufacturing, Limited, in the Registration Statement (Form S-4 No. 333-147482) relating to the possible exchange of unregistered Senior Floating Notes for registered Senior Floating Notes relating to the Prospectus of Amgen Inc. for the registration of Senior Floating Rate Notes due 2008, 5.85% Senior Notes due 2017, 6.375% Senior Notes Due 2037, and in the Registration Statement (Form S-3 No. 333-150290) relating to debt securities, common stock, preferred stock, warrants to purchase debt securities, common stock, preferred stock or depositary shares, rights to purchase common stock or preferred stock, securities purchase contracts, securities purchase units and depositary shares of Amgen Inc. and in the related Prospectuses, of our reports dated February 23, 2009, with respect to the consolidated financial statements and schedule of Amgen Inc., and the effectiveness of internal control over financial reporting of Amgen Inc., included in this Annual Report (Form 10-K) for the year ended December 31, 2008.

/s/ Ernst & Young LLP

Los Angeles, California
February 24, 2009

Report of Independent Registered Public Accounting Firm

The Board of Directors and Stockholders of Amgen Inc.

We have audited the accompanying Consolidated Balance Sheets of Amgen Inc. (the "Company") as of December 31, 2008 and 2007, and the related Consolidated Statements of Income, Stockholders' Equity, and Cash Flows for each of the three years in the period ended December 31, 2008. Our audits also included the financial statement schedule listed in the Index at Item 15(a) 2. These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Amgen Inc. at December 31, 2008 and 2007, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2008, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Amgen Inc.'s internal control over financial reporting as of December 31, 2008, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 23, 2009 expressed an unqualified opinion thereon.

/s/ Ernst & Young LLP

Los Angeles, California
February 23, 2009

AMGEN INC.

CONSOLIDATED STATEMENTS OF INCOME

Years ended December 31, 2008, 2007 and 2006

(In millions, except per share data)

	2008	2007	2006
Revenues:			
Product sales	$14,687	$14,311	$13,858
Other revenues	316	460	410
Total revenues	15,003	14,771	14,268
Operating expenses:			
Cost of sales (excludes amortization of acquired intangible assets presented below)	2,296	2,548	2,095
Research and development	3,030	3,266	3,366
Selling, general and administrative	3,789	3,361	3,366
Amortization of acquired intangible assets	294	298	370
Write-off of acquired in-process research and development	—	590	1,231
Other charges	380	728	—
Total operating expenses	9,789	10,791	10,428
Operating income	5,214	3,980	3,840
Other income (expense):			
Interest and other income, net	352	309	309
Interest expense, net	(316)	(328)	(129)
Total other income (expense)	36	(19)	180
Income before income taxes	5,250	3,961	4,020
Provision for income taxes	1,054	795	1,070
Net income	$ 4,196	$ 3,166	$ 2,950
Earnings per share:			
Basic	$ 3.92	$ 2.83	$ 2.51
Diluted	$ 3.90	$ 2.82	$ 2.48
Shares used in calculation of earnings per share:			
Basic	1,070	1,117	1,176
Diluted	1,075	1,123	1,190

See accompanying notes.

AMGEN INC.

CONSOLIDATED BALANCE SHEETS

December 31, 2008 and 2007

(In millions, except per share data)

	2008	2007
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,774	$ 2,024
Marketable securities	7,778	5,127
Trade receivables, net	2,073	2,101
Inventories	2,075	2,091
Other current assets	1,521	1,698
Total current assets	15,221	13,041
Property, plant and equipment, net	5,879	5,941
Intangible assets, net	2,988	3,332
Goodwill	11,339	11,240
Other assets	1,016	1,085
	$36,443	$34,639
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 504	$ 378
Accrued liabilities	3,382	3,801
Current portion of other long-term debt	1,000	2,000
Total current liabilities	4,886	6,179
Convertible notes	5,081	5,080
Other long-term debt	4,095	4,097
Other non-current liabilities	1,995	1,414
Commitments and contingencies		
Stockholders' equity:		
Common stock and additional paid-in capital; $0.0001 par value; 2,750 shares authorized; outstanding — 1,047 shares in 2008 and 1,087 shares in 2007	25,527	24,976
Accumulated deficit	(5,258)	(7,160)
Accumulated other comprehensive income	117	53
Total stockholders' equity	20,386	17,869
	$36,443	$34,639

See accompanying notes.

AMGEN INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

Years ended December 31, 2008, 2007 and 2006

(In millions)

	Number of shares of common stock	Common stock and additional paid-in capital	Accumulated deficit	Accumulated other comprehensive income	Total
Balance at December 31, 2005	1,224	$ 23,561	$ (3,132)	$ 22	$20,451
Comprehensive income:					
Net income	—	—	2,950	—	2,950
Other comprehensive loss, net of tax:					
Unrealized losses on securities and hedges, net of reclassification adjustments	—	—	—	(49)	(49)
Foreign currency translation adjustments	—	—	—	39	39
Total other comprehensive loss					(10)
Comprehensive income					2,940
Issuance of common stock in connection with the Company's equity award programs	12	528	—	—	528
Fair value of options assumed from acquisitions	—	61	—	—	61
Stock-based awards	—	335	—	—	335
Tax benefits related to employee stock options	—	58	—	—	58
Convertible note hedge and warrants	—	(284)	—	—	(284)
Reclassification of performance award program to liabilities	—	(104)	—	—	(104)
Repurchases of common stock	(70)	—	(5,021)	—	(5,021)
Balance at December 31, 2006	1,166	24,155	(5,203)	12	18,964
Comprehensive income:					
Net income	—	—	3,166	—	3,166
Other comprehensive income, net of tax:					
Unrealized gains on securities and hedges, net of reclassification adjustments	—	—	—	27	27
Foreign currency translation adjustments	—	—	—	14	14
Total other comprehensive income					41
Comprehensive income					3,207
Issuance of common stock in connection with the Company's equity award programs	8	333	—	—	333
Stock-based awards	—	462	—	—	462
Tax benefits related to employee stock options	—	26	—	—	26
Repurchases of common stock	(87)	—	(5,123)	—	(5,123)
Balance at December 31, 2007	1,087	24,976	(7,160)	53	17,869
Comprehensive income:					
Net income	—	—	4,196	—	4,196
Other comprehensive income, net of tax:					
Unrealized gains on securities and hedges, net of reclassification adjustments	—	—	—	105	105
Foreign currency translation adjustments	—	—	—	(34)	(34)
Other	—	—	—	(7)	(7)
Total other comprehensive income					64
Comprehensive income					4,260
Issuance of common stock in connection with the Company's equity award programs	5	198	—	—	198
Stock-based awards	—	267	—	—	267
Tax benefits related to employee stock options	—	86	—	—	86
Repurchases of common stock	(45)	—	(2,294)	—	(2,294)
Balance at December 31, 2008	1,047	$ 25,527	$ (5,258)	$ 117	$20,386

See accompanying notes.

AMGEN INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

Years ended December 31, 2008, 2007 and 2006

(In millions)

	2008	2007	2006
Cash flows from operating activities:			
Net income	$ 4,196	$ 3,166	$ 2,950
Depreciation and amortization	1,073	1,202	963
Write-off of acquired in-process research and development	—	590	1,231
Stock-based compensation expense	262	263	403
Deferred income taxes	(46)	136	(540)
Property, plant and equipment impairments	59	404	—
Other items, net	17	81	(81)
Changes in operating assets and liabilities, net of acquisitions:			
Trade receivables, net	65	38	(355)
Inventories	(59)	(109)	(561)
Other current assets	15	(119)	(6)
Accounts payable	95	(181)	(24)
Accrued income taxes	14	(810)	581
Other accrued liabilities	(30)	688	790
Deferred revenue	327	52	38
Net cash provided by operating activities	5,988	5,401	5,389
Cash flows from investing activities:			
Purchases of property, plant and equipment	(672)	(1,267)	(1,218)
Cash paid for acquisitions, net of cash acquired	(56)	(697)	(2,167)
Purchases of marketable securities	(10,345)	(5,579)	(5,386)
Proceeds from sales of marketable securities	6,762	5,073	3,065
Proceeds from maturities of marketable securities	1,018	454	785
Other	128	24	(210)
Net cash used in investing activities	(3,165)	(1,992)	(5,131)
Cash flows from financing activities:			
Repurchases of common stock	(2,268)	(5,100)	(2,000)
Repayment of debt	(2,000)	(1,840)	(653)
Proceeds from issuance of debt	991	3,982	—
Proceeds from issuance of convertible notes and related transactions, net	—	—	439
Proceeds from issuance of warrants	—	—	774
Net proceeds from issuance of common stock in connection with the Company’s equity award programs	155	277	528
Other	49	13	97
Net cash used in financing activities	(3,073)	(2,668)	(815)
(Decrease) increase in cash and cash equivalents	(250)	741	(557)
Cash and cash equivalents at beginning of year	2,024	1,283	1,840
Cash and cash equivalents at end of year	$ 1,774	$ 2,024	$ 1,283

See accompanying notes.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

December 31, 2008

1. Summary of significant accounting policies

Business

Amgen Inc., including its subsidiaries, ("Amgen") is a global biotechnology company that discovers, develops, manufactures and markets human therapeutics based on advances in cellular and molecular biology.

Principles of consolidation

The consolidated financial statements include the accounts of Amgen as well as its wholly owned subsidiaries. We do not have any significant interests in any variable interest entities. All material intercompany transactions and balances have been eliminated in consolidation.

Use of estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States ("GAAP") requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results may differ from those estimates.

Fair value measurement

The Company adopted the provisions of the Financial Accounting Standards Board's ("FASB's") Statement of Financial Accounting Standards ("SFAS") No. 157, "*Fair Value Measurements*" ("SFAS 157"), effective January 1, 2008, for its financial assets and liabilities. The FASB delayed the effective date of SFAS 157 until January 1, 2009, with respect to the fair value measurement requirements for non-financial assets and liabilities that are not remeasured on a recurring basis. Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date (see Note 13, "*Fair values*").

Cash equivalents

We consider cash equivalents to be only those investments which are highly liquid, readily convertible to cash and which mature within three months from date of purchase.

Available-for-sale securities

We consider our investment portfolio and marketable equity investments available-for-sale as defined in SFAS No. 115, "*Accounting for Certain Investments in Debt and Equity Securities*." Accordingly, these investments are recorded at fair value, as discussed above. For the years ended December 31, 2008, 2007 and 2006, realized gains totaled $124 million, $17 million and $23 million, respectively, and realized losses totaled $49 million, $20 million and $25 million, respectively. The cost of securities sold is based on the specific identification method.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The fair values of available-for-sale investments by type of security, contractual maturity and classification in the Consolidated Balance Sheets are as follows (in millions):

December 31, 2008	Amortized cost	Gross unrealized gains	Gross unrealized losses	Estimated fair value
Type of security:				
U.S. Treasury securities	$ 1,896	$ 58	$ (2)	$ 1,952
Obligations of U.S. government agencies and FDIC guaranteed bank debt	3,396	100	(3)	3,493
Corporate debt securities	1,432	10	(72)	1,370
Mortgage and asset backed securities	508	2	(6)	504
Other short-term interest backed securities[1]	2,126	—	—	2,126
Total debt securities	9,358	170	(83)	9,445
Equity securities	65	—	(8)	57
	$ 9,423	$ 170	$ (91)	$ 9,502

(1) Primarily comprised of money market funds whose underlying securities were U.S. treasury and agency obligations.

December 31, 2007	Amortized cost	Gross unrealized gains	Gross unrealized losses	Estimated fair value
Type of security:				
U.S. Treasury securities	$ 1,257	$ 33	$ —	$ 1,290
Obligations of U.S. government agencies	1,520	31	—	1,551
Corporate debt securities	1,789	15	(16)	1,788
Mortgage and asset backed securities	375	1	(1)	375
Other short-term interest bearing securities	1,709	—	—	1,709
Total debt securities	6,650	80	(17)	6,713
Equity securities	80	—	(1)	79
	$ 6,730	$ 80	$ (18)	$ 6,792

	December 31,	
Contractual maturity	2008	2007
Maturing in one year or less	$3,179	$2,269
Maturing after one year through three years	3,724	2,611
Maturing after three years	2,542	1,833
Total debt securities	9,445	6,713
Equity securities	57	79
	$9,502	$6,792

	December 31,	
Classification in Consolidated Balance Sheets	2008	2007
Cash and cash equivalents	$1,774	$2,024
Marketable securities	7,778	5,127
Other assets — noncurrent	30	30
	9,582	7,181
Less cash	(80)	(389)
	$9,502	$6,792

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The primary objectives for our marketable security investment portfolio are liquidity and safety of principal. Investments are made with the objective of achieving the highest rate of return consistent with these two objectives. Our investment policy limits investments to certain types of debt and money market instruments issued by institutions primarily with investment grade credit ratings and places restrictions on maturities and concentration by type and issuer.

We review periodically our available-for-sale securities for other than temporary declines in fair value below the cost basis and whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. As of December 31, 2008 and 2007, the Company believes that the cost basis for our available-for-sale securities was recoverable in all material respects.

Derivative instruments

We use financial instruments, including foreign currency forward, foreign currency option and interest rate swap contracts to manage our exposures to movements in foreign exchange rates and interest rates. The use of these financial instruments modifies the exposure of these risks with the intent to reduce the risk or cost to us. We do not use derivatives for speculative trading purposes and are not a party to leveraged derivatives.

We recognize all of our derivative instruments as either assets or liabilities at fair value in our Consolidated Balance Sheets. Fair value is determined in accordance with SFAS No. 157 (see Note 13, "*Fair values*"). The accounting for changes in the fair value of a derivative instrument depends on whether it has been designated and qualifies as part of a hedging relationship and further, on the type of hedging relationship. For derivatives designated as hedges, we formally assess, both at inception and periodically thereafter, whether the hedging derivatives are highly effective in offsetting changes in either the fair value or cash flows of the hedged item. Our derivatives that are not designated and do not qualify as hedges are adjusted to fair value through current earnings.

We enter into foreign currency forward and option contracts to protect against possible changes in values of certain anticipated foreign currency cash flows resulting from changes in foreign currency exchange rates, primarily associated with sales denominated in Euros. These contracts are designated as cash flow hedges and accordingly, the gains and losses on these forward and option contracts are reported in accumulated other comprehensive income and reclassified to earnings, specifically product sales, in the same periods during which the hedged transactions affect earnings. During the years ended December 31, 2008, 2007 and 2006, unrealized and realized gains and losses on these foreign currency forward and option contracts were not material. No portions of these contracts are excluded from the assessment of hedge effectiveness, and there are no material ineffective portions of these hedging instruments. At December 31, 2008 and 2007, amounts in accumulated other comprehensive income related to cash flow hedges were not material.

We also enter into foreign currency forward contracts to reduce exposures to foreign currency fluctuations of certain assets and liabilities denominated in foreign currencies. These forward contracts have not been designated as hedges and accordingly, changes in the fair value of these foreign currency forward contracts are recognized in interest and other income, net in the current period. During the years ended December 31, 2008, 2007 and 2006, gains and losses on these foreign currency forward contracts were not material.

We also have interest rate swap agreements, which qualify and are designated as fair value hedges, to achieve a desired mix of fixed and floating interest rate debt. The terms of the interest rate swap agreements correspond to the related hedged debt instruments. As a result, there is no material hedge ineffectiveness. During the years ended December 31, 2008, 2007 and 2006, gains and losses on these interest rate swap agreements were not material and were fully offset by the losses and gains on the hedged debt instruments through current earnings.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Inventories

Inventories are stated at the lower of cost or market. Cost, which includes amounts related to materials, labor and overhead, is determined in a manner which approximates the first-in, first-out ("FIFO") method. During 2008, we wrote-off $84 million of inventory resulting from a strategic decision to change manufacturing processes. During 2007, we wrote-off $90 million of excess inventory principally due to changing regulatory and reimbursement environments. Such charges are included in "Cost of sales (excludes amortization of acquired intangible assets)" in our Consolidated Statements of Income. Inventories consisted of the following (in millions):

	December 31,	
	2008	2007
Raw materials	$ 112	$ 173
Work in process	1,519	1,246
Finished goods	444	672
	$2,075	$2,091

Depreciation

Depreciation of buildings, equipment, furniture and fixtures is provided over their estimated useful lives on a straight-line basis. Leasehold improvements are amortized on a straight-line basis over the shorter of their estimated useful lives or lease terms. Useful lives by asset category are as follows:

Asset Category	Years
Buildings and improvements	10-40
Manufacturing equipment	5-12
Laboratory equipment	5-12
Furniture, fixtures and other assets	3-15

Property, plant and equipment

As of December 31, 2008 and 2007, property, plant and equipment are recorded at cost and consisted of the following (in millions):

	December 31,	
	2008	2007
Land	$ 456	$ 451
Buildings and improvements	3,205	3,102
Manufacturing equipment	1,431	1,221
Laboratory equipment	923	831
Furniture, fixtures and other assets	3,154	3,003
Construction in progress	826	893
	9,995	9,501
Less accumulated depreciation and amortization	(4,116)	(3,560)
	$ 5,879	$ 5,941

We review our property, plant and equipment assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

During the years ended December 31, 2008, 2007 and 2006, we recognized depreciation and amortization charges associated with our property, plant and equipment of $648 million, $786 million and $547 million, respectively.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Intangible assets and goodwill

Intangible assets are recorded at cost, less accumulated amortization. Amortization of intangible assets is provided over their estimated useful lives ranging from 5 to 15 years on a straight-line basis (weighted average remaining amortization period of 8 years at December 31, 2008). As of December 31, 2008 and 2007, intangible assets consisted of the following (in millions):

Intangible assets subject to amortization	Weighted average amortization period	December 31, 2008	December 31, 2007
Acquired product technology rights:			
Developed product technology[1]	15 years	$ 2,872	$ 2,872
Core technology[1]	15 years	1,348	1,348
Trade name[1]	15 years	190	190
Acquired R&D technology rights[2]	5 years	350	350
Other intangible assets[3]	10 years	537	456
		5,297	5,216
Less accumulated amortization		(2,309)	(1,884)
		$ 2,988	$ 3,332

(1) Amortization is included in "Amortization of acquired intangible assets" in the Consolidated Statements of Income.
(2) Amortization is included in "Research and development" expense in the Consolidated Statements of Income.
(3) Amortization is principally included in "Cost of sales" and "Selling, general and administrative" expense in the Consolidated Statements of Income.

Acquired product technology rights relate to the identifiable intangible assets acquired in connection with the Immunex Corporation ("Immunex") acquisition in July 2002. Intangible assets also include acquired research and development ("R&D") technology rights consisting of technology used in R&D with alternative future uses. Acquired R&D technology rights principally include certain technology acquired in the Abgenix, Inc. ("Abgenix") acquisition (see Note 8, "*Acquisitions*"). During the years ended December 31, 2008, 2007 and 2006, we recognized amortization charges associated with our intangible assets of $425 million, $416 million and $416 million, respectively. The total estimated amortization for each of the next five years for our intangible assets is $425 million, $418 million, $367 million, $344 million and $335 million in 2009, 2010, 2011, 2012 and 2013, respectively.

We review our intangible assets for impairment periodically and whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. During the years ended December 31, 2007 and 2006, we recognized $3 million and $49 million, respectively, of impairment charges related to a non-ENBREL related intangible asset previously acquired in the Immunex acquisition, which is included in "Amortization of acquired intangible assets" in the Consolidated Statements of Income.

We had $11.3 billion and $11.2 billion of goodwill at December 31, 2008 and 2007, respectively, which primarily relates to the acquisition of Immunex. The increase in 2008 is principally related to the goodwill associated with our acquisition of the remaining 51% ownership interest of Dompé Biotec, S.p.A ("Dompé") on January 4, 2008 (see Note 8, "*Acquisitions*"). We perform an impairment test annually and whenever events or changes in circumstances indicate that the carrying amount of goodwill may not be recoverable.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Product sales

Product sales primarily consist of sales of Aranesp® (darbepoetin alfa), EPOGEN® (Epoetin alfa), Neulasta® (pegfilgrastim), NEUPOGEN® (Filgrastim) and Enbrel® (etanercept).

Sales of our products are recognized when shipped and title and risk of loss have passed. Product sales are recorded net of accruals for estimated rebates, wholesaler chargebacks, discounts and other incentives (collectively "sales incentives") and returns. Taxes assessed by government authorities on the sales of the Company's products, primarily in Europe, are excluded from revenues.

We have the exclusive right to sell Epoetin alfa for dialysis, certain diagnostics and all non-human, non-research uses in the United States. We sell Epoetin alfa under the brand name EPOGEN®. We granted to Ortho Pharmaceutical Corporation (which has assigned its rights under the product license agreement to Ortho Biotech Products, L.P. ("Ortho Biotech")), a subsidiary of Johnson & Johnson ("J&J"), a license relating to Epoetin alfa for sales in the United States for all human uses except dialysis and diagnostics. This license agreement, which is perpetual, may be terminated for various reasons, including upon mutual agreement of the parties, or default. The parties are required to compensate each other for Epoetin alfa sales that either party makes into the other party's exclusive market, sometimes referred to as "spillover." Accordingly, we do not recognize product sales we make into the exclusive market of J&J and do recognize the product sales made by J&J into our exclusive market. Sales in our exclusive market are derived from our sales to our customers, as adjusted for spillover. We are employing an arbitrated audit methodology to measure each party's spillover based on estimates of and subsequent adjustments thereto of third-party data on shipments to end users and their usage.

Other revenues

Other revenues consist of royalty income and corporate partner revenues. Royalties from licensees are based on third-party sales of licensed products and are recorded in accordance with contract terms when third-party results are reliably measurable and collectibility is reasonably assured. Royalty estimates are made in advance of amounts collected using historical and forecasted trends. Pursuant to the license agreement with J&J, noted above, we earn a 10% royalty on net sales, as defined, of Epoetin alfa by J&J in the United States. Corporate partner revenues are primarily comprised of amounts earned from Kirin-Amgen, Inc. ("KA") for certain R&D activities and are generally earned as the R&D activities are performed and the amounts become due (see Note 4, "*Related party transactions*"). In addition, corporate partner revenues include license fees and milestone payments associated with collaborations with third parties. Revenue from non-refundable, upfront license fees where we have continuing involvement is recognized ratably over the estimated period of ongoing involvement. Revenue associated with performance milestones is recognized based upon the achievement of the milestones, as defined in the respective agreements. Our collaboration agreements with third parties are performed on a "best efforts" basis with no guarantee of either technological or commercial success.

Research and development costs

R&D costs are expensed as incurred and primarily include salaries, benefits and other staff-related costs; facilities and overhead costs; clinical trial and related clinical manufacturing costs; contract services and other outside costs; information systems' costs and amortization of acquired technology used in R&D with alternative future uses. R&D expenses include costs incurred under R&D arrangements with our corporate partners, such as activities performed on behalf of KA, and costs and cost recoveries associated with collaborative R&D and in-licensing arrangements, including upfront fees and milestones paid to collaboration partners in connection with technologies that have no alternative future use. Net payment or reimbursement of R&D costs for R&D collaborations are recognized as the obligation has been incurred or as we become entitled to the cost recovery.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Selling, general and administrative costs

Selling, general and administrative ("SG&A") expenses are primarily comprised of salaries, benefits and other staff-related costs associated with sales and marketing, finance, legal and other administrative personnel; facilities and overhead costs; outside marketing, advertising and legal expenses and other general and administrative costs.

We have a co-promotion agreement with Wyeth. Under the terms of this agreement, Amgen and Wyeth market and sell ENBREL in the United States and Canada and develop certain future indications of ENBREL for use in these geographic territories. Wyeth is paid a share of the resulting profits on our sales of ENBREL, after deducting the applicable costs of sales, including manufacturing costs and royalties paid to third parties, and certain expenses associated with R&D and sales and marketing. The profit share paid to Wyeth is included in "Selling, general and administrative" in the Consolidated Statements of Income. The rights to market ENBREL outside of the United States and Canada are reserved to Wyeth. We also have a global supply agreement with Wyeth related to the manufacture, supply and allocation of bulk supply of ENBREL. For the years ended December 31, 2008, 2007 and 2006, the Wyeth profit share expense, excluding recoveries recorded as part of our restructuring, was $1,195 million, $984 million and $837 million, respectively (see Note 2, "*Restructuring*").

Advertising costs are expensed as incurred. For the years ended December 31, 2008, 2007 and 2006, advertising costs were $81 million, $93 million and $134 million, respectively.

Acquired in-process research and development

For acquisitions prior to January 1, 2009, the estimated fair value of acquired in-process R&D ("IPR&D") projects, which have not reached technological feasibility at the date of acquisition and which do not have an alternative future use, are immediately expensed. In 2007, we wrote-off $270 million and $320 million of acquired IPR&D related to the Alantos Pharmaceuticals Holding, Inc. ("Alantos") and Ilypsa, Inc. ("Ilypsa") acquisitions, respectively. In 2006, we wrote-off $1.1 billion and $130 million of acquired IPR&D related to the Abgenix and Avidia, Inc. ("Avidia") acquisitions, respectively. Acquired IPR&D is considered part of total R&D expense (see Note 8, "*Acquisitions*"). See "*Recent accounting pronouncements*" below.

Share based payments

We have employee compensation plans under which various types of stock-based instruments are granted. We account for our share-based payments in accordance with SFAS No. 123(R), "*Share-Based Payment*" ("SFAS 123(R)"). This statement requires all share-based payments to employees, including grants of employee stock options, to be recognized in the Consolidated Statements of Income as compensation expense (based on their estimated fair values) generally over the vesting period of the awards. (See Note 3, "*Employee stock-based payments*").

Interest costs

Interest costs are expensed as incurred, except to the extent such interest is related to construction in progress, in which case interest is capitalized. Interest expense, net for the years ended December 31, 2008, 2007 and 2006 was $316 million, $328 million and $129 million, respectively. Interest costs capitalized for the years ended December 31, 2008, 2007 and 2006 were $22 million, $28 million and $43 million, respectively. Interest paid, net of interest rate swap settlement activity, during the years ended December 31, 2008, 2007 and 2006, totaled $303 million, $258 million and $122 million, respectively. Included in interest expense, net, for the year ended December 31, 2007, is a pro rata portion, $51 million, of deferred financing and related costs, which were immediately charged to interest expense upon the repurchase of the 2032 Modified Convertible Notes. (See "*Recent accounting pronouncements*" below and Note 6, "*Financing arrangements*.")

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Earnings per share

Basic earnings per share ("EPS") is based upon the weighted-average number of common shares outstanding. Diluted EPS is based upon the weighted-average number of common shares and dilutive potential common shares outstanding. Potential common shares outstanding principally include stock options, restricted stock (including restricted stock units) and other equity awards under our employee compensation plans and potential issuance of stock upon the assumed conversion of our 2011 Convertible Notes, 2013 Convertible Notes and 2032 Modified Convertible Notes, as discussed below, and upon the assumed exercise of our warrants using the treasury stock method (collectively "Dilutive Securities"). The convertible note hedges purchased in connection with the issuance of our 2011 Convertible Notes and 2013 Convertible Notes are excluded from the calculation of diluted EPS as their impact is always anti-dilutive. For further information regarding our convertible notes and warrants, see Note 6, "*Financing arrangements.*"

Our 2011 Convertible Notes, 2013 Convertible Notes and 2032 Modified Convertible Notes are considered Instrument C securities as defined by Emerging Issues Task Force Issue ("EITF") No. 90-19 "*Convertible Bonds with Issuer Option to Settle for Cash upon Conversion.*" Therefore, only the shares of common stock potentially issuable with respect to the excess of the notes' conversion value over their principal amount, if any, are considered as dilutive potential common shares for purposes of calculating diluted EPS. For the years ended December 31, 2008, 2007 and 2006, the conversion values for our convertible notes were less than the related principal amounts and, accordingly, no shares were assumed to be issued for purposes of computing diluted EPS. For further information regarding our convertible notes, see Note 6, "*Financing arrangements*."

The following table sets forth the computation for basic and diluted EPS (in millions, except per share information):

	Years ended December 31,		
	2008	2007	2006
Income (Numerator):			
Net income for basic and diluted EPS	$4,196	$3,166	$2,950
Shares (Denominator):			
Weighted-average shares for basic EPS	1,070	1,117	1,176
Effect of Dilutive Securities, primarily stock options	5	6	14
Weighted-average shares for diluted EPS	1,075	1,123	1,190
Basic EPS	$ 3.92	$ 2.83	$ 2.51
Diluted EPS	$ 3.90	$ 2.82	$ 2.48

For the years ended December 31, 2008, 2007 and 2006, there were employee stock options, calculated on a weighted average basis, to purchase 45 million, 48 million and 13 million shares, respectively, with exercise prices greater than the average market prices of common stock that are not included in the computation of diluted EPS as their impact would have been anti-dilutive. In addition, shares which may be issued upon conversion of our convertible debt or upon exercise of our warrants are not included above as their impact on diluted EPS would have been anti-dilutive. Shares which may be issued under our 2007 performance award programs were also excluded because conditions under the programs were not met as of December 31, 2008.

Recent accounting pronouncements

In May 2008, the FASB issued FASB Staff Position ("FSP") No. APB 14-1, "*Accounting for Convertible Debt Instruments That May Be Settled in Cash upon Conversion (Including Partial Cash Settlement)*" ("FSP APB 14-1") that changes the method of accounting for convertible debt securities that require or permit settlement in cash either in whole or in part upon conversion, including our convertible debt securities (see Note 6,

"*Financing arrangements*"). We will adopt FSP APB 14-1, effective January 1, 2009, and retrospectively apply this change in accounting to all prior periods presented for which we had applicable outstanding convertible debt, as required by this new standard. Under this new method of accounting, the debt and equity components of our convertible debt securities will be bifurcated and accounted for separately in a manner that will result in recognizing interest expense on these securities at effective rates reflective of what we would have incurred had we issued nonconvertible debt with otherwise similar terms. The equity component of our convertible debt securities will be included in "Stockholders' equity" on our Consolidated Balance Sheets and, accordingly, the initial carrying values of these debt securities will be reduced. Our net income for financial reporting purposes will be reduced by recognizing the accretion of the reduced carrying values of our convertible debt securities to their face amounts as additional non-cash interest expense. The adoption of FSP APB 14-1 will result in a reduction in the carrying value of our convertible debt by approximately $824 million as of December 31, 2008 and will increase interest expense, net by approximately $234 million, $168 million and $197 million, for the years ended December 31, 2008, 2007 and 2006, respectively. This new standard will also materially increase interest expense in future periods that our convertible debt is outstanding, but will have no impact on past or future cash flows.

In December 2007, the FASB issued SFAS No. 141(R), "*Business Combinations*" ("SFAS 141(R)") and SFAS No. 160, "*Accounting and Reporting of Noncontrolling Interests in Consolidated Financial Statements — an amendment of ARB No. 51*" ("SFAS 160"). These standards will significantly change the accounting and reporting for business combination transactions and noncontrolling (minority) interests in consolidated financial statements, including capitalizing the fair value of acquired IPR&D at the acquisition date and subsequently testing these assets for impairment. These new standards will be applied prospectively for business combinations that occur on or after January 1, 2009, except that presentation and disclosure requirements of SFAS 160 regarding noncontrolling interests will be applied retrospectively.

In June 2008, the FASB ratified EITF Issue No. 07-5, "*Determining Whether an Instrument (or Embedded Feature) Is Indexed to an Entity's Own Stock*" ("EITF 07-5"). Equity-linked instruments (or embedded features) that otherwise meet the definition of a derivative as outlined in SFAS No. 133, "*Accounting for Derivative Instruments and Hedging Activities*" ("SFAS 133"), are not accounted for as derivatives if certain criteria are met, one of which is that the instrument (or embedded feature) must be indexed to the entity's own stock. EITF 07-5 provides guidance on how to determine if equity-linked instruments (or embedded features) such as warrants to purchase our stock, our convertible notes and convertible note hedges are considered indexed to our stock. We will adopt EITF 07-5, effective January 1, 2009, and apply its provisions to outstanding instruments as of that date. The adoption of EITF 07-5 will not have a material impact on our consolidated results of operations, financial position or cash flows.

In December 2007, the FASB ratified EITF 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, which includes certain arrangements the Company has entered into regarding development and commercialization of products and product candidates. EITF 07-1 is effective for the Company as of January 1, 2009, and its adoption will not have a material impact on our consolidated results of operations, financial position or cash flows.

2. Restructuring

On August 15, 2007, we announced a plan to restructure our worldwide operations in order to improve our cost structure while continuing to make significant R&D investments and build the framework for our future growth. This restructuring plan was primarily the result of regulatory and reimbursement developments that began in 2007 involving erythropoiesis-stimulating agent ("ESA") products, including our marketed ESA products Aranesp® and EPOGEN®, and the resulting impact on our operations.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Through December 31, 2008, we have completed substantially all of the actions initially included in our restructuring plan. Key components of our restructuring plan initially included: (i) worldwide staff reductions aggregating approximately 2,500 positions, (ii) rationalization of our worldwide network of manufacturing facilities in order to gain cost efficiencies while continuing to meet future commercial and clinical demand for our products and product candidates and, to a lesser degree, changes to certain R&D capital projects and (iii) abandoning leases primarily for certain R&D facilities that will not be used in our operations. During 2008, we identified certain additional initiatives designed to further assist in improving our cost structure, including outsourcing certain non-core business functions, most notably certain of our information systems' infrastructure services, as well as abandoning leases for certain additional facilities that will no longer be used in our operations. The estimated cost of these additional initiatives is $95 million to $135 million. As a result of these additional initiatives and certain minor changes in the expected costs for the actions initially included in our restructuring plan, the total charges currently expected to be incurred in connection with our restructuring plan, including related implementation costs, has been increased to $950 million to $985 million, as compared to our prior estimate of $775 million to $825 million as of December 31, 2007. Through December 31, 2008, we have incurred $887 million of these costs and estimate that all remaining costs will be incurred through 2009. Such cost estimates and amounts incurred are net of amounts recovered from our ENBREL co-promotion partner, Wyeth.

The following tables summarize the charges (credits) recorded during the years ended December 31, 2008 and 2007 related to the restructuring plan by type of activity (in millions):

Year ended December 31, 2008	Separation costs	Asset impairments	Accelerated depreciation	Other	Total
Cost of sales (excluding amortization of intangible assets)	$ —	$ 6	$ —	$ —	$ 6
Research and development	3	—	—	—	3
Selling, general and administrative	—	17	—	20	37
Other charges	7	36	—	49	92
Interest and other income, net	—	—	—	10	10
	$ 10	$ 59	$ —	$ 79	$ 148

Year ended December 31, 2007	Separation costs	Asset impairments	Accelerated depreciation	Other	Total
Cost of sales (excluding amortization of intangible assets)	$ (1)	$ 4	$ 147	$ —	$ 150
Research and development	(19)	38	—	—	19
Selling, general and administrative	(11)	—	1	(114)	(124)
Other charges	209	366	—	119	694
	$ 178	$ 408	$ 148	$ 5	$ 739

As noted above, since the inception of our restructuring plan, we have incurred $887 million of the estimated $950 million to $985 million of charges expected to be incurred. The charges incurred through December 31, 2008 include $188 million of separation costs, $467 million of asset impairments, $148 million of accelerated depreciation and $84 million of other charges, which primarily include $161 million of loss accruals for leases, $10 million loss on the disposal of certain less significant marketed products, $9 million for implementation costs associated with certain restructuring initiatives and $19 million of other charges, offset by $115 million of cost recoveries from Wyeth.

During the years ended December 31, 2008 and 2007, we recorded staff separation costs of $10 million and $209 million, respectively, principally consisting of severance. Partially offsetting these amounts in "Cost of

sales (excluding amortization of intangible assets)," "Research and development" and "Selling, general and administrative" expenses for the year ended December 31, 2007 are the reversal of previously accrued expenses for bonuses and stock-based compensation awards totaling $31 million, which were forfeited as a result of the employees' termination.

We also recorded asset impairment charges of $59 million and $408 million during the years ended December 31, 2008 and 2007, respectively. The charges for both periods represent the write-off of the total cost of the related assets as they were abandoned with no alternative future uses or residual value. The charges for 2008 included impairments primarily for certain manufacturing-related assets. The charges in 2007 were primarily incurred in connection with our decisions to make changes to certain manufacturing and, to a lesser degree, certain R&D capital projects and to close certain production operations. In particular, these decisions in 2007 included certain revisions to and the subsequent indefinite postponement of our planned Ireland manufacturing operations, certain revisions to our planned manufacturing expansion in Puerto Rico and the closure of a clinical manufacturing facility in Thousand Oaks, California.

In addition, in connection with the rationalization of our worldwide network of manufacturing facilities in 2007, we decided to accelerate the closure of one of our ENBREL commercial bulk manufacturing operations. The decision to accelerate the closure of this manufacturing operation was principally based on a thorough review of the supply plans for bulk ENBREL inventory across its worldwide manufacturing network, including consideration of expected increases in manufacturing yields, and the determination that the related assets no longer had any alternative future uses in our operations. Because the related estimated future cash flows for this manufacturing operation were sufficient to recover the respective book values, we were required to accelerate depreciation of the related assets rather than immediately impairing their carrying values. The amount included in "Cost of sales (excluding amortization of intangible assets)" in the table above, $147 million, represents the excess of the accelerated depreciation expense recognized during the year ended December 31, 2007 over the depreciation that would otherwise have been recorded, $6 million, if there were no plans to accelerate the closure of this manufacturing operation.

During the years ended December 31, 2008 and 2007, we also recorded cost recoveries of $1 million and $114 million, respectively, for certain restructuring charges, principally with respect to accelerated depreciation, in connection with our co-promotion agreement with Wyeth. Such amounts are recorded as a reduction of the Wyeth profit share expense included in "Selling, general and administrative" expenses. Also included in "Selling, general and administrative" expenses in 2008 are $12 million of loss accruals for leases principally related to certain facilities that will not be used in our operations and $9 million for implementation costs associated with certain restructuring initiatives. In addition during the years ended December 31, 2008 and 2007, we accrued $49 million and $119 million, respectively, included in "Other charges," primarily related to loss accruals for leases for certain facilities that will not be used in our operations. For 2007, these charges primarily related to loss accruals for leases for certain R&D facilities. In addition, in 2008, we recorded a $10 million loss on the disposal of certain less significant marketed products that is included in "Interest and other income, net."

The following table summarizes the charges and spending relating to the restructuring plan (in millions):

	Separation costs	Other	Total
Restructuring reserves as of January 1, 2007	$ —	$ —	$ —
Expense	209	119	328
Payments	(112)	(17)	(129)
Restructuring reserves as of December 31, 2007	97	102	199
Expense	10	76	86
Payments	(103)	(16)	(119)
Restructuring reserves as of December 31, 2008	$ 4	$162	$ 166

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The Company records restructuring activities in accordance with SFAS 88, *Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits*, SFAS 144, *Accounting for the Impairment and Disposal of Long-Lived Assets* and SFAS 146, *Accounting for Costs Associated with Exit or Disposal Activities*.

3. Employee stock-based payments

We have employee compensation plans under which various types of stock-based instruments are granted. These instruments, as more fully described below, principally include stock options, restricted stock (including restricted stock units) and performance units. As of December 31, 2008, these plans provide for future grants and/or issuances of up to approximately 25 million shares of common stock to our employees. Stock-based awards under our employee compensation plans are made with newly issued shares reserved for this purpose.

The following table reflects the components of stock-based compensation expense recognized in our Consolidated Statements of Income for the years ended December 31, 2008, 2007 and 2006 (in millions):

	2008	2007	2006
Stock options	$103	$181	$ 233
Restricted stock	105	76	58
Performance units	54	6	112
Total stock-based compensation expense, pre-tax	262	263	403
Tax benefit from stock-based compensation expense	(89)	(81)	(117)
Total stock-based compensation expense, net of tax	$173	$182	$ 286

During the year ended December 31, 2007, based on revised estimates of our operating performance, we reduced the expense associated with our performance units recorded in prior years by approximately $60 million.

Employee stock option and restricted stock grants

Our equity-based compensation plans provide for grants of stock options to employees. The option exercise price is set at the closing price of our common stock on the date of grant, and the related number of shares granted is fixed at that point in time. These plans also provide for grants of restricted stock and restricted stock units. Grants of these equity instruments generally vest/have restrictions which lapse over a four year period. In addition, stock option awards expire seven years from the date of grant. Eligible employees generally receive a grant of stock options and/or restricted stock units annually with the number of shares and type of instrument generally determined by the employee's salary grade and performance level. In addition, certain management and professional level employees typically receive stock options and/or restricted stock unit grants upon commencement of employment. These stock-based plans provide for accelerated or continued vesting/lapse of restrictions in certain circumstances, including upon death, disability, a change in control as defined in the plans, or retirement of employees who meet certain service and/or age requirements.

We use the Black-Scholes option valuation model to estimate the grant date fair value of employee stock options. The expected volatility reflects the consideration of the implied volatility in publicly traded instruments associated with Amgen's common stock during the period the options were granted. We believe implied volatility in these instruments is more indicative of expected future volatility than the historical volatility in the price of our common stock. As permitted by the Securities and Exchange Commission ("SEC") Staff Accounting Bulletin No. 107, we estimated the expected life of stock options using the "simplified" method during the years ended December 31, 2007 and 2006. Under this method, the expected life was equal to the arithmetic average of the vesting term and the original contractual term of the option. Commencing in 2008, we use historical data to estimate the expected life of the options. The risk-free interest rates for periods within the expected life of the option are based on the U.S. Treasury yield curve in effect during the period the options were granted. The

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

weighted-average assumptions used to estimate the fair value of the stock options using the Black-Scholes option valuation model were as follows for the years ended December 31, 2008, 2007 and 2006:

	2008	2007	2006
Fair value of common stock	$ 43.60	$ 62.92	$ 71.16
Fair value of stock options granted	$ 14.50	$ 19.06	$ 21.70
Risk-free interest rate	2.9%	4.5%	4.8%
Expected life (in years)	4.6	4.7	4.8
Expected volatility	31.6%	24.9%	24.1%
Expected dividend yield	0%	0%	0%

Stock option information with respect to our stock-based compensation plans during the three years ended December 31, 2008 is as follows:

	Options (in millions)	Weighted-average exercise price	Weighted-average remaining contractual life (years)	Aggregate intrinsic value (in millions)
Balance unexercised at December 31, 2005	67.6	$ 56.03		
Granted	11.8	$ 71.17		
Assumed from acquisitions (including 1.5 vested)	2.2	$ 29.94		
Exercised	(10.7)	$ 40.94		
Forfeited/expired	(2.7)	$ 58.10		
Balance unexercised at December 31, 2006	68.2	$ 60.11		
Granted	7.6	$ 62.89		
Exercised	(4.2)	$ 42.92		
Forfeited/expired	(9.5)	$ 65.99		
Balance unexercised at December 31, 2007	62.1	$ 60.70		
Granted	6.9	$ 43.60		
Exercised	(3.8)	$ 37.82		
Forfeited/expired	(14.4)	$ 63.39		
Balance unexercised at December 31, 2008	50.8	$ 59.31	3.5	$ 196
Vested or expected to vest at December 31, 2008	50.1	$ 59.41	3.4	$ 190
Exercisable at December 31, 2008	34.6	$ 60.09	2.6	$ 106

The total intrinsic value of options exercised during the year ended December 31, 2008 was $68 million.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The fair values of shares of restricted stock are determined based on the closing price of Amgen common stock on the grant dates. Information regarding our restricted stock during the three years ended December 31, 2008 is as follows:

Nonvested shares	Shares (in millions)	Weighted-average grant date fair value
Nonvested at December 31, 2005	2.8	$ 58.90
Granted	2.3	$ 71.57
Vested	(0.7)	$ 59.29
Forfeited	(0.3)	$ 62.89
Nonvested at December 31, 2006	4.1	$ 65.77
Granted	3.6	$ 60.59
Vested	(1.2)	$ 64.74
Forfeited	(0.9)	$ 64.85
Nonvested at December 31, 2007	5.6	$ 62.94
Granted	5.2	$ 42.63
Vested	(1.7)	$ 62.94
Forfeited	(0.6)	$ 55.58
Nonvested at December 31, 2008	8.5	$ 50.73

The total fair value of shares of restricted stock that vested during the year ended December 31, 2008 was $77 million.

As of December 31, 2008, there was $518 million of total unrecognized compensation cost related to nonvested awards of both stock options and shares of restricted stock. That cost is expected to be recognized over a weighted-average period of 1.7 years. For stock option and restricted stock awards subject to graded vesting that were issued after January 1, 2006, we recognize compensation cost on a straight-line basis over the service period for the entire award.

Performance award program

Certain management-level employees receive annual grants of performance units, which give the recipient the right to receive common stock that is contingent upon achievement of specified pre-established performance goals over the performance period, which is generally three years. The performance goals are based upon one or more of the following, in each case with respect to compound annual growth rates as defined in the program: (i) Amgen's standalone financial performance, (ii) Amgen's financial performance compared to other benchmark companies and (iii) the Company's annual stockholder return. In general, participants vest in their performance unit awards at the end of the performance period. The performance award program provides for accelerated or continued vesting in certain circumstances, including upon death, disability, a change in control as defined, or retirement of employees who meet certain service and/or age requirements.

The performance period for those units granted in 2006, totaling approximately 1.1 million units, ended on December 31, 2008. These performance units were accounted for as liability awards and the expense recognized was based on the assigned value per unit, $71.88, multiplied by the estimated or actual number of units earned. The number of units earned was based on the Company's standalone and comparative financial performance. The aggregate dollar value of units earned is divided by the average closing price of our common stock during a specified period following the performance period to determine the number of shares of common stock payable to the recipient.

The performance units granted in 2007 and 2008, totaling approximately 1.3 million and 0.9 million, respectively, are accounted for as equity awards and include total stockholder return performance measures. The

awards granted in 2007 also include performance measures based on the Company's standalone financial performance. The expense recognized for the awards granted in 2007 is based on the grant date fair value of a unit multiplied by the estimated number of units to be earned with respect to the performance measures for the Company's standalone financial performance. The expense recognized for the awards granted in 2008 is based on the grant date fair value of a unit multiplied by the number of units granted. The impact of the Company's stockholder returns for the awards granted in 2007 and 2008 is reflected in the grant date fair values of the units, as discussed below. The number of shares of Amgen's common stock payable to the recipient for performance units granted in 2007 and 2008 will equal the number of performance units earned. With respect to those performance units granted in 2007 and 2008, there are approximately 2.0 million units which continue to be subject to performance conditions.

The grant date fair value of performance units granted in 2007 and 2008 was calculated using a lattice model with the following assumptions:

	2008	2007
Fair value of common stock	$ 44.62	$ 56.56
Fair value of unit	$ 36.91	$ 71.41
Risk-free interest rate	2.0%	4.0%
Expected volatility	32.4%	28.1%
Expected dividend yield	0%	0%

The lattice model uses terms based on the length of the performance period and compound annual growth rate goals for total stockholder return based on the provisions of the award. The assumptions with respect to the risk-free interest rate and expected volatility are computed in a similar manner as discussed above for stock options.

The performance period for those instruments granted in 2005 ended on December 31, 2007 and the related liability was paid by the issuance of approximately one million shares of our common stock to the participants in May 2008, net of shares withheld for taxes. The performance period for those instruments granted in 2004 ended on December 31, 2006 and the related liability was paid by the issuance of approximately one million shares of our common stock to the participants in May 2007, net of shares withheld for taxes.

As of December 31, 2008, there was approximately $50 million of total estimated unrecognized compensation cost related to the 2007 and 2008 performance unit grants that is expected to be recognized over a weighted-average period of approximately 1 year.

Under Accounting Principles Board ("APB") Opinion No. 25, "*Accounting for Stock Issued to Employees*" ("APB 25"), the estimated amounts owed for performance units granted in 2004 and 2005 were classified in stockholders' equity, but upon adoption of SFAS 123(R), these amounts were required to be classified as liabilities based upon the terms of these plans. Accordingly, on January 1, 2006, a reclassification was made from stockholders' equity to liabilities (current and non-current) totaling $104 million.

4. Related party transactions

We own a 50% interest in KA, a corporation formed in 1984 with Kirin Holdings Company, Limited ("Kirin") for the development and commercialization of certain products based on advanced biotechnology. We account for our interest in KA under the equity method and include our share of KA's profits or losses in "Selling, general and administrative" in the Consolidated Statements of Income. For the years ended December 31, 2008, 2007 and 2006, our share of KA's profits were $72 million, $51 million and $61 million, respectively. At December 31, 2008 and 2007, the carrying value of our equity method investment in KA, net of dividends paid, was $356 million and $292 million, respectively, and is included in non-current "Other assets" in the Consolidated Balance Sheets. KA's revenues consist of royalty income related to its licensed technology

rights. All of our rights to manufacture and market certain products including darbepoetin alfa, pegfilgrastim, granulocyte colony-stimulating factor ("G-CSF") and recombinant human erythropoietin are pursuant to exclusive licenses from KA, which we currently market under the brand names Aranesp®, Neulasta®, NEUPOGEN® and EPOGEN®, respectively. KA receives royalty income from us, as well as from Kirin, J&J and F. Hoffmann-La Roche Ltd. ("Roche") under separate product license agreements for certain geographic areas outside of the United States. During the years ended December 31, 2008, 2007 and 2006, KA earned royalties from us of $321 million, $336 million and $324 million, respectively. These amounts are included in "Cost of sales (excludes amortization of acquired intangible assets)" in the Consolidated Statements of Income. At December 31, 2008 and 2007, we owed KA $82 million and $91 million, respectively, which was included in "Accrued liabilities" in the Consolidated Balance Sheets.

KA's expenses primarily consist of costs related to R&D activities conducted on its behalf by Amgen and Kirin. KA pays Amgen and Kirin for such services at negotiated rates. During the years ended December 31, 2008, 2007 and 2006, we earned revenues from KA of $124 million, $180 million and $131 million, respectively, for certain R&D activities performed on KA's behalf. These amounts are included in "Other revenues" in the Consolidated Statements of Income. In addition, included in "Other revenues" in the Consolidated Statements of Income for the year ended December 31, 2007 is $45 million received from KA with respect to achieving certain regulatory filing milestones.

5. Income taxes

The provision for income taxes includes the following (in millions):

	Years ended December 31,		
	2008	2007	2006
Current provision:			
Federal	$ 866	$467	$1,392
State	82	40	73
Foreign	151	176	138
Total current provision	1,099	683	1,603
Deferred (benefit) provision:			
Federal	(3)	135	(481)
State	(36)	(24)	(49)
Foreign	(7)	1	(3)
Total deferred (benefit) provision	(46)	112	(533)
Total provision	$1,053	$795	$1,070

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Deferred income taxes reflect the temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes and the net tax effects of net operating loss and credit carryforwards. Significant components of our deferred tax assets and liabilities are as follows (in millions):

	December 31,	
	2008	2007
Deferred tax assets:		
Intercompany inventory related items	$ 359	$ 581
Expense accruals	576	535
Acquired net operating loss and credit carryforwards	243	399
Expenses capitalized for tax	175	134
Convertible debt	315	407
Stock-based compensation	220	128
Deferred revenue	153	—
Other	106	172
Total deferred tax assets	2,147	2,356
Valuation allowance	(106)	(166)
Net deferred tax assets	2,041	2,190
Deferred tax liabilities:		
Acquired intangibles	(1,025)	(1,167)
Fixed assets	(184)	(158)
Other	(154)	(185)
Total deferred tax liabilities	(1,363)	(1,510)
Total deferred taxes	$ 678	$ 680

At December 31, 2008, we had net current deferred tax assets of $859 million, primarily composed of temporary differences related to inventory, accrued liabilities and acquired net operating losses and credits. At December 31, 2007, our net current deferred tax assets were $1.2 billion.

The valuation allowance for deferred tax assets decreased by $60 million in 2008. The decrease was primarily due to the deferred tax expense relating to certain foreign subsidiaries' expenses capitalized for tax and expiration of certain acquired credit carryforwards. Valuation allowances are provided when we believe that our deferred tax assets are not recoverable based on an assessment of estimated future taxable income that incorporates ongoing, prudent and feasible tax planning strategies.

At December 31, 2008, we had operating loss carryforwards of $73 million available to reduce future federal taxable income, which will begin expiring in 2020. In addition, we had operating loss carryforwards of $765 million available to reduce future taxable income in various state taxing jurisdictions. We have provided a valuation allowance against $495 million of the state operating loss carryforwards. The state operating loss carryforwards will begin expiring in 2009.

At December 31, 2008, we had tax credit carryforwards of $32 million available to reduce future federal income taxes, which will begin expiring in 2009. We also had $124 million of tax credit carryforwards available to reduce future state income taxes which have no expiration date, and $79 million of state tax credit carryforwards for which a full valuation allowance has been provided.

Effective January 1, 2007, we adopted FASB Interpretation No. ("FIN") 48, "*Accounting for Uncertainty in Income Taxes — an interpretation of FASB Statement No. 109*" ("FIN 48"). FIN 48 clarifies the accounting for

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

uncertainty in income taxes by prescribing rules for recognition, measurement and classification in our consolidated financial statements of tax positions taken or expected to be taken in a tax return. For tax benefits to be recognized under FIN 48, a tax position must be more-likely-than-not to be sustained upon examination by taxing authorities. The amount recognized is measured as the largest amount of benefit that is greater than 50% likely of being realized upon settlement. There was no cumulative effect of applying the recognition and measurement provisions upon adoption of FIN 48.

FIN 48 also provides guidance on the balance sheet classification of liabilities for unrecognized tax benefits ("UTBs") as either current or non-current depending on the expected timing of payments. Upon adoption of FIN 48, we reclassified approximately $240 million of UTBs and related accrued interest from current income taxes payable to other non-current liabilities.

The reconciliation of the total gross amounts of UTBs for the years ended December 31, 2008 and 2007 is as follows (in millions):

	2008	2007
Balance at beginning of year	$ 922	$ 945
Additions based on tax positions related to the current year	382	458
Reductions for tax positions of prior years	—	(284)
Settlements	(191)	(197)
Balance at end of year	$1,113	$ 922

The majority of the UTBs as of December 31, 2008 and 2007, if recognized, would affect our effective tax rate.

During 2007, we settled our examination with the Internal Revenue Service ("IRS") for the years ended December 31, 2002, 2003, and 2004. We agreed to certain adjustments proposed by the IRS arising out of this examination primarily related to transfer pricing tax positions. Our closing agreement with the IRS also covers certain transfer pricing issues for the years ended December 31, 2005 and 2006.

During 2008, we reached an agreement with the IRS as to the amount of certain transfer pricing issues for the years ended December 31, 2005 and 2006 which were covered by the Closing Agreement entered into in 2007. However, these years have not been effectively settled for all other issues.

As of December 31, 2008, we believe that it was reasonably possible that our liabilities for UTBs may de-crease by $100 million within the succeeding twelve months due to potential resolution of the tax examination process.

Interest and penalties related to UTBs are included in our provision for income taxes. During 2008, we recognized approximately $71 million of interest and penalty expense through the income tax provision in the Consolidated Statement of Income. At December 31, 2008, there was approximately $119 million of accrued interest and penalties associated with UTBs.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The reconciliation between our effective tax rate and the federal statutory rate is as follows:

	Years ended December 31,		
	2008	2007	2006
Federal statutory rate applied to income before income taxes	35.0%	35.0%	35.0%
Foreign earnings, including earnings invested indefinitely	(15.9)%	(16.1)%	(18.3)%
State taxes	1.4%	1.1%	1.6%
Acquired IPR&D	0.0%	5.2%	10.7%
Audit settlements	0.0%	(3.6)%	(2.2)%
Utilization of tax credits, primarily research and experimentation	(1.0)%	(1.6)%	(1.0)%
Other, net	0.6%	0.1%	0.8%
Effective tax rate	20.1%	20.1%	26.6%

We do not provide for U.S. income taxes on undistributed earnings of our foreign operations that are intended to be invested indefinitely outside of the United States. At December 31, 2008, these earnings amounted to approximately $10.8 billion. If these earnings were repatriated to the United States, we would be required to accrue and pay approximately $3.8 billion of additional taxes based on the current tax rates in effect. For the years ended December 31, 2008, 2007 and 2006, our total foreign income before income taxes was approximately $2.6 billion, $2.4 billion, and $2.3 billion, respectively. These earnings include income from manufacturing operations in Puerto Rico under tax incentive grants that expire in 2020.

One or more of our legal entities file income tax returns in the U.S. federal jurisdiction, various U.S. state jurisdictions and certain foreign jurisdictions. Our income tax returns are routinely audited by the tax authorities in those jurisdictions. Significant disputes may arise with these tax authorities involving issues of the timing and amount of deductions, the use of credits, and allocations of income among various tax jurisdictions because of differing interpretations of tax laws and regulations. We are no longer subject to U.S. federal income tax examinations for tax years ending on or before December 31, 2004 or to California state income tax examinations for tax years ending on or before December 31, 2003.

Income taxes paid during the years ended December 31, 2008, 2007 and 2006, totaled $673 million, $895 million, and $987 million, respectively.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

6. Financing arrangements

The following table reflects the carrying value of our long-term borrowings under our various financing arrangements as of December 31, 2008 and 2007 (in millions):

	2008	2007
0.125% convertible notes due 2011 (2011 Convertible Notes)	$ 2,500	$ 2,500
0.375% convertible notes due 2013 (2013 Convertible Notes)	2,500	2,500
Floating rate notes due 2008 (2008 Floating Rate Notes)	—	2,000
5.85% notes due 2017 (2017 Notes)	1,099	1,099
4.85% notes due 2014 (2014 Notes)	1,000	1,000
4.00% notes due 2009 (2009 Notes)	1,000	999
6.375% notes due 2037 (2037 Notes)	899	899
6.15% notes due 2018 (2018 Notes)	499	—
6.90% notes due 2038 (2038 Notes)	498	—
Zero coupon 30 year modified convertible notes due in 2032 (2032 Modified Convertible Notes)	81	80
Other	100	100
Total borrowings	10,176	11,177
Less current portion	1,000	2,000
Total non-current debt	$ 9,176	$ 9,177

2018 Notes and 2038 Notes

In May 2008, we issued $500 million aggregate principal amount of notes due in 2018 (the “2018 Notes”) and $500 million aggregate principal amount of notes due in 2038 (the “2038 Notes”) in a registered offering. The 2018 Notes and 2038 Notes pay interest at fixed annual rates of 6.15% and 6.90%, respectively. Concurrent with the issuance of the 2018 Notes, we entered into interest rate swap agreements that effectively convert the payment of our fixed rate interest payments to variable rate interest payments over the life of the 2018 Notes. The 2018 Notes and 2038 Notes may be redeemed at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a “make-whole” amount, as defined. In the event of a change in control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2018 Notes and 2038 Notes at a price equal to 101% of the principal amount of the notes plus accrued interest. Debt issuance costs totaled approximately $6 million and are being amortized over the life of the notes.

2008 Floating Rate Notes, 2017 Notes and 2037 Notes

In May 2007, we issued $2.0 billion aggregate principal amount of floating rate notes due in November 2008 (the “2008 Floating Rate Notes”), $1.1 billion aggregate principal amount of notes due in 2017 (the “2017 Notes”) and $900 million aggregate principal amount of notes due in 2037 (the “2037 Notes”). The annual interest rate on our 2008 Floating Rate Notes was equal to LIBOR plus 0.08%, which was reset quarterly. The 2017 Notes and 2037 Notes pay interest at fixed annual rates of 5.85% and 6.375%, respectively. The 2017 Notes and 2037 Notes may be redeemed at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a “make-whole” amount, as defined. In the event of a change in control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2017 Notes and 2037 Notes at a price equal to 101% of the principal amount of the notes plus accrued interest. A total of $3.2 billion of the net proceeds raised from the issuance of these notes were used to repurchase shares of our common stock under an accelerated share repurchase program (“ASR”) entered into in May 2007. Upon the receipt of the proceeds from the issuance of the 2018 Notes and 2038 Notes discussed above, in June 2008 we

exercised our right to call and retired $1.0 billion of the 2008 Floating Rate Notes which were scheduled to mature in November 2008. The remaining $1.0 billion of the 2008 Floating Rate Notes matured and were retired in November 2008.

2011 and 2013 Convertible Notes

In February 2006, we issued $2.5 billion principal amount of convertible notes due in 2011 (the "2011 Convertible Notes") and $2.5 billion principal amount of convertible notes due in 2013 (the "2013 Convertible Notes"). The 2011 Convertible Notes and the 2013 Convertible Notes were issued at par and pay interest at a rate of 0.125% and 0.375%, respectively. The 2011 Convertible Notes and 2013 Convertible Notes may be converted based on an initial conversion rate of 12.5247 shares and 12.5814 shares, respectively, per $1,000 principal amount of notes (which represents an initial conversion price of approximately $79.84 and $79.48 per share, respectively). These conversion rates will be adjusted if we make specified types of distributions or enter into certain other transactions in respect to our common stock. The 2011 Convertible Notes and 2013 Convertible Notes may only be converted: (i) during any calendar quarter if the closing price of our common stock exceeds 130% of the respective conversion price per share during a defined period at the end of the previous quarter, (ii) if we make specified distributions to holders of our common stock or specified corporate transactions occur or (iii) one month prior to the respective maturity date. Upon conversion, a holder would receive the conversion value equal to the conversion rate multiplied by the volume weighted average price of our common stock during a specified period following the conversion date. The conversion value will be paid in: (i) cash equal to the lesser of the principal amount of the note or the conversion value, as defined, and (ii) to the extent the conversion value exceeds the principal amount of the note, shares of our common stock, cash or a combination of common stock and cash, at our option (the "excess conversion value"). In addition, upon a change in control, as defined, the holders may require us to purchase for cash all or a portion of their notes for 100% of the principal amount of the notes plus accrued interest. See Note 1, "*Summary of significant accounting policies — Recent accounting pronouncements*."

In connection with the issuance of these convertible notes, a total of $3.0 billion of our common stock was repurchased under our stock repurchase program. Also, concurrent with the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, we purchased convertible note hedges. The convertible note hedges allow us to receive shares of our common stock and/or cash from the counterparties to the transactions equal to the amounts of common stock and/or cash related to the excess conversion value that we would issue and/or pay to the holders of the 2011 Convertible Notes and 2013 Convertible Notes upon conversion. These transactions will terminate at the earlier of the maturity dates of the related notes or the first day none of the related notes remain outstanding due to conversion or otherwise. The cost of the convertible note hedges, which aggregated approximately $1.5 billion. The net proceeds from the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, the repurchase of our common stock and the purchase of the convertible note hedges was $439 million.

Also, concurrent with the issuance of the 2011 Convertible Notes and 2013 Convertible Notes, we sold warrants to acquire shares of our common stock at an exercise price of $107.90 per share. Pursuant to these transactions, warrants for approximately 31.3 million shares of our common stock may be settled in May 2011 and warrants for approximately 31.5 million shares of our common stock may be settled in May 2013 (the "settlement dates"). If the average price of our common stock during a defined period ending on or about the respective settlement dates exceeds the exercise price of the warrants, the warrants will be net settled, at our option, in cash or shares of our common stock. Proceeds received from the issuance of the warrants totaled approximately $774 million.

Because we have the choice of settling the convertible note hedges and warrants in cash or shares of our stock, and these contracts meet all of the applicable criteria for equity classification as outlined in EITF No. 00-19, "*Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock*," the cost of the convertible note hedges and net proceeds from the sale of the warrants are classified

in "Stockholders' equity" in the Consolidated Balance Sheets. In addition, because both of these contracts are classified in "Stockholders' equity" and are indexed to our own common stock, they are not accounted for as derivatives under SFAS 133.

2032 Modified Convertible Notes

In 2002, we issued zero coupon, 30 year convertible notes ("2032 Convertible Notes") with an aggregate face amount of $4.0 billion ($1,000 face amount per note) and yield to maturity of 1.125%. The original issue discount of $1.1 billion or $285.77 per note (prior to repurchase of a portion of the 2032 Convertible Notes discussed below) is being accreted and recognized as interest expense over the life of the 2032 Convertible Notes (or the 2032 Modified Convertible Notes, as discussed below) using the effective interest method.

The holders of the 2032 Convertible Notes had the right to require us to repurchase all or a portion of their notes on March 1, 2005. As a result of certain holders of the Convertible Notes exercising this March 1, 2005 put option, we repurchased $1.6 billion aggregate principal amount of 2032 Convertible Notes for their then-accreted value of $1.2 billion in cash. Upon the repurchase of such 2032 Convertible Notes, a pro rata portion, $20 million, of the related debt issuance costs was immediately charged to interest expense. We then made an aggregate cash payment of $22 million to the remaining holders of the 2032 Convertible Notes. Concurrently, we amended the terms of the 2032 Convertible Notes to add an additional put date in order to permit the remaining holders, at their option, to cause us to repurchase the remaining 2032 Convertible Notes on March 1, 2006 at the then-accreted value. Subsequently, substantially all of the convertible note holders did not require us to repurchase such notes on the March 1, 2006 put date.

On May 6, 2005, we exchanged new zero-coupon senior convertible notes (the "2032 Modified Convertible Notes") and a cash payment of approximately $6 million for approximately 95% of the remaining 2032 Convertible Notes then outstanding. Subsequently, we exchanged substantially all of the remaining outstanding 2032 Convertible Notes. The changes to the 2032 Convertible Notes outstanding as a result of these exchanges combined with those made in March 2005 were accounted for as a debt modification. Accordingly, all cash paid to the holders of the 2032 Modified Convertible Notes is being amortized to interest expense over the life of the convertible notes using the effective interest method, and the costs incurred to modify the terms of the convertible notes were expensed as incurred.

On March 2, 2007, as a result of holders of substantially all of our 2032 Modified Convertible Notes exercising their March 1, 2007 put option, we repurchased $2.3 billion aggregate principal amount of these convertible notes for their then accreted value of $1.7 billion in cash, representing the majority of the then outstanding balance of these notes. Upon the repurchase of these notes, a pro rata portion, $51 million, of deferred financing and related costs were immediately charged to interest expense.

Holders of 2032 Modified Convertible Notes may convert each of their notes based on a conversion rate of 8.8601 shares of common stock. The conversion price per share of the convertible notes as of any day will equal the original issuance price plus the accrued original issue discount to that day, divided by the conversion rate or $87.02 as of December 31, 2008. The 2032 Modified Convertible Notes can only be converted in certain circumstances. If converted, the 2032 Modified Convertible Notes will be settled for a "conversion value" equal to the product of the conversion rate (8.8601 shares of Amgen common stock per note as of December 31, 2008) multiplied by the average closing price of our common stock during a specified period following the conversion date. The conversion value is paid in: (i) cash equal to the lesser of the accreted value of the 2032 Modified Convertible Notes at the conversion date or the conversion value and (ii) shares of common stock, if any, to the extent the conversion value exceeds the accreted value. See Note 1, "*Summary of significant accounting policies — Recent accounting pronouncements*."

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

2009 Notes and 2014 Notes

At December 31, 2008 and 2007, we had $1.0 billion aggregate principal amount of notes with a fixed interest rate of 4.00% due in November of 2009 (the "2009 Notes") and $1.0 billion aggregate principal amount of notes with a fixed interest rate of 4.85% due 2014 (the "2014 Notes") outstanding.

Other

We had $100 million of debt securities outstanding at December 31, 2008 and 2007 with a fixed interest rate of 8.125% due in 2097 (the "Century Notes").

During the year ended December 31, 2007, we repaid $135 million of other debt securities.

Shelf registration statements and other facilities

In 2008, we filed a shelf registration statement with the SEC, which replaced our previous $1.0 billion shelf registration statement and allows us to issue an unspecified amount of debt securities; common stock; preferred stock; warrants to purchase debt securities, common stock, preferred stock or depository shares; rights to purchase common stock or preferred stock; securities purchase contracts; securities purchase units and depository shares. Under this registration statement, all of the securities available for issuance may be offered from time to time with terms to be determined at the time of issuance.

In 2008, we increased our commercial paper program by $1.3 billion, which provides for unsecured, short-term borrowings of up to an aggregate of $2.5 billion. We also have a $2.5 billion syndicated unsecured revolving credit facility which matures in November 2012 and is available for general corporate purposes, or as a liquidity backstop to our commercial paper program; however, $178 million of such commitment was provided by a subsidiary of Lehman Brothers Holdings Inc. ("Lehman"). Lehman declared bankruptcy on September 15, 2008, and the subsidiary participant in our credit facility subsequently declared bankruptcy on October 5, 2008. As a result, we would not anticipate the ability to access this specific commitment provided by Lehman in the future. No amounts were outstanding under the commercial paper program or credit facility as of December 31, 2008.

As of December 31, 2008, we have $400 million remaining under a shelf registration statement that was established in 1997. In connection with this shelf registration, we established a $400 million medium-term note program. All of the $400 million of debt securities available for issuance may be offered from time to time under our medium-term note program with terms to be determined at the time of issuance. As of December 31, 2008, no securities were outstanding under the $400 million medium-term note program.

To achieve a desired mix of fixed and floating interest rate debt, we enter into interest rate swap agreements that effectively convert a fixed rate interest coupon to a LIBOR-based floating rate coupon over the life of the respective note. These interest rate swap agreements qualify and are designated as fair value hedges. As of December 31, 2008, we had interest rate swap agreements for our 2009 Notes, 2014 Notes, 2018 Notes and Century Notes, with an aggregate face value of $2.6 billion. As of December 31, 2007, we had interest rate swap agreements for our 2009 Notes, 2014 Notes and Century Notes, with an aggregate face value of $2.1 billion.

Certain of our financing arrangements contain non-financial covenants and we were in compliance with all applicable covenants as of December 31, 2008. None of our financing arrangements contain any financial covenants.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Contractual maturities of long-term debt obligations

The aggregate contractual maturities of all long-term debt obligations due subsequent to December 31, 2008 are as follows (in millions):

Maturity date	Amount
2009	$ 1,000
2010	—
2011	2,500
2012[1]	84
2013	2,500
Thereafter	4,100
Total	$ 10,184

(1) This amount represents the 2032 Modified Convertible Notes' accreted value on March 1, 2012, the next date on which holders may put the debt to us for repayment.

7. Stockholders' equity

Stock repurchase program

A summary of the activity under our stock repurchase program for the years ended December 31, 2008, 2007 and 2006 is as follows (in millions):

	2008		2007		2006	
	Shares	Dollars	Shares	Dollars	Shares	Dollars
First quarter	—	$ —	8.8	$ 537	46.6	$ 3,374
Second quarter	32.7	1,549[1]	73.9[2]	4,463	13.0	876
Third quarter	—	19[1]	2.5[2]	—	7.3	505
Fourth quarter	12.6	700	1.8	100	3.3	245
Total	45.3	$ 2,268	87.0	$ 5,100	70.2	$ 5,000

(1) The total cost of shares repurchased during the three months ended June 30, 2008 excludes approximately $19 million paid in July 2008 in connection with the final settlement of an ASR entered into in May 2008.

(2) The total number of shares repurchased during the three months ended June 30, 2007 excludes 2.5 million shares received in July 2007 in connection with the final settlement of an ASR entered into in May 2007.

In July 2007, the Board of Directors authorized us to repurchase up to $5.0 billion of common stock. As of December 31, 2008, we had $4.2 billion available for stock repurchases as authorized by our Board of Directors. The manner of purchases, the amount we spend and the number of shares repurchased will vary based on a variety of factors, including the stock price, blackout periods in which we are restricted from repurchasing shares, and our credit rating and may include private block purchases as well as market transactions. In addition to the shares repurchased under our publicly announced stock repurchase program, for the years ended December 31, 2008, 2007 and 2006, we withheld shares for the payment of taxes upon vesting of certain employees restricted stock aggregating $26 million, $23 million and $21 million, respectively.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Accumulated other comprehensive income

The components of accumulated other comprehensive income as of December 31, 2008 are as follows (in millions):

	Before-tax	Tax impact	After-tax
Unrealized gains on foreign currency hedges	$ 82	$ (32)	$ 50
Unrealized gains on available-for-sale securities	79	(30)	49
Cumulative foreign currency translation gain	46	(21)	25
Other	(11)	4	(7)
Balance as of December 31, 2008	$ 196	$ (79)	$ 117

The components of accumulated other comprehensive income as of December 31, 2007 are as follows (in millions):

	Before-tax	Tax impact	After-tax
Unrealized losses on foreign currency hedges	$ (73)	$ 28	$ (45)
Unrealized gains on available-for-sale securities	62	(23)	39
Cumulative foreign currency translation gain	89	(30)	59
Balance as of December 31, 2007	$ 78	$ (25)	$ 53

Other

In addition to common stock, our authorized capital includes 5 million shares of preferred stock, $0.0001 par value. At December 31, 2008 and 2007, no shares of preferred stock were issued or outstanding.

At December 31, 2008, we had reserved 236 million shares of our common stock, which may be issued through our employee compensation and stock purchase plans, through conversion of our convertible notes and through our warrants.

8. Acquisitions

Dompé Biotec, S.p.A

On January 4, 2008, we completed the acquisition of Dompé, a privately held company that marketed certain of our products in Italy. This acquisition was accounted for as a business combination. The purchase price was approximately $168 million, which included the carrying value of our existing 49% ownership in Dompé. The purchase price paid was allocated to net assets acquired of approximately $63 million based on their estimated fair values at the acquisition date and the excess of the purchase price over the fair values of net assets acquired of approximately $105 million was assigned to goodwill. There was no material gain or loss related to the reacquisition of marketing rights previously granted to Dompé as a result of this business combination. The results of Dompé's operations have been included in the consolidated financial statements commencing January 4, 2008. Pro forma results of operations for the year ended December 31, 2008 assuming the acquisition of Dompé had taken place at the beginning of 2008 would not differ significantly from the actual reported results.

Ilypsa, Inc.

On July 18, 2007, we completed the acquisition of Ilypsa, which was accounted for as a business combination. Ilypsa was a privately held company that specialized in the development of non-absorbed drugs for renal disorders. Pursuant to the merger agreement, we paid cash of approximately $400 million to acquire all of the outstanding shares of Ilypsa. The purchase price paid, including transaction costs, was allocated to acquired IPR&D of $320 million and other net assets acquired of $42 million, based on their estimated fair values at the

acquisition date. The excess of the purchase price over the fair values of assets and liabilities acquired of approximately $41 million was assigned to goodwill. The estimated fair value of the acquired IPR&D was determined based upon discounted after-tax cash flows adjusted for the probabilities of successful development and commercialization. The amount allocated to acquired IPR&D was immediately expensed in the Consolidated Statement of Income (see Note 1, "*Summary of significant accounting policies — Acquired in-process research and development*"). The results of Ilypsa's operations have been included in the consolidated financial statements commencing July 18, 2007. Pro forma results of operations for the year ended December 31, 2007 assuming the acquisition of Ilypsa had taken place at the beginning of 2007 would not differ significantly from the actual reported results.

Alantos Pharmaceuticals Holding, Inc.

On July 16, 2007, we completed the acquisition of Alantos, which was accounted for as a business combination. Alantos was a privately held company that specialized in the development of drugs for the treatment of diabetes and inflammatory diseases. Pursuant to the merger agreement, we paid cash of approximately $300 million to acquire all of the outstanding shares of Alantos. The purchase price paid, including transaction costs, was allocated to acquired IPR&D of $270 million and other net assets acquired of approximately $10 million, based on their estimated fair values at the acquisition date. The excess of the purchase price over the fair values of assets and liabilities acquired of $23 million was assigned to goodwill. The estimated fair value of the acquired IPR&D was determined based upon discounted after-tax cash flows adjusted for the probabilities of successful development and commercialization. The amount allocated to acquired IPR&D was immediately expensed in the Consolidated Statement of Income (see Note 1, "*Summary of significant accounting policies — Acquired in-process research and development*"). The results of Alantos' operations have been included in the consolidated financial statements commencing July 16, 2007. Pro forma results of operations for the year ended December 31, 2007 assuming the acquisition of Alantos had taken place at the beginning of 2007 would not differ significantly from the actual reported results.

In addition, proforma results of operations for the year ended December 31, 2007, assuming both the acquisitions of Ilypsa and Alantos had taken place at the beginning of 2007, would not differ significantly from the actual reported results.

Avidia, Inc.

On October 24, 2006, we completed the acquisition of Avidia, which was accounted for as a business combination. Avidia was a privately held company focused on the discovery and development of a new class of human therapeutic known as Avimer™ proteins. Pursuant to the merger agreement, we paid cash of approximately $275 million, net of cash acquired and our existing equity stake in Avidia, and may be subject to pay additional amounts upon the achievement of certain future events, as discussed further below. The purchase price, including cash paid to the former shareholders, the fair value of stock options assumed and transaction costs was allocated to acquired IPR&D of $130 million and other net assets acquired of $29 million, primarily intangible assets associated with R&D technology rights, based on their estimated fair values at the acquisition date. The excess of the purchase price over the fair values of assets and liabilities acquired of approximately $126 million was assigned to goodwill. The estimated fair values of the acquired IPR&D and the identifiable intangible asset were determined based upon discounted after-tax cash flows adjusted for the probabilities of successful development and commercialization. The amount allocated to acquired IPR&D was immediately expensed in the Consolidated Statement of Income (see Note 1, "*Summary of significant accounting policies — Acquired in-process research and development*"). The results of Avidia's operations have been included in the consolidated financial statements commencing October 24, 2006. Pro forma results of operations for the year ended December 31, 2006 assuming the acquisition of Avidia had taken place at the beginning of 2006 would not differ significantly from actual reported results.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

We may be required to pay an additional $30 million to the former Avidia shareholders if on or before October 24, 2009 we complete the first dosing in humans of a once per week subcutaneous formulation of a specified interleukin 6 ("IL-6") inhibitor molecule developed using Avidia's proprietary methodology. We also may be required to make an additional payment to the former Avidia shareholders if on or before December 31, 2010 we complete the first dosing of a registration-enabling clinical trial with any IL-6 inhibitor molecule developed using Avidia's proprietary methodology. If the first such dosing is completed on or before December 31, 2009, the amount of the payment owed would be $30 million; if the first dosing is completed after December 31, 2009 but on or before December 31, 2010, the amount of the payment owed would be reduced to $5 million.

Abgenix, Inc.

On April 1, 2006, we acquired all of the outstanding common stock of Abgenix, a company with expertise in the discovery and development of monoclonal antibodies. We paid cash consideration of $22.50 per share in this transaction that was accounted for as a business combination. Additionally, we issued 1.9 million stock options in exchange for Abgenix stock options assumed in the acquisition, 1.4 million of which were vested at the date of acquisition. The purchase price was as follows (in millions):

Cash paid for shares	$ 2,103
Other, principally fair value of vested options assumed	96
Total	$ 2,199

The purchase price was allocated to all of the tangible and amortizable intangible assets acquired, including acquired IPR&D, and liabilities assumed based on their estimated fair values at the acquisition date. The excess of the purchase price over the fair values of assets and liabilities acquired was assigned to goodwill. The following table summarizes the allocation of the purchase price (in millions):

Acquired IPR&D	$1,101
Identifiable intangible asset	320
Cash	252
Deferred tax assets, net	290
Property, plant and equipment	220
Other assets	75
Liabilities, principally debt	(743)
Goodwill	684
Net assets acquired	$2,199

The estimated fair values of the acquired IPR&D and the identifiable intangible asset were determined based upon discounted after-tax cash flows adjusted for the probabilities of successful development and commercialization. The identifiable intangible asset consists of certain technology that has alternative future uses in our R&D activities and will be amortized over its five-year estimated useful life. The amount allocated to acquired IPR&D was immediately expensed in the Consolidated Statement of Income (see Note 1, "*Summary of significant accounting policies — Acquired in-process research and development*"). The results of Abgenix's operations have been included in the consolidated financial statements commencing April 1, 2006. Pro forma results of operations for the year ended December 31, 2006 assuming the acquisition of Abgenix had taken place at the beginning of 2006 would not differ significantly from actual reported results.

In addition, proforma results of operations for the year ended December 31, 2006, assuming both the acquisitions of Avidia and Abgenix had taken place at the beginning of 2006, would not differ significantly from the actual reported results.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

9. Commitments

We lease certain administrative, R&D, sales and marketing and manufacturing facilities and equipment under non-cancelable operating leases that expire through December 2023. The following table summarizes the minimum future rental commitments under non-cancelable operating leases at December 31, 2008 (in millions):

Year ending December 31,	Lease commitments
2009	$ 126
2010	117
2011	105
2012	95
2013	91
Thereafter	530
Total	1,064
Less income from subleases	140
Net minimum operating lease payments	$ 924

Included in the table above are future rental commitments for abandoned leases in the amount of $337 million less assumed sublease income of $139 million. Rental expense on operating leases, net of sublease rental income, for the years ended December 31, 2008, 2007 and 2006 was $120 million, $104 million and $69 million, respectively. Sublease income for the years ended December 31, 2008, 2007 and 2006 was not material.

The following table summarizes the minimum contractual commitments to all third-party contract manufacturers at December 31, 2008 (in millions):

Year ending December 31,	Commitments
2009	$ 165
2010	141
2011	114
2012	59
2013	—
Thereafter	—
Total contractual purchases	$ 479

The amounts above primarily relate to our long-term supply agreement with Boehringer Ingelheim Pharma KG (“BI Pharma”) for the manufacture of commercial quantities of ENBREL. Under the terms of this agreement, we are required to purchase certain minimum quantities of ENBREL each year through 2012. Amounts owed to BI Pharma are based on firm commitments for the purchase of ENBREL and reflect certain estimates such as production run success rates and bulk drug yields achieved.

Amounts purchased under contractual inventory commitments from third-party contract manufacturers for the years ended December 31, 2008, 2007 and 2006 were $196 million, $153 million and $333 million, respectively.

10. Contingencies

In the ordinary course of business, we are involved in various legal proceedings and other matters that are complex in nature and have outcomes that are difficult to predict. In accordance with SFAS No. 5, “*Accounting for Contingencies*,” we record accruals for such contingencies to the extent that we conclude that it is probable that a liability will be incurred and the amount of the related loss can be reasonably estimated.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Certain of our legal proceedings and other matters are discussed below:

Transkaryotic Therapies ("TKT") and Aventis Litigation

On April 15, 1997, Amgen filed a lawsuit in the U.S. District Court for the District of Massachusetts (the "Massachusetts District Court") against TKT and Hoechst Marion Roussel, Inc. ("HMR" — now Aventis Pharmaceuticals Inc., together with TKT, the "TKT Defendants") alleging, after subsequent amendment, infringement of five U.S. patents owned by Amgen that included claims to erythropoietin products and processes for making erythropoietin products. Amgen sought an injunction preventing the TKT Defendants from making, importing, using or selling erythropoietin in the United States. The TKT Defendants' amended answer asserted that all five of the patents-in-suit were not infringed, were invalid and were unenforceable due to inequitable conduct.

As a result of multiple proceedings before the Massachusetts District Court and the United States Court of Appeals for the Federal Circuit (the "Federal Circuit"), it has been finally determined that claim 1 of U.S. Patent No. 5,955,422 ("the '422 Patent"), claims 1, 3, 4, 6 and 7 of U.S. Patent No. 5,756,349 ("the '349 Patent") and claims 4 through 9 of U.S. Patent No. 5,618,698 ("the '698 Patent"), are valid, enforceable and would be infringed by the TKT Defendant's erythropoietin product and the cells and processes used to produce it. Likewise, it was also determined that claims 2 through 4 of U.S. Patent No. 5,621,080 ("the '080 Patent") are valid and enforceable but not infringed, and that claims 1 and 2 of U.S. Patent No. 5,547,933 ("the '933 Patent") are invalid.

On October 2, 2008, the Massachusetts District Court entered a Memorandum and Order enjoining the TKT Defendants from infringing the '422 Patent, the '698 Patent and '349 Patent for the life of the patents, the last of which expires in 2015. No appeal from this judgment has been taken.

Average Wholesale Price ("AWP") Litigation

Amgen and Immunex are named as defendants, either separately or together, in numerous civil actions broadly alleging that they, together with many other pharmaceutical manufacturers, reported prices for certain products in a manner that allegedly inflated reimbursement under Medicare and/or Medicaid programs and commercial insurance plans, including co-payments paid to providers who prescribe and administer the products. The complaints generally assert varying claims under the Medicare and Medicaid statutes, as well as state law claims for deceptive trade practices, common law fraud and various related state law claims. The complaints seek an undetermined amount of damages, as well as other relief, including declaratory and injunctive relief.

The AWP litigation was commenced against Amgen and Immunex on December 19, 2001 with the filing of Citizens for Consumer Justice, et al. v. Abbott Laboratories, Inc., et al. Additional cases have been filed since that time. Most of these actions, as discussed below, have been consolidated, or are in the process of being consolidated, in a federal Multi-District Litigation proceeding ("the MDL Proceeding"), captioned In Re: Pharmaceutical Industry Average Wholesale Price Litigation MDL No. 1456 and pending in the Massachusetts District Court.

These cases have been consolidated into the MDL Proceeding, are being brought by consumer classes and certain state and local governmental entities. These cases consist of the following:

Citizens for Consumer Justice, et al., v. Abbott Laboratories, Inc., et al.; Teamsters Health & Welfare Fund of Philadelphia, et al., v. Abbott Laboratories, Inc., et al.; Action Alliance of Senior Citizens of Greater Philadelphia v. Immunex Corporation; Constance Thompson, et al., v. Abbott Laboratories, Inc., et al.; Ronald Turner, et al., v. Abbott Laboratories, Inc., et al.; Congress of California Seniors v. Abbott Laboratories, Inc., et al.; County of Suffolk v. Abbott Laboratories, Inc., et al.; County of Westchester v. Abbott Laboratories, Inc., et al.; County of Rockland v. Abbott Laboratories, Inc., et al.; City of New York v. Abbott Laboratories, Inc., et al.; County of Nassau v. Abbott Laboratories, Inc., et al; County of Onondaga v. Abbott Laboratories, Inc., et al.; County of Erie v. Abbott Laboratories, Inc., et al.; County of

Chenango v. Abbott Laboratories, Inc., et al.; County of Chautauqua v. Abbott Laboratories, Inc., et al.; County of Tompkins v. Abbott Laboratories, Inc., et al.; County of Wayne v. Abbott Laboratories, Inc., et al.; County of Monroe v. Abbott Laboratories, Inc., et al.; County of Washington v. Abbott Laboratories, Inc., et al.; County of Herkimer v. Abbott Laboratories, Inc., et al.; County of Cayuga v. Abbott Laboratories, Inc., et al.; County of Allegany v. Abbott Laboratories, Inc., et al.; County of Rensselaer v. Abbott Laboratories, Inc., et al.; County of Albany v. Abbott Laboratories, Inc., et al.; County of Cattaraugus v. Abbott Laboratories, Inc., et al.; County of Yates v. Abbott Laboratories, Inc., et al.; County of Broome v. Abbott Laboratories, Inc., et al.; County of Warren v. Abbott Laboratories, Inc., et al.; County of Greene v. Abbott Laboratories, Inc., et al.; County of Saratoga v. Abbott Laboratories, Inc., et al.; County of St. Lawrence v. Abbott Laboratories, Inc., et al.; County of Oneida v. Abbott Laboratories, Inc., et al.; County of Genesee v. Abbott Laboratories, Inc., et al.; County of Fulton v. Abbott Laboratories, Inc., et al.; County of Steuben v. Abbott Laboratories, Inc., et al.; County of Putnam v. Abbott Laboratories, Inc., et al.; County of Niagara v. Abbott Laboratories, Inc., et al.; County of Jefferson v. Abbott Laboratories, Inc., et al.; County of Madison v. Abbott Laboratories, Inc., et al.; County of Lewis v. Abbott Laboratories, Inc., et al.; County of Columbia v. Abbott Laboratories, Inc., et al.; County of Essex v. Abbott Laboratories, Inc., et al.; County of Cortland v. Abbott Laboratories, Inc., et al.; County of Seneca v. Abbott Laboratories, Inc., et al.; County of Orleans v. Abbott Laboratories, Inc., et al.; County of Duchess v. Abbott Laboratories, Inc., et al.; County of Ontario v. Abbott Laboratories, Inc., et al.; County of Schuyler v. Abbott Laboratories, Inc., et al.; County of Wyoming v. Abbott Laboratories, Inc., et al.; State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories, Inc., et al., State of Iowa v. Abbott Laboratories, Inc., et al.

In the MDL Proceeding, the Massachusetts District Court has set various deadlines relating to motions to dismiss the complaints, discovery, class certification, summary judgment and other pre-trial issues. For the private class action cases, the Massachusetts District Court has divided the defendant companies into a Track I group and a Track II group. The class certification hearing for the Track I group was held on February 10, 2004. On January 30, 2006, the Massachusetts District Court certified three classes (one nationwide class and two Massachusetts only classes) with respect to the Track I group. Both Amgen and Immunex are in the Track II group. On March 2, 2006, plaintiffs filed a fourth amended master consolidated complaint, which did not include their motion for class certification as to the Track II group. On September 12, 2006, a hearing before the Massachusetts District Court was held on plaintiffs' motion for class certification as to the Track II group defendants, which include Amgen and Immunex. On November 6, 2006, the Massachusetts District Court commenced the Track I trial as to the two Massachusetts only classes certified. Closing arguments in that case were held on January 26, 2007. On March 7, 2008, the Track II defendants reached a tentative class settlement of the MDL Proceeding, which was subsequently amended on April 3, 2008. The tentative Track II settlement relates to claims against numerous defendants, including Abbott Laboratories, Inc., Amgen Inc., Aventis Pharmaceuticals Inc., Hoechst Marion Roussel, Inc., Baxter Healthcare Corporation, Baxter International Inc., Bayer Corporation, Dey, Inc., Fujisawa Healthcare, Inc., Fujisawa USA, Inc., Immunex Corporation, Pharmacia Corporation, Pharmacia & Upjohn LLC (f/k/a Pharmacia & Upjohn, Inc.), Sicor, Inc., Gensia, Inc., Gensia Sicor Pharmaceuticals, Inc., Watson Pharmaceuticals, Inc. and ZLB Behring, L.L.C. A hearing before the Massachusetts District Court was held on April 9, 2008 and on July 2, 2008, the Massachusetts District Court issued an order of preliminary approval of the Track II defendants' class settlement and scheduled a fairness hearing for December 16, 2008. At that hearing, the District Court was not satisfied with several notice requirements the plaintiffs were to have completed prior to the hearing and rescheduled the fairness hearing for April 27, 2009.

For the state and local governmental entities in the MDL Proceeding, on July 30, 2008, the Massachusetts District Court issued an order granting in part and denying in part Amgen's renewed Motion to Dismiss the First Amended Consolidated Complaint filed by New York City and 44 New York counties in the MDL Proceeding. The judge dismissed claims relating to all of Amgen's products named in the New York counties' first amended complaint with the exception of claims relating to NEUPOGEN®. Subsequent to the filing of Amgen's

motion, the New York counties filed a Revised First Amended Consolidated Complaint. It is unclear what bearing the Massachusetts District Court's decision will have on the revised complaint.

Certain AWP litigation cases remain part of the MDL Proceeding but are likely to be remanded. These cases are:

State of Iowa v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on October 9, 2007 in the U.S. District Court for the Southern District of Iowa. On October 9, 2007, Immunex was served with the complaint and on October 25, 2007, Amgen was served with the complaint. On November 20, 2007, this case was removed to the District of Massachusetts and was transferred to the MDL Proceeding. On January 18, 2008, a status conference was held. A Joint Motion to Dismiss was filed on February 20, 2008, and the motion was granted in part, denied in part on August 29, 2008.

Certain AWP litigation cases are not a part of the MDL Proceeding. These cases are:

Robert J. Swanston v. TAP Pharmaceutical Products, Inc., et al. This Arizona state class action was filed against Amgen and Immunex on December 20, 2002 in the Maricopa County, Arizona Superior Court. The Maricopa County, Arizona Superior Court set a hearing on plaintiffs' motion to certify a statewide class for May 13, 2005; however, the state court stayed the entire case on March 10, 2005. The case remains stayed and another status conference was held on March 17, 2008. On August 6, 2008, Defendants filed a motion for summary judgment. The hearing on defendants' motion for summary judgment was postponed due to need for assignment of a new judge. On October 20, 2008, the Track II defendants filed a motion to stay all proceedings.

Commonwealth of Pennsylvania v. TAP Pharmaceutical Products, Inc., et al. This case was filed against Amgen in the Commonwealth Court for Pennsylvania in Harrisburg, Pennsylvania on March 10, 2004. On March 10, 2005, the Commonwealth of Pennsylvania filed an amended complaint, adding Immunex, and defendants filed Preliminary Objections. A hearing on the Preliminary Objections was held on June 8, 2005. On July 13, 2005, defendants filed a notice of removal from the Commonwealth Court for Pennsylvania to the U.S. District Court for the Eastern District of Pennsylvania (the "Pennsylvania District Court"). This case was remanded to state court by order dated September 9, 2005. Amgen and Immunex filed answers to the complaint on January 5, 2006. Immunex filed an answer to the Commonwealth of Pennsylvania's amended complaint on April 6, 2006. On October 11, 2006, the case was removed to the Pennsylvania District Court. Plaintiffs filed a motion to remand and on January 22, 2007, the Pennsylvania District Court stayed the case pending transfer to the MDL Proceeding. A hearing on plaintiff's motion to remand was held on February 1, 2007. On September 1, 2007, the case was remanded to the Commonwealth Court for Pennsylvania. Currently, the parties have briefed and are awaiting the court's ruling on the protective order to be entered in the case.

State of Wisconsin v. Amgen Inc., et al. An amended complaint was filed against Amgen and Immunex on November 1, 2004 in the Circuit Court for Dane County, Wisconsin. Defendants' filed their motions to dismiss the complaint on January 20, 2005. On July 13, 2005, defendants filed a notice of removal from the Circuit Court to the U.S. District Court for the Western District of Wisconsin (the "Wisconsin District Court"). This case was remanded to state court by order dated September 29, 2005. On October 11, 2006, this case was removed to the Wisconsin District Court. Plaintiffs filed a motion to remand and on January 16, 2007, the Wisconsin District Court remanded the case back to state court. On July 16, 2007, defendants filed a motion to sever, which was denied on September 28, 2007. Amgen and Immunex reached a settlement with the State, and both companies were dismissed with prejudice from the case on December 22, 2008. Amgen and Immunex admitted to no wrongdoing as part of the settlement agreement.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Commonwealth of Kentucky v. Alpharma, Inc., et al. This case was filed against Amgen and Immunex on November 4, 2004 in the Franklin County Circuit Court, Franklin County, Kentucky. Defendants filed their motions to dismiss the complaint on February 1, 2005. On July 13, 2005, defendants filed a notice of removal from County Circuit Court to the U.S. District Court for the Eastern District of Kentucky. A hearing on plaintiffs' opposition to the proposed transfer of this case to the MDL Proceeding in Boston was considered by the Joint Panel on Multidistrict Litigation on November 17, 2005. This case was remanded to state court by order dated March 16, 2006. A hearing on defendants' motion to dismiss was held on June 6, 2006. Defendants filed a motion to sever the case on July 9, 2007, and a decision on that motion is pending. A case management conference was held on February 27, 2008, and a trial date of May 16, 2009 has been set for the first defendant, which did not include Amgen. On June 20, 2008, Immunex was dismissed with prejudice from the matter after reaching a settlement with the Commonwealth of Kentucky. Amgen subsequently reached a settlement with the Commonwealth and was dismissed with prejudice from the case on January 12, 2009. Amgen and Immunex admitted to no wrongdoing as part of the settlement agreements.

State of Alabama v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex on January 26, 2005, in the Circuit Court of Montgomery County, Alabama. On July 13, 2005, defendants filed a notice of removal from the Circuit Court to the U.S. District Court for the Middle District of Alabama (the "Alabama District Court"). This case was remanded to state court by order dated August 11, 2005. Defendants' motions to dismiss were denied on October 13, 2005. Amgen and Immunex filed their answer to plaintiff's second amended complaint on January 30, 2006. On October 11, 2006, this case was removed to the Alabama District Court. On November 3, 2006, this case was remanded to state court. On January 22, 2007, the state court issued an order assigning defendants into four tracks for trial. Amgen and Immunex were assigned to Track 4. The Track 1 trial commenced on February 11, 2008. Two additional trials of non-Track 4 defendants (which did not include Amgen and Immunex) were held in June 2008. Following these trials, plaintiff Alabama filed a motion to set a trial date for four additional companies, including Amgen and Immunex. The state court granted the motion and set trial for Amgen and Immunex for February 2009. The plaintiff also filed a motion to consolidate the four defendants into one trial and the motion to consolidate was granted as to two of the four defendants, which did not include Amgen or Immunex. Amgen and Immunex reached a settlement with the State, and both companies were dismissed with prejudice from the case on December 19, 2008. Amgen and Immunex admitted to no wrongdoing as part of the settlement agreement.

People of State of Illinois v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex on February 7, 2005 in the Circuit Court for Cook County, Illinois. Defendants filed their motions to dismiss the complaint on June 7, 2005. A hearing on plaintiffs' opposition to the proposed transfer of this case to the MDL Proceeding in Boston was considered by the Joint Panel on Multidistrict Litigation on November 17, 2005. This case was remanded to state court by order dated March 16, 2006. On October 11, 2006, this case was removed to the U.S. District Court for the Northern District of Illinois. On December 14, 2006, the case was transferred to the MDL Proceeding. A hearing before the Massachusetts District Court on plaintiff's motion to remand was held on February 1, 2007. On September 1, 2007, the case was remanded to the state court. Defendants have filed a joint motion to dismiss and a hearing on the motions to dismiss was held on March 13, 2008. An amended complaint was filed on June 10, 2008 in the state court. A status hearing was held on July 22, 2008 and on October 29, 2008.

State of Mississippi v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on October 20, 2005 in the Chancery Court of Hinds County, Mississippi, First Judicial District. The complaint alleges that defendants reported prices for certain products in a manner that allegedly inflated reimbursement under the Mississippi state Medicaid program. On October 11, 2006, this case was removed to the U.S. District Court for the Northern District of Mississippi. On October 25, 2006, the case was transferred to the MDL Proceeding. A hearing before the Massachusetts District Court on plaintiff's motion to remand was held on February 1, 2007. On September 1, 2007, the case was

remanded to the state court. On December 13, 2007, defendants' motion to dismiss for subject matter jurisdiction was denied. On September 3, 2008, order to sever defendants and transfer the case was granted. Defendants are awaiting the assignment of a new judge in a new county.

State of Arizona, etc., et al. v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on December 7, 2005 in Maricopa County, Arizona. The complaint alleges that Amgen and Immunex, together with many other pharmaceutical manufacturers, reported prices for certain products in a manner that allegedly inflated reimbursement under the Arizona state Medicaid program. On October 10, 2006, this case removed to the Massachusetts District Court and was transferred to the MDL Proceeding. Plaintiff's motion to remand was denied on October 25, 2006.

State of Alaska v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on October 6, 2006 in the Alaska Superior Court in Anchorage, Alaska. The compliant alleges that Amgen and Immunex, together with many other pharmaceutical manufacturers, reported prices for certain products in a manner that allegedly inflated reimbursement under the Alaska state Medicaid program. Amgen and Immunex were served with the complaint on October 19, 2006. Amgen and Immunex filed motions to dismiss on January 5, 2007. A hearing on defendants', which includes Amgen and Immunex together with other pharmaceutical manufacturers, motions to dismiss was held on May 9, 2007. At this hearing, the court orally denied the joint motion to dismiss. A tentative trial date of April 2010 has been set. On February 4, 2008, Immunex was dismissed from the case without prejudice. Amgen subsequently reached a settlement with the State and was dismissed with prejudice from the case on January 2, 2009. Amgen admitted to no wrongdoing as part of the settlement agreement.

County of Erie v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex on March 8, 2005, in the Supreme Court of New York, Erie County. The complaint alleges that all defendants participated in a scheme to market the spread between the true wholesale price (i.e., selling price) and the false and inflated AWP reported, in order to increase market share, thus defrauding the county Medicaid program. On April 15, 2005, defendants filed a notice of removal from the state court to the U.S. District Court for the Western District of New York (the "New York District Court"). This case was remanded to state court by order dated January 10, 2006. A hearing on defendants' motion to dismiss was held on May 2, 2006. On September 7, 2006, the state court granted in part, and denied in part, defendants' motions to dismiss. Immunex's motion to dismiss was granted and Amgen's motion to dismiss was denied. On October 11, 2006, this case was removed to the New York District Court. On September 1, 2007, the case was remanded to the state court. The State of New York Litigation Coordinating Panel granted defendants' motions to coordinate the Erie, Oswego and Schenectady County cases.

County of Schenectady v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on May 9, 2006 in the Supreme Court of New York, Schenectady County. On August 21, 2006, Immunex was served with the complaint and on August 24, 2006, Amgen was served with the complaint. On October 11, 2006, this case was removed to the U.S. District Court for the Northern District of New York. Plaintiffs filed a motion to remand on November 6, 2006. On September 1, 2007, the case was remanded to the state court. The State of New York Litigation Coordinating Panel granted defendants' motions to coordinate the Erie, Oswego and Schenectady County cases.

County of Oswego v. Abbott Laboratories, Inc., et al. This case was filed against Amgen and Immunex, along with several other pharmaceutical manufacturers, on May 9, 2006 in the Supreme Court of New York, Oswego County. On August 21, 2006, Immunex was served with the complaint and on August 24, 2006, Amgen was served with the complaint. On October 11, 2006, this case was removed to the U.S. District

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Court for the Northern District of New York. Plaintiffs filed a motion to remand on November 6, 2006. On September 1, 2007, the case was remanded to the state court. The State of New York Litigation Coordinating Panel granted defendants' motions to coordinate the Erie, Oswego and Schenectady County cases.

State of Kansas, ex rel Steve Six v. Amgen Inc. and Immunex Corporation. On November 3, 2008, the State of Kansas filed a complaint against Amgen and Immunex in the District Court of Wyandotte County, Kansas, Civil Court Division. Approximately forty other pharmaceutical manufacturers were also sued by the state. Plaintiff Kansas alleges that the manufacturers misrepresented product pricing information reported to the state by falsely inflating those prices.

Roche Matters

Amgen Inc. v. F. Hoffmann-La Roche Ltd., et al.

On November 8, 2005, Amgen filed a lawsuit in the U.S. District Court for the District of Massachusetts (the "Massachusetts District Court") against F. Hoffmann-La Roche Ltd., Roche Diagnostics GmbH, and Hoffmann-La Roche, Inc. (collectively, "Roche Defendants") seeking a declaration by the court that the importation, use, sale or offer to sell pegylated erythropoietin (alternatively referred to as peg-EPO or MIRCERA®) infringes Amgen's EPO patents. Amgen alleged infringement of six of its U.S. Patents that claim erythropoietin products, pharmaceutical compositions, and processes for making erythropoietin, specifically U.S. Patent No. 5,547,933 ("the '933 Patent"), U.S. Patent No. 5,621,080 ("the '080 Patent"), U.S. Patent No. 5,955,422 ("the '422 Patent"), U.S. Patent No. 5,756,349 ("the '349 Patent"), U.S. Patent No. 5,618,698 ("the '698 Patent") and U.S. Patent No. 5,441,868 ("the '868 Patent"). Amgen sought a permanent injunction preventing the Roche Defendants from making, importing, using, offering for sale or selling recombinant human erythropoietin, including pegylated EPO, in the United States. The Roche Defendants' amended answer asserted that all six of the patents-in-suit were not infringed, were invalid and were unenforceable due to inequitable conduct and counterclaimed asserting violations of federal and state antitrust laws. On June 5, 2007, the Massachusetts District Court entered an order dismissing the '080 Patent from the case.

On August 27, 2007, the Massachusetts District Court granted Amgen's motions for summary judgment that the '349 Patent, the '422 Patent and the '933 Patent are not invalid for obviousness-type double patenting over Amgen's now expired U.S. Patent 4,703,008 ("the '008 Patent") and that certain of the asserted patent claims are not invalid for indefiniteness, lack of written description or lack of enablement. On August 28, 2007, the Massachusetts District Court granted Amgen's motion for summary judgment of infringement of claim 1 of the '422 Patent.

During the period starting September 4, 2007 and ending October 18, 2007, Amgen's remaining patent infringement claims were tried before a jury along with certain of the Roche Defendants' defenses and counterclaims of non-infringement and patent invalidity. On September 25, 2007, the Massachusetts District Court granted judgment as a matter of law that the Roche Defendants had not satisfied its burden of proving that '422 Patent claim 1 is anticipated. On October 16, 2007, the Massachusetts District Court granted judgment as a matter of law that Amgen had not satisfied its burden to prove that the production of Roche Defendants' peg-EPO product infringes claim 7 of the '349 Patent. On October 17, 2007, the Massachusetts District Court granted judgment as a matter of law that Amgen had not satisfied its burden to prove that the Roche Defendants' peg-EPO product infringes claim 9 of the '933 Patent. On October 23, 2007, the jury rendered a verdict that claim 1 of the `422 Patent, claims 3, 7, 8, 9, 11, 12 and 14 of the `933 Patent, claims 1 and 2 of the `868 Patent, claims 6 through 9 of the `698 Patent and claim 7 of the `349 Patent were valid and that claims 3, 7, 8 and 12 of the '933 Patent, claims 1 and 2 of the '868 Patent and claims 6 through 9 of the '698 Patent will be infringed by the Roche Defendants.

Roche's defenses and counterclaims of invalidity based on obviousness-type double patenting and unenforceability based on alleged inequitable conduct were tried to the Massachusetts District Court in separate

proceedings. On October 23, 2007, the Massachusetts District Court ruled that Roche did not meet its burden to prove the patents-in-suit are unenforceable. On October 30, 2007, the Massachusetts District Court granted Roche's post-trial motion overturning the jury's verdict of infringement of claim 12 of the '933 Patent.

Evidentiary hearings were held on November 15, 2007 and December 5-7, 2007 before the Massachusetts District Court concerning Amgen's request for a permanent injunction. On February 29, 2008, the Massachusetts District Court preliminarily enjoined the Roche Defendants from infringing the claims of the patents-in-suit found to have been infringed. Roche appealed this grant of a preliminary injunction but the Federal Circuit affirmed the District Court's actions on October 10, 2008.

On October 2, 2008, the Massachusetts District Court entered an Order denying the parties' post-trial motions and upholding the jury's verdict in all respects except infringement of claim 12 of the '933 Patent under the Doctrine of Equivalents, finding that the '868 Patent and the '698 Patent were not invalid for obviousness-type double patenting in view of the '008 Patent, that the '933 Patent, the '422 Patent and the '349 Patent were not invalid for obviousness-type double patenting in view of the '868 Patent or the '698 Patent, and that the Roche Defendants antitrust counterclaims were moot. On October 17, 2008, the Massachusetts District Court entered judgment that the patents-in-suit are valid, enforceable and infringed and permanently enjoined Roche from infringing the '422 Patent, the '933 Patent, the '868 Patent and the '698 Patent for the remaining life of these patents.

On December 15, 2008, the Roche Defendants filed their opening brief with the Federal Circuit in support of their appeal of the Massachusetts District Court's final judgment and permanent injunction. On January 27, 2009, Amgen filed its brief in response to the Roche Defendants appeal and in support of Amgen's cross-appeal of the Massachusetts District Court's judgment of non-infringement of '349 claim 7 and '933 claims 9, 11-12 and 14. The Roche Defendant's brief in opposition to Amgen's cross appeal and in reply to Amgen's opposition to the Roche appeal is due by March 9, 2009.

U.S. International Trade Commission

On April 11, 2006, Amgen filed a complaint with the U.S. International Trade Commission ("ITC") in Washington D.C. requesting that the ITC institute an investigation of Roche's importation of peg-EPO into the United States as Amgen believes that importation of peg-EPO is unlawful because peg-EPO, and the method of its manufacture, are covered by Amgen's EPO patents. Amgen asked the ITC to issue a permanent exclusion order that would prohibit importation of peg-EPO into the United States. The ITC instituted an investigation of Roche's importation of peg-EPO into the United States.

On July 7, 2006, the Administrative Law Judge ("ALJ") at the ITC issued a summary determination that Roche's importation and use of peg-EPO in the United States to date are subject to a clinical trial exemption to patent infringement. On July 14, 2006, Amgen filed a petition requesting that the ALJ's summary determination be reviewed by the full ITC and on August 31, 2006, the ITC adopted the ALJ's summary determination terminating the investigation based on the clinical trial exemption to patent infringement liability under 35 U.S.C. 271(e)(1).

On October 11, 2006, Amgen filed a petition for review of the ITC's decision with the Federal Circuit. On March 19, 2008, the Federal Circuit issued a ruling on Amgen's appeal reversing the ITC's dismissal of the investigation on jurisdictional grounds and remanding the case for further proceeding to determine if infringement has occurred or will occur and to provide a remedy, if appropriate. In May 2008, Roche and the ITC filed a motion asking the Federal Circuit to reconsider its ruling in Amgen's favor, which is still pending before the court.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Amgen Inc., et al., v. Ariad Pharmaceuticals, Inc.

On April 20, 2006, Amgen, Immunex, Amgen USA Inc., Amgen Manufacturing, Limited and Immunex Rhode Island Corporation (the "Amgen Entities") filed a complaint against Ariad Pharmaceuticals, Inc. ("Ariad") in the U.S. District Court for the District of Delaware (the "Delaware District Court") requesting that the court declare all of the claims of U.S. Patent Number 6,410,516 ("the '516 Patent") invalid and not infringed by any activities related to ENBREL or Kineret®. The '516 Patent is exclusively licensed to Ariad. On April 13, 2007, the Amgen Entities filed an amended complaint for declaratory judgment of invalidity and non-infringement against Ariad and the Whitehead Institute for Biomedical Research (the "Whitehead Institute"). On April 13, 2007, Ariad, the Whitehead Institute, Massachusetts Institute of Technology ("MIT") and The President and Fellows of Harvard College ("Harvard") filed an answer to Amgen's amended complaint and a counterclaim against the Amgen Entities and Wyeth for patent infringement.

On May 30, 2007, Ariad filed a motion for leave to file amended counterclaims to assert additional claims for infringement of U.S. Patent Nos. 6,150,090 ("the '090 Patent") and 5,804,374 ("the '374 Patent"), which was granted by The Delaware District Court on September 13, 2007. On October 9, 2007 Amgen filed its reply to Ariad's amended counterclaims. The Court scheduled a separate trial in March 2009 on the '090 Patent and '374 Patent. On December 11, 2007, Wyeth and Ariad filed a stipulated dismissal without prejudice and the Delaware District Court granted the motion on December 12, 2007. On January 31, 2008, Ariad agreed to dismiss with prejudice its claims of infringement with respect to the '090 Patent and '374 Patent for any of Amgen's activities as of the date of the dismissal. The Delaware District Court granted the dismissal with prejudice on February 1, 2008.

With respect the '516 Patent, both parties filed dispositive motions on April 25, 2008. On June 19, 2008, the Delaware District Court held a hearing on the dispositive motions and issues of claim construction. On September 19, 2008, the Delaware District Court issued an order construing the claims of the '516 Patent and granted summary judgment that ENBREL does not infringe the '516 Patent. Also on September 19, 2008, the Delaware District Court granted summary judgment in-part in favor of Ariad, ruling that Amgen could not prove inequitable conduct on the basis of one of its claims, but that sufficient evidence exists for a trial on inequitable conduct on Amgen's alternative bases. The Delaware District Court also dismissed Amgen's claims of invalidity on the claims of the '516 Patent not asserted by Ariad to be infringed by sales of ENBREL (Ariad had asserted that only seven of the 203 patent claims were infringed), but the Delaware District Court maintained Amgen's unenforceability claims to all 203 claims of the '516 patent. The Delaware District Court acknowledged in its ruling that Ariad asserted it would no longer pursue its claim of infringement by Kineret®. On October 3, 2008, the Delaware District Court stayed Amgen's invalidity and unenforceability claims and entered final judgment of no infringement in favor of Amgen. The Delaware District Court declared the case administratively closed, to be reopened only by the parties after a decision on appeal.

On October 6, 2008, Ariad filed a notice of appeal. Ariad filed its Appellate brief on December 16, 2008 with the Federal Circuit, appealing the District Court's claim construction order and grant of summary judgment of noninfringment. Amgen filed its opposition brief on January 28, 2009. Ariad filed its reply brief on February 17, 2009. Oral argument on appeal remains to be scheduled.

Human Genome Sciences Litigation

On August 30, 2007, Human Genome Sciences ("HGS") filed an action under 35 U.S.C. §146 against Amgen and Immunex in the Delaware District Court to review the judgment entered July 27, 2007 by the Board of Patent Appeals and Interferences in Interference No. 105,381. Amgen filed its Answer and Counterclaims to the complaint on October 22, 2007 and HGS filed its reply on November 9, 2007. On February 3, 2009, the Delaware District Court entered an order staying the case until further order of the court on a joint request by the parties.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

On November 30, 2007, HGS filed an action under 35 U.S.C. §146 against Amgen in the Delaware District Court to review a Decision on Motions entered on July 26, 2007 and the Final Judgment entered November 20, 2007 by the Board of Patent Appeals and Interferences in Interference No. 105,240. On May 9, 2008, the Delaware District Court granted Amgen's Motion to Dismiss the complaint with prejudice pursuant to Rule 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim. HGS filed a Notice of Appeal to the Federal Circuit and on January 7, 2009, HGS filed its opening brief on appeal.

Sensipar® Abbreviated New Drug Application ("ANDA") Litigation

On July 25, 2008, Amgen, NPS Pharmaceuticals ("NPS") and Brigham and Women's Hospital ("BWH"), filed a lawsuit against Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries Ltd. (collectively "Teva") and Barr Laboratories, Inc. ("Barr") in the Delaware District Court for infringement of four patents — U.S. Patent Nos. 6,001,068; 6,031,003; 6,313,146; and 6,211,244. The lawsuit is based on ANDAs filed by Teva and Barr which seek approval to market generic versions of Sensipar®. Amgen's filing of the lawsuit stays any U.S. Food and Drug Administration ("FDA") approval of the Teva or Barr ANDA until September 2011, unless there is an earlier decision by the Delaware District Court adverse to Amgen.

On November 13, 2008, the Delaware District Court entered a scheduling order setting a claims construction hearing for September 16 and 17, 2009 and indicating that the case will be placed in the trial pool on May 3, 2010.

Federal Securities Litigation — In re Amgen Inc. Securities Litigation

The six federal class action shareholder complaints filed against Amgen Inc., Kevin W. Sharer, Richard D. Nanula, Dennis M. Fenton, Roger M. Perlmutter, Brian M. McNamee, George J. Morrow, Edward V. Fritzky, Gilbert S. Omenn and Franklin P. Johnson, Jr., (the "Federal Defendants") in the United States District Court for the Central District of California (the "California Central District Court") on April 17, 2007 (Kairalla v. Amgen Inc., et al.), May 1, 2007 (Mendall v. Amgen Inc., et al., & Jaffe v. Amgen Inc., et al.), May 11, 2007 (Eldon v. Amgen Inc., et al.), May 21, 2007 (Rosenfield v. Amgen Inc., et al.) and June 18, 2007 (Public Employees' Retirement Association of Colorado v. Amgen Inc., et al.) were consolidated by the California Central District Court into one action captioned *In re Amgen Inc. Securities Litigation*. The consolidated complaint was filed with the California Central District Court on October 2, 2007. The consolidated complaint alleges that Amgen and these officers and directors made false statements that resulted in: (i) deceiving the investing public regarding Amgen's prospects and business; (ii) artificially inflating the prices of Amgen's publicly traded securities and (iii) causing plaintiff and other members of the class to purchase Amgen publicly traded securities at inflated prices. The complaint also makes off-label marketing allegations that, throughout the class period, the Federal Defendants improperly marketed Aranesp® and EPOGEN® for off-label uses while aware that there were alleged safety signals with these products. The plaintiffs seek class certification, compensatory damages, legal fees and other relief deemed proper. The Federal Defendants filed a motion to dismiss on November 8, 2007. On February 4, 2008, the California Central District Court granted in part, and denied in part, the Federal Defendants' motion to dismiss the consolidated amended complaint. Specifically, the California Central District Court granted the Federal Defendants' motion to dismiss as to individual defendants Fritzky, Omenn, Johnson, Fenton and McNamee, but denied the Federal Defendants' motion to dismiss as to individual defendants Sharer, Nanula, Perlmutter and Morrow. The California Central District Court granted plaintiffs leave to amend the complaint. Parties in the case are conducting class certification discovery. Plaintiff's motion for class certification is due before the California Central District Court on March 4, 2009 and Amgen's response in opposition is due 45 days later. The California Central District Court has not set a date for the hearing on the motion for class certification.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

State Derivative Litigation

Larson v. Sharer, et al. The three state shareholder derivative complaints filed against Amgen Inc., Kevin W. Sharer, George J. Morrow, Dennis M. Fenton, Brian M. McNamee, Roger M. Perlmutter, David Baltimore, Gilbert S. Omenn, Judith C. Pelham, Frederick W. Gluck, Jerry D. Choate, J. Paul Reason, Frank J. Biondi, Jr., Leonard D. Schaeffer, Frank C. Herringer, Richard D. Nanula, Willard H. Dere, Edward V. Fritzky, Franklin P. Johnson, Jr. and Donald B. Rice as defendants (the "State Defendants") on May 1, 2007 (*Larson v. Sharer, et al.*, & *Anderson v. Sharer, et al.*), and August 13, 2007 (*Weil v. Sharer, et al.*) in the Superior Court of the State of California, Ventura County (the "Superior Court") were consolidated by the Superior Court under one action captioned *Larson v. Sharer, et al*. The consolidated complaint was filed on July 5, 2007. The complaint alleges that the State Defendants breached their fiduciary duties, wasted corporate assets, were unjustly enriched and violated the California Corporations Code. Plaintiffs allege that the State Defendants failed to disclose and/or misrepresented results of Aranesp® clinical studies, marketed both Aranesp® and EPOGEN® for off-label uses and that these actions or inactions caused shareholders to suffer damages. The complaints also allege insider trading by the State Defendants. The plaintiffs seek treble damages based on various causes of action, reformed corporate governance, equitable and/or injunctive relief, restitution, disgorgement of profits, benefits and other compensation, and legal costs. A hearing on State Defendants' motion to dismiss and other motions was held on March 13, 2008.

An amended consolidated complaint was filed on March 13, 2008, adding Anthony Gringeri as a defendant and removing the causes of action for insider selling and misappropriation of information, violation of California Corporations Code Section 25402 and violation of California Corporations Code Section 25403. Defendants' demurrers and alternative motion to stay this action were filed on April 14, 2008, and a hearing was held on June 10, 2008 in the Superior Court. On July 14, 2008, the Superior Court dismissed without prejudice the consolidated state derivative class action. The judge also ordered a stay of any re-filing of an amended complaint until the federal court has determined whether any securities fraud occurred.

Birch v. Sharer, et al. On January 23, 2009, a shareholder derivative lawsuit titled *Birch v. Sharer, et al.* was filed in Los Angeles County Superior Court naming Amgen Inc., Kevin W. Sharer, David Baltimore, Frank J. Biondi, Jr., Jerry D. Choate, Vance D. Coffman, Frederick W. Gluck, Frank C. Herringer, Gilbert S. Omenn, Judith C. Pelham, J. Paul Reason, Leonard D. Schaeffer and Tom Zindrick as defendants. The complaint alleges derivative claims for breach of fiduciary duty based on a purported failure to implement adequate internal controls and to oversee the Company's operations, which plaintiff claims resulted in numerous lawsuits and investigations over a number of years. Plaintiff seeks damages on behalf of Amgen, including costs and expenses, allegedly incurred, among other things, in connection with wrongful termination lawsuits and potential violations of the Health Insurance Portability and Accountability Act ("HIPPA"). On February 25, 2009, the case was reassigned to a judge in the Complex Department of the Los Angeles County Superior Court and the initial status conference has not yet been scheduled.

Federal Derivative Litigation

On May 7, 2007, the shareholder derivative lawsuit of *Durgin v. Sharer, et al.*, was filed in the California Central District Court and named Amgen Inc., Kevin W. Sharer, George J. Morrow, Dennis M. Fenton, Brian M. McNamee, Roger M. Perlmutter, David Baltimore, Gilbert S. Omenn, Judith C. Pelham, Frederick W. Gluck, Jerry D. Choate, J. Paul Reason, Frank J. Biondi, Jr., Leonard D. Schaeffer, Frank C. Herringer, Richard D. Nanula, Edward V. Fritzky and Franklin P. Johnson, Jr. as defendants. The complaint alleges the same claims and requests the same relief as in the three state shareholder derivative complaints now consolidated as *Larson v. Sharer, et al*. The case has been stayed for all purposes until thirty days after a final ruling on the motion to dismiss by the California Central District Court in the *In re Amgen Inc. Securities Litigation* action.

On September 21, 2007, the shareholder derivative lawsuit of *Rosenblum v. Sharer, et al*., was filed in the California Central District Court. This lawsuit was brought by the shareholder who previously made a demand on

the Amgen Board on May 14, 2007. The complaint alleges that the defendants breached their fiduciary duties, wasted corporate assets and were unjustly enriched. Plaintiffs allege that the defendants failed to disclose and/or misrepresented results of Aranesp® clinical studies, marketed both Aranesp® and EPOGEN® for off-label uses and that these actions or inactions as well as the Amgen market strategy caused damage to the Company resulting in several inquiries, investigations and lawsuits that are costly to defend. The complaint also alleges insider trading by the defendants. The plaintiffs seek treble damages based on various causes of action, reformed corporate governance, equitable and/or injunctive relief, restitution, disgorgement of profits, benefits and other compensation, and legal costs. The case was stayed for all purposes until thirty days after a final ruling on the motion to dismiss by the California Central District Court in the *In re Amgen Inc. Securities Litigation* action.

Thereafter, on May 1, 2008, plaintiff in *Rosenblum v. Sharer, et al.*, filed an amended complaint which removed Dennis Fenton as a defendant and also eliminated the claims for insider selling by defendants. On July 28, 2008, the California Central District Court heard Amgen and the defendants' motion to dismiss and motion to stay. On July 30, 2008, the California Central District Court granted Amgen and the defendants' motion to dismiss without prejudice and also granted a stay of the case pending resolution of the *In re Amgen Inc. Securities Litigation* action.

ERISA Litigation

On August 20, 2007, the ERISA class action lawsuit of *Harris v. Amgen Inc., et al.*, was filed against Amgen and certain members of its Board of Directors ("Board") in the California Central District Court. Plaintiffs claim that Amgen and various Board members breached their fiduciary duties by failing to inform current and former employees who participated in the Amgen Retirement and Savings Manufacturing Plan and the Amgen Savings Plan of the alleged off-label promotion of both Aranesp® and EPOGEN® while a number of studies allegedly demonstrated safety concerns in patients using ESAs. On February 4, 2008, the California Central District Court dismissed the complaint with prejudice as to plaintiff Harris, who had filed claims against Amgen Inc. The claims alleged by the second plaintiff, Ramos, were also dismissed but the court granted the plaintiff leave to amend his complaint. On February 1, 2008, the plaintiffs appealed the decision by the California Central District Court to dismiss the claims of both plaintiffs Harris and Ramos to the U.S. Court of Appeals for the 9th Circuit, which remains pending before the 9th Circuit. On May 19, 2008, plaintiff Ramos in the *Harris v. Amgen Inc., et al.*, action filed another lawsuit captioned *Ramos v. Amgen Inc., et al.*, in the California Central District Court. The lawsuit is another ERISA class action. The *Ramos v. Amgen Inc., et al*., matter names the same defendants in the *Harris v. Amgen Inc., et al.*, matter plus four new defendants: Amgen Manufacturing Limited, Richard Nanula, Dennis Fenton and the Fiduciary Committee. Pursuant to the parties' stipulation, the Ramos matter has been stayed pending the outcome of the Harris matter appeal.

Third-Party Payors Litigation

On June 5, 2007, the *United Food & Commercial Workers Central Pennsylvania and Regional Health & Welfare Fund v. Amgen Inc.* (the "United Food Matter"), on June 7, 2007 the *Vista Healthplan Inc. v. Amgen Inc.* (the "Vista Healthplan Matter"), on June 14, 2007, the *Painters District Council No. 30 Health & Welfare Fund v. Amgen. Inc.* (the "Painters Matter"), on August 8, 2007, the *Ironworkers v. Amgen Inc.* (the "Ironworkers Matter"), on August 15, 2007, *Watters (State of Michigan) v. Amgen Inc.* (the Watters Matter"), and on August 28, 2007, *Sheet Metal v. Amgen Inc.* (the "Sheet Metal Matter"), putative class action lawsuits, were filed by third-party payors against Amgen in the California Central District Court. In each action, the plaintiff alleges that Amgen marketed its anemia medicines, EPOGEN® and Aranesp®, for "off-label" uses, or uses that are not approved by the FDA, and claims that, as a result, the plaintiff paid for unwarranted prescriptions. Specifically, the complaints allege that Amgen promoted EPOGEN® and Aranesp® for: treating cancer patients who are not on chemotherapy; treating quality of life symptoms associated with anemia, such as fatigue; and reaching hemoglobin targets above the FDA-approved level. Each plaintiff asserts claims under California's consumer protection statutes and for breach of implied warranty and unjust enrichment and plaintiffs seek to represent a nationwide class of individuals and entities.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

On October 29, 2007, in the United Food Matter, the Vista Healthplan Matter and the Painters Matter, a motion to dismiss and a motion to transfer each of the three cases were heard before California Central District Court. On November 13, 2007, the United Food Matter was transferred to the U.S. District Court for the District of Pennsylvania, the Vista Healthplan Matter was transferred to the U.S. District Court for the Southern District of Florida and the Painters Matter was transferred to the U.S. District Court for the Northern District of Illinois. On December 4, 2007, the Watters Matter was transferred to the U.S. District Court for the Eastern District of Michigan. On January 25, 2008, the Ironworkers Matter was transferred back to the District Court of New Jersey. On February 4, 2008, the California Central District Court heard defendants' motion to dismiss and motion to transfer the Sheet Metal Matter back to the U.S. District Court for the Middle District of Pennsylvania.

On January 10, 2008, plaintiffs in the United Food Matter brought a motion before the Judicial Panel on Multi-District Litigation ("MDL") seeking to have the five third-party payor lawsuits consolidated into one MDL case and assigned to the Northern District of Illinois. Defendants filed an opposition to the MDL consolidation motion on February 3, 2008.

On January 11, 2008, the Vista Healthplan Matter was voluntarily dismissed. On April 8, 2008, the Judicial Panel on MDL granted plaintiffs' motion in the United Food Matter to centralize the five third-party payor lawsuits into one MDL case for the purpose of consolidated pre-trial proceedings and the five cases have been transferred back to the California Central District Court. The five cases will be transferred back to their respective jurisdictions if and when they are set for trial. On July 2, 2008, the plaintiffs in the MDL filed an amended and consolidated complaint. Defendants' motion to dismiss before the California Central District Court was filed on August 4, 2008. On December 17, 2008, the MDL Court granted Defendants' motion to dismiss without prejudice and, on January 30, 2009, plaintiffs filed an Amended Consolidated Class Action Complaint, which is predicated on similar underlying allegations. Defendants' motion to dismiss the Amended Complaint is due before the MDL Court on March 6, 2009.

Other

On February 19, 2007, Amgen received an informal inquiry from the SEC's Atlanta District Office regarding the Danish Head and Neck Cancer ("DAHANCA") 10 study. The SEC's Atlanta District Office transferred the inquiry to the Los Angeles office in late 2007. Amgen voluntarily produced certain information and documentation related to a number of ESA studies. On February 9, 2009, Amgen received a letter from the SEC's Los Angeles Regional Office indicating that this investigation has been completed and that the SEC's Office of Enforcement does not intend to recommend any enforcement action by the SEC.

On May 10, 2007, Amgen received a subpoena from the Attorney General of the State of New York seeking documents related to Amgen's promotional activities, sales and marketing activities, medical education, clinical studies, pricing and contracting, license and distribution agreements and corporate communications. Amgen continues to fully cooperate in responding to the subpoena.

On October 25, 2007, Amgen received a subpoena from the U.S. Attorney's Office, Eastern District of New York, seeking documents relating to its products. Amgen continues to fully cooperate with the request.

On February 10, 2009, the presiding judge in the U.S. District Court for the District of Massachusetts partially unsealed a complaint previously filed in that court on July 3, 2007 by a confidential private plaintiff against Amgen, Immunex, Wyeth and a number of other defendants. The complaint unsealed by the court is titled "First Amended Complaint," suggesting that it amends an earlier complaint previously filed by the private plaintiff and kept under seal by the court. The unsealed complaint was filed pursuant to the Qui Tam provisions of the Federal Civil False Claims Act and on behalf of 17 named states and the District of Columbia under their respective State False Claims Acts (the "Qui Tam Action"). The unsealed complaint alleges that various of the defendants engaged in unlawful sales and marketing activities with respect to two drugs, Aranesp® and ENBREL, in violation of federal and state laws, including the Federal and respective State False Claims Act(s), the Medicare and Medicaid Antikickback Statute, and the Federal Food, Drug and Cosmetic Act. Amgen has not yet been served

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

with the unsealed complaint. We believe that certain portions of the subpoenas Amgen received from the U.S. Attorney's Office, Eastern District of New York and the Attorney General of the State of New York may relate to allegations in the Qui Tam Action and that such allegations may also be related to an ongoing civil and criminal investigation by the U.S. Attorney's Office, Eastern District of New York.

On November 1, 2007, Amgen received a subpoena from the U.S. Attorney's Office, Western District of Washington, for production of documents relating to its products. Amgen is fully cooperating with the request. On July 18, 2008, Amgen received a supplemental subpoena from the U.S. Attorney's Office, Western District of Washington, pursuant to the Health Insurance Portability and Accountability Act of 1996 (18 U.S.C. 3486), which requests documents relating generally to Amgen's collection and dissemination of information regarding clinical research on the efficacy and safety of ESAs. Amgen intends to fully cooperate with the government's document requests.

On January 14, 2008, Amgen received a subpoena from the New Jersey Attorney General's Office for production of documents relating to one of its products. Amgen has completed its response per the terms of the subpoena.

In the ordinary course of business, we are involved in various legal proceedings and other matters, including those discussed in this Note. While it is not possible to accurately predict or determine the eventual outcome of these items, one or more of these items currently pending could have a material adverse effect on our consolidated results of operations, financial position or cash flows.

11. Segment information

We operate in one business segment — human therapeutics. Therefore, results of our operations are reported on a consolidated basis for purposes of segment reporting, consistent with internal management reporting. Enterprise-wide disclosures about product sales, revenues and long-lived assets by geographic area, and revenues from major customers are presented below.

Revenues

Revenues consisted of the following (in millions):

	Years ended December 31,		
	2008	2007	2006
Product sales:			
Aranesp® — U.S.	$ 1,651	$ 2,154	$ 2,790
Aranesp® — International	1,486	1,460	1,331
EPOGEN® — U.S.	2,456	2,489	2,511
Neulasta® — U.S.	2,505	2,351	2,217
NEUPOGEN® — U.S.	896	861	830
Neulasta® — International	813	649	493
NEUPOGEN® — International	445	416	383
ENBREL — U.S.	3,389	3,052	2,736
ENBREL — International	209	178	143
Sensipar® — U.S.	412	333	238
Sensipar® — International	185	130	83
Other — U.S.	151	203	75
Other — International	89	35	28
Total product sales	14,687	14,311	13,858
Other revenues	316	460	410
Total revenues	$ 15,003	$ 14,771	$ 14,268

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Geographic information

Outside the United States, we principally sell Aranesp®, Neulasta® and NEUPOGEN® in Europe. We sell ENBREL only in the United States and Canada. Information regarding revenues and long-lived assets (consisting of property, plant and equipment) attributable to the United States and to all foreign countries collectively is stated below. The geographic classification of product sales was based upon the location of the customer. The geographic classification of all other revenues was based upon the domicile of the entity from which the revenues were earned.

Certain geographical information with respect to revenues and long-lived assets are as follows (in millions):

	Years ended December 31,		
	2008	2007	2006
Revenues:			
United States	$ 11,772	$ 11,887	$ 11,782
Foreign countries	3,231	2,884	2,486
Total revenues	$ 15,003	$ 14,771	$ 14,268

	December 31,	
	2008	2007
Long-lived assets:		
United States	$ 3,836	$ 4,025
Foreign countries	2,043	1,916
Total long-lived assets	$ 5,879	$ 5,941

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

Major customers

In the United States, we sell primarily to wholesale distributors of pharmaceutical products. We utilize these wholesale distributors as the principal means of distributing our products to healthcare providers, such as physicians or their clinics, dialysis centers, hospitals and pharmacies. In early 2008, ENBREL's distribution model was converted from primarily being drop shipped directly to pharmacies to a wholesale distribution model similar to our other products. Outside the United States, Aranesp®, Neulasta® and NEUPOGEN® are principally distributed to hospitals and/or wholesalers depending upon the distribution practice in each country for which the product has been launched. We monitor the financial condition of our larger customers and limit our credit exposure by setting credit limits, requiring letters of credit, and obtaining credit insurance, as we deem appropriate. We had product sales to three large wholesaler customers each accounting for more than 10% of total revenues for the years ended December 31, 2008, 2007 and 2006. On a combined basis, these distributors accounted for 71% and 87% of worldwide gross revenues and U.S. gross product sales, respectively, for 2008, as noted in the following table (dollar amounts in millions):

	Years ended December 31,		
	2008	2007	2006
AmerisourceBergen Corporation			
Gross product sales	$ 7,099	$ 6,124	$ 6,523
% of total gross revenues	37%	31%	35%
% of U.S. gross product sales	46%	39%	42%
McKesson Corporation			
Gross product sales	$ 3,594	$ 2,398	$ 2,427
% of total gross revenues	19%	12%	13%
% of U.S. gross product sales	23%	15%	15%
Cardinal Health, Inc.			
Gross product sales	$ 2,823	$ 2,715	$ 2,490
% of total gross revenues	15%	14%	13%
% of U.S. gross product sales	18%	17%	16%

At December 31, 2008 and 2007, amounts due from these three large wholesalers each exceeded 10% of gross trade receivables, and accounted for 58% and 57%, respectively, of net trade receivables on a combined basis. At December 31, 2008 and 2007, 40% and 35%, respectively, of trade receivables, net were due from customers located outside the United States, primarily in Europe. Our total allowance for doubtful accounts as of December 31, 2008 and 2007 was not material.

12. Accrued liabilities

Accrued liabilities consisted of the following (in millions):

	December 31,	
	2008	2007
Sales incentives	$ 876	$ 1,064
Employee compensation and benefits	799	888
Clinical development costs	429	406
Accrued royalties	218	212
Other	1,060	1,231
	$ 3,382	$ 3,801

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

13. Fair values

Fair value measurement

The Company adopted the provisions of the FASB's SFAS 157, effective January 1, 2008, for its financial assets and liabilities. The FASB subsequently issued FSP FAS 157-2, "*Effective Date of FASB Statement No. 157*," which delayed the effective date of SFAS 157 until January 1, 2009, with respect to the fair value measurement requirements for non-financial assets and liabilities that are not remeasured on a recurring basis. Under this standard, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date. The adoption of SFAS 157 did not have a material impact on the Company's consolidated financial statements.

In determining the fair value of its financial assets and liabilities, the Company uses various valuation approaches. SFAS 157 establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the inputs that market participants would use in pricing the asset or liability and are developed based on the best information available in the circumstances. The fair value hierarchy is broken down into three levels based on the source of inputs as follows:

Level 1 — Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access

Level 2 — Valuations based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active and models for which all significant inputs are observable, either directly or indirectly

Level 3 — Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of observable inputs can vary among the various types of financial assets and liabilities. To the extent that the valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for financial statement disclosure purposes, the level in the fair value hierarchy within which the fair value measurement is categorized is based on the lowest level input that is significant to the overall fair value measurement.

As of December 31, 2008, the Company's available-for-sale securities were comprised of U.S. Treasury securities, obligations of U.S. government agencies and FDIC guaranteed bank debt, corporate debt securities, mortgage and asset backed securities, other short-term interest bearing securities, including money market funds, and publicly traded equity investments. U.S. Treasury securities, money market funds and publicly traded equity investments are valued using quoted market prices with no valuation adjustments applied. Accordingly, these securities are categorized in Level 1. Obligations of U.S. government agencies and FDIC guaranteed bank debt, corporate debt securities, mortgage and asset backed securities and other short-term interest bearing securities are valued using quoted market prices of recent transactions or are benchmarked to transactions of very similar securities. Accordingly, these securities are categorized in Level 2.

Our derivatives assets and liabilities include interest rate swaps and foreign currency forward and option contracts. The fair values of these derivatives are determined using models based on market observable inputs, including interest rate curves and both forward and spot prices for foreign currencies. All of these derivative contracts are categorized in Level 2.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

The following fair value hierarchy table presents information about each major category of the Company's financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2008 (in millions):

	Fair value measurement at reporting date using:			
	Quoted prices in active markets for identical assets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)	Balance as of December 31, 2008
Assets:				
Available-for-sale securities	$ 3,575	$ 5,927	$ —	$ 9,502
Derivatives	—	415	—	415
Total	$ 3,575	$ 6,342	$ —	$ 9,917
Liabilities:				
Derivatives	$ —	$ (66)	$ —	$ (66)
Total	$ —	$ (66)	$ —	$ (66)

There were no material remeasurements to fair value during the year ended December 31, 2008 of financial assets and liabilities that are not measured at fair value on a recurring basis.

Following is a summary of the fair value of other financial instruments:

Short-term assets and liabilities

The fair values of cash equivalents, accounts receivable and accounts payable approximate their carrying values due to the short-term nature of these financial instruments.

Notes

The following table presents fair value information for our convertible notes, modified convertible notes and other long-term notes. The fair values shown are based on significant other observable inputs (Level 2) (in millions):

	December 31,	
	2008	2007
2011 Convertible Notes	$ 2,415	$ 2,282
2013 Convertible Notes	2,374	2,196
2008 Floating Rate Notes	—	1,994
2017 Notes	1,140	1,105
2014 Notes	994	970
2009 Notes	1,017	994
2037 Notes	948	897
2018 Notes	536	—
2038 Notes	567	—
2032 Modified Convertible Notes	58	54
Century Notes	111	119
Total	$10,160	$10,611

14. Other charges

In 2008, we recorded loss accruals for settlements of certain commercial legal proceedings aggregating $288 million, principally related to the settlement of the Ortho Biotech antitrust suit. In 2007, we recorded a loss accrual for an ongoing commercial legal proceeding, and recorded an expense of $34 million. These amounts are included in "Other charges" in the Consolidated Statements of Income.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

In 2008 and 2007, we recorded restructuring charges of $92 million and $694 million, respectively. Such expenses are included in "Other charges" in the Consolidated Statements of Income. (See Note 2, "*Restructuring*" for further discussion.)

15. Subsequent event

On January 16, 2009, we issued $1.0 billion aggregate principal amount of notes due in 2019 (the "2019 Notes") and $1.0 billion aggregate principal amount of notes due in 2039 (the "2039 Notes") in a registered offering. The 2019 Notes and the 2039 Notes pay interest at fixed annual rates of 5.70% and 6.40%, respectively. We may redeem the notes at any time at our option, in whole or in part, at 100% of the principal amount of the notes being redeemed plus accrued interest and a "make-whole" amount, as defined. In the event of a change of control triggering event, as defined, we may be required to purchase for cash all or a portion of the 2019 Notes and the 2039 Notes at a purchase price equal to 101% of the principal amount of the notes plus accrued interest.

16. Quarterly financial data (unaudited)

	2008 Quarters ended			
	Dec. 31[1]	Sept. 30[2]	June 30[3]	Mar. 31[4]
	(In millions, except per share data)			
Product sales	$ 3,674	$ 3,784	$ 3,692	$ 3,537
Gross profit from product sales	3,116	3,107	3,177	2,991
Net income	961	1,158	941	1,136
Earnings per share[9]:				
Basic	$ 0.91	$ 1.09	$ 0.87	$ 1.04
Diluted	$ 0.91	$ 1.09	$ 0.87	$ 1.04

	2007 Quarters ended			
	Dec. 31[5]	Sept. 30[6]	June 30[7]	Mar. 31[8]
	(In millions, except per share data)			
Product sales	$ 3,618	$ 3,524	$ 3,604	$ 3,565
Gross profit from product sales	3,012	2,732	3,046	2,973
Net income	835	201	1,019	1,111
Earnings per share[9]:				
Basic	$ 0.77	$ 0.19	$ 0.90	$ 0.95
Diluted	$ 0.76	$ 0.18	$ 0.90	$ 0.94

(1) In the fourth quarter 2008, we recorded the following in the Consolidated Statement of Income:

a. charges of $97 million primarily for asset impairments, loss accruals for leases for certain facilities that will not be used in our business and staff separation costs associated with our restructuring plan; and

b. charge of $21 million ($15 million, net of tax) for loss accruals for settlements of certain commercial legal proceedings.

(2) In the third quarter 2008, we recorded the following in the Consolidated Statement of Income:

a. charges of $17 million primarily for a loss on the disposal of certain less significant marketed products and loss accruals for leases for certain facilities that will not be used in our business associated with our restructuring plan;

b. charge of $84 million ($64 million, net of tax) related to the write-off of inventory resulting from a strategic decision to change manufacturing processes; and

c. charge of $4 million ($3 million, net of tax) for loss accruals for settlements of certain commercial legal proceedings.

AMGEN INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

(3) In the second quarter 2008, we recorded the following in the Consolidated Statement of Income:

a. charges of $22 million primarily for asset impairments and loss accruals for leases for certain facilities that will not be used in our business associated with our restructuring plan; and

b. charge of $263 million ($200 million, net of tax) for loss accruals for settlements of certain commercial legal proceedings.

(4) In the first quarter of 2008, we recorded the following in the Consolidated Statement of Income:

a. charges of $12 million primarily for asset impairments, loss accruals for leases for certain facilities that will not be used in our business and staff separation costs associated with our restructuring plan.

(5) In the fourth quarter 2007, we recorded the following in the Consolidated Statement of Income:

a. charges of $157 million primarily for staff separation costs, asset impairments and accelerated depreciation associated with our restructuring plan;

b. charge of $34 million ($25 million, net of tax) for a loss accrual for an ongoing commercial legal proceeding; and

c. severance-related expenses of $21 million ($13 million, net of tax) incurred in connection with our acquisition of the remaining 51% ownership interest of Dompé.

(6) In the third quarter 2007, we recorded the following in the Consolidated Statement of Income:

a. charges of $293 million primarily for staff separation costs, asset impairments and accelerated depreciation associated with our restructuring plan;

b. charges of $270 million and $320 million related to the non-tax deductible write-off of IPR&D related to the Alantos and Ilypsa acquisitions, respectively; and

c. pre- and post-tax charge of $90 million related to the write-off of excess inventory principally due to changing regulatory and reimbursement environments.

(7) In the second quarter 2007, we recorded the following in the Consolidated Statement of Income:

a. charges of $289 million primarily for asset impairments associated with our restructuring plan; and

b. income tax benefit of $92 million recognized as the result of resolving certain non-routine transfer pricing issues with the IRS for prior periods.

(8) In the first quarter of 2007, we recorded the following in the Consolidated Statement of Income:

a. pro-rata portion of the deferred financing and related costs of $51 million ($32 million, net of tax) that were immediately charged to interest expense as a result of certain holders of our 2032 Modified Convertible Notes due in 2032 exercising their March 1, 2007 put option and the related convertible notes being repaid in cash; and

b. pre- and post-tax charge of $26 million related to the write-off of the cost of a semi-completed manufacturing asset that will not be used due to a change in manufacturing strategy.

(9) EPS is computed independently for each of the quarters presented. Therefore, the sum of the quarterly EPS information may not equal annual EPS.

See Notes 1, 2, 5, 8 and 14 for further discussion of the items described above.

SCHEDULE II

AMGEN INC.

VALUATION ACCOUNTS

Years ended December 31, 2008, 2007 and 2006

(In millions)

	Balance at beginning of period	Additions charged to costs and expenses	Other additions	Deductions	Balance at end of period
Year ended December 31, 2008:					
Allowance for doubtful accounts	$ 39	$ 1	$ —	$ 2	$ 38
Year ended December 31, 2007:					
Allowance for doubtful accounts	$ 38	$ —	$ 3	$ 2	$ 39
Year ended December 31, 2006:					
Allowance for doubtful accounts	$ 35	$ 3	$ —	$ —	$ 38

Exhibit 3.4

CERTIFICATE OF ELIMINATION OF THE
CERTIFICATE OF DESIGNATIONS OF THE
SERIES A JUNIOR PARTICIPATING PREFERRED STOCK

(Pursuant to the provisions of Section 151(g) of
the General Corporation Law of the State of Delaware)

Amgen Inc. (the "Company"), a corporation duly organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify that:

1. The name of the Company is Amgen Inc. and the date on which the Company's original Certificate of Incorporation was filed with the Secretary of the State of Delaware (the "Secretary of State") is October 31, 1986.

2. The voting powers, designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of the Series A Junior Participating Preferred Stock, par value $0.0001 per share, of the Company (the "Series A Junior Participating Preferred Stock") were originally set forth in a resolution adopted by the Board of Directors and set forth in a Certificate of Designations filed with the Secretary of State on April 10, 1997, were substantially amended and restated in a resolution adopted by the Board of Directors and set forth in a Certificate of Designations filed with the Secretary of State on January 30, 2001, and were subsequently set forth in the Certificate of Designations attached as Appendix A to the Restated Certificate of Incorporation of the Company, as amended (the "Restated Certificate of Incorporation"), as filed with the Secretary of State on January 9, 2006.

3. None of the authorized shares of the Series A Junior Participating Preferred Stock are outstanding and none in the future will be issued.

4. The Board of Directors of the Company, acting in accordance with the provisions of the DGCL, adopted the following resolutions at a meeting duly called and held on December 9, 2008:

NOW, THEREFORE, BE IT RESOLVED, that none of the authorized shares of Series A Junior Participating Preferred Stock, par value $0.0001 per share, of the Company are outstanding and none in the future will be issued pursuant to the Certificate of Designations previously filed with the Secretary of State of the State of Delaware and attached as Appendix A to the Restated Certificate of Incorporation (the "Secretary of State").

RESOLVED FURTHER, that pursuant to the provisions of Section 151(g) of the DGCL, the proper officers of the Company be, and each such officer hereby is, authorized and directed, for and on behalf of the Company and in its name, to file a certificate setting forth this resolution with the Secretary of State for the purpose of eliminating all reference to the said Series A Junior Participating Preferred Stock from the Restated Certificate of Incorporation of the Company and take all such further actions as such officers deem necessary or advisable to carry out the purpose and intent of these resolutions.

5. That, in accordance with Section 151(g) of the DGCL, all provisions set forth in the Certificate of Designations of Series A Junior Participating Preferred Stock attached as Appendix A to the Restated Certificate of Incorporation, and all matters set forth in the Restated Certificate of Incorporation relating thereto, are hereby eliminated from the Restated Certificate of Incorporation.

IN WITNESS WHEREOF, Amgen Inc. has caused this Certificate of Elimination to be executed this 9th day of December, 2008.

AMGEN INC.

By: /s/ DAVID J. SCOTT
David J. Scott
Senior Vice President, General Counsel
and Secretary

GRANT OF NONQUALIFIED STOCK OPTION
(EX-U.S.)

_____, Amgen Inc. Stock Optionee:

AMGEN INC., a Delaware corporation (the "Company"), pursuant to its Director Equity Incentive Program (the "Program") under the Amended and Restated 1991 Equity Incentive Plan (the "Plan"), has this day granted to you, the optionee named above, an option to purchase _____ shares of the $.0001 par value common stock of the Company ("Common Stock") pursuant to the terms hereof. This option is not intended to qualify and will not be treated as an "incentive stock option" within the meaning of Section 422 of the U.S. Internal Revenue Code of 1986, as amended (together with the regulations and other official guidance promulgated thereunder) (the "Code").

The provisions of your option are as follows:

1. [Subject to the limitations contained herein, this option shall vest on [grant date]. [Subject to the provisions contained herein, this option shall vest on [one year from grant date], provided that from the date of grant of this option through the vesting date, you have continuously served as a non-employee director of the Company (as that term is defined in the Plan).]

2. (a) The per share exercise price of this option is $_____, being not less than the fair market value of the Common Stock on the date of grant of this option.

(b) To the extent permitted by applicable statutes and regulations, payment of the exercise price per share is due in full in cash or check upon exercise of all or any part of this option which has become exercisable by you. However, if at the time of exercise, the Company's Common Stock is publicly traded and quoted regularly in the Wall Street Journal, payment of the exercise price may be made by delivery of already-owned shares of Common Stock of a value equal to the exercise price of the shares of Common Stock for which this option is being exercised. The already-owned shares must have been owned by you 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 interests. Payment may also be made by a combination of cash and already-owned Common Stock.

3. Notwithstanding anything to the contrary contained herein, this option may not be exercised unless the shares issuable upon exercise of this option are then registered under the U.S. Securities Act of 1933, as amended (the "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 Act.

[4. The term of this option commences on the date hereof and, unless sooner terminated pursuant to the Plan, terminates on _____ (which date shall be no more than seven (7) years from the date this option is granted).]

[4. The term of this option commences on the date hereof and, unless sooner terminated pursuant to the Plan, terminates on _____ (which date shall be no more than seven (7) years from the date this option is granted). If termination of your relationship as a director of the Company is due to (a) your permanent and total disability (as certified by an independent medical advisor appointed by the Company prior to such termination), or (b) your death, then the vesting schedule of unvested portions of the option will be accelerated by twelve (12) months for each full year that you have been affiliated as a director with the Company.

However, in any and all circumstances and except to the extent the vesting schedule has been accelerated by the Company in its sole discretion during the term of this option or as a result of your permanent and total disability or death as provided above, this option may be exercised following termination of your relationship as a director of the Company only as to that number of shares as to which it was exercisable on the date of such termination provisions of paragraph 1 of this option. For purposes of this option, "termination of your relationship as a director of the Company" shall mean the last date you are a director of the Company.]

5. To the extent specified above, this option may be exercised by delivering a Notice of Exercise of Stock Option form, together with the exercise price to the Secretary of the Company, or to such other person as the Company may designate, during regular business hours, together with such additional documents as the Company may then require pursuant to section 5 of the Plan.

6. This option is not transferable, except as set forth below:

(a) By will or the laws of descent and distribution; and

(b) The transfer of the option by the optionee named above to a Trust or an Alternate Payee (in each case, as defined in and pursuant to the terms of the Plan).

7. This option is exercisable during your life only by you, except that, to the extent the option or any portion thereof is transferred to an Alternate Payee or a Trust in accordance with the terms of the Plan and Section 6(b) above, such Alternate Payee or Trust may exercise the option or such portion thereof so transferred.

8. This option is not an employment or consulting contract and nothing in this option shall be deemed to create in any way whatsoever any obligation on the part of the non-employee director on whose behalf the option right was created, to continue to serve as a director of the Company, or of the Company to continue such non-employee director's service as a director of the Company.

9. Any notices provided for in this option or the Plan shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the address specified below or at such other address as you hereafter designate by written notice to the Company.

10. In accepting this option, you acknowledge that:

(a) the Plan is established voluntarily by the Company, is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;

(b) the grant of this option is voluntary and occasional and does not create any contractual or other right receive future options, or benefits in lieu of options, even if options have been granted repeatedly in the past;

(c) your participation in the Program and Plan is voluntary;

(d) all decisions with respect to future grants of options, if any, will be at the sole discretion of the Company;

(e) the future value of the underlying shares of Common Stock is unknown and cannot be predicted with certainty;

(f) if the underlying shares of Common Stock do not increase in value, this option will have no value; if you exercise this option and obtain shares of Common Stock, the value of those shares acquired upon exercise may increase or decrease in value, even below the exercise price;

(g) in consideration of this option, no claim or entitlement to compensation or damages shall arise from forfeiture of this option resulting from termination of your service as a director (for any reason whatsoever and whether or not in breach of local labor laws) and you irrevocably release the Company from any such claim that may arise; if, notwithstanding the foregoing, any such claim is found by a court of competent jurisdiction to have arisen, you shall be deemed irrevocably to have waived your entitlement to pursue such claim; and

(h) this option and benefits under the Program and Plan, if any, will not automatically transfer to another company in the case of a merger, takeover or transfer of liability.

12. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Program and Plan, or your acquisition or sale of the underlying shares of Common Stock. You are hereby advised to consult your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Program and Plan.

13. (a) You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this option by and among, as applicable, the Company or Affiliates of the Company for the exclusive purpose of implementing, administering and managing your participation in the Program and Plan.

(b) You understand that the Company or Affiliates of the Company may hold certain personal information about you, including, without limitation, your name, home address and

telephone number, date of birth, social insurance number (to the extent permitted under applicable local law) or other identification number, salary, nationality, job title, residency status, any shares of stock or directorships held in the Company, details of all equity compensation or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Program and Plan ("Data"). You understand that Data may be transferred to UBS Financial Services, Inc. or any third parties assisting in the implementation, administration and management of the Program and Plan, that these recipients may be located in your country or elsewhere including outside the European Economic Area, and that the recipient's country (e.g., the United States) may have different data privacy laws and protections than Belgium. You understand that you may request a list with the names and addresses of any potential recipients of the Data by contacting the Company. You authorize the Company, Affiliates of the Company, UBS Financial Services, Inc. and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering, and managing your participation in the Program and Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing your participation in the Plan, including any requisite transfer of such Data as may be required to any other broker, escrow agent or other third party with whom the shares received upon exercise of this option may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Program and Plan. You understand that you may, at any time, view Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company. You understand that refusal or withdrawal of consent may affect your ability to participate in the Program and Plan. For more information on the consequences of your refusal to consent or withdrawal of consent, you understand that you may contact the Company.

14. If you have received this option or any other document related to the Program and Plan translated into a language other than English and if the meaning of the translated version differs from the English version, the English version shall control.

15. The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Program and Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Program and Plan through an online or electronic system established and maintained by the Company or a third party designated by the Company.

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

17. This option is subject to all the provisions of the Program and Plan and their provisions are hereby made a part of this option, including without limitation the provisions of section 5 of the Plan relating to option provisions, and is further subject to all interpretations, amendments, rules, and regulations which may from time to time be promulgated and adopted pursuant to the

Plan. In the event of any conflict between the provisions of this option and those of the Plan, the provisions of the Program and Plan shall control.

18. The terms of this option shall be governed by the laws of the State of Delaware without giving effect to principles of conflicts of laws. For purposes of litigating any dispute that arises hereunder, the parties hereby submit to and consent to the jurisdiction of the State of Delaware, or the federal courts for the United State for the federal district located in the State of Delaware, and no other courts, where this agreement is made and/or to be performed.

19. This option is not intended to constitute "nonqualified deferred compensation" within the meaning of Code Section 409A, but rather is intended to be exempt from the application of Code Section 409A. To the extent that this option is nevertheless deemed to be subject to Code Section 409A for any reason, this option shall be interpreted in accordance with Code Section 409A and Department of Treasury regulations and other interpretive guidance issued thereunder, including without limitation any such regulations or other guidance that may be issued after the Grant Date. Notwithstanding any provision herein to the contrary, in the event that following the Grant Date, the Committee (as defined in the Plan) determines that this option may be or become subject to Code Section 409A, the Committee may adopt such amendments to the Plan and/or this option or adopt other policies and procedures (including amendments, policies and procedures with retroactive effect), or take any other actions, that the Committee determines are necessary or appropriate to (a) exempt the Plan and/or this option from the application of Code Section 409A and/or preserve the intended tax treatment of the benefits provided with respect to this option, or (b) comply with the requirements of Code Section 409A.

20. The Company reserves the right to impose other requirements on your participation in the Program and Plan, on this option and on any shares of Common Stock acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with local law or facilitate the administration of the plan, and to require you to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

Dated the ____ day of _____.

Very truly yours,

AMGEN INC.

By: _____

Duly authorized on behalf
of the Board of Directors

Agreed and accepted as of the date written above:

_____

[name]
Address:

RESTRICTED STOCK UNIT AGREEMENT
(EX- U.S.)

_____, Amgen Inc. Grantee:

On this ____ day of _____ (the "Grant Date"), Amgen Inc., a Delaware corporation (the "Company"), pursuant to its Director Equity Incentive Program (the "Program") which implements the Amended and Restated 1991 Equity Incentive Plan, as amended (the "Plan"), has granted to you, the grantee named above, _____ restricted stock units (the "Units") with respect to _____ shares of Common Stock on the terms and conditions set forth in this Restricted Stock Unit Agreement (this "Agreement") and the Plan. Capitalized terms not defined herein shall have the meanings assigned to such terms in the Program.

I. Vesting Schedule. Subject to the terms and conditions of this Agreement and in consideration for services previously rendered by you, one hundred percent (100%) of the Units shall vest upon [the date hereof (the "Vesting Date")][the date (the "Vesting Date") upon which you have provided one year of continuous service following the Grant Date; *provided, however*, that in the event you cease to be an Eligible Director by reason of your death or total and permanent disability (as certified by an independent medical advisor appointed by the Company prior to such termination), a prorated number of Units shall vest immediately upon such death or disability, determined by multiplying the number of unvested Units by a fraction (rounded to two decimal places), the numerator of which is the number of complete months of continuous service during the one year period following the Grant Date and the denominator of which is 12.]

II. Form and Timing of Payment. Any vested Units shall be paid by the Company in shares of Common Stock (on a one-to-one basis) on, or as soon as practicable after, the Vesting Date (but in any event by the fifteenth day of the third month following the tax year in which they vest), unless you have irrevocably elected in writing by December 31 of the year preceding the Grant Date to defer the payment of such Units under one of the following options: (i) full payment of the vested Units in January of a year specified by you which shall be no earlier than the third calendar year following the calendar year in which the date of grant occurs and no later than the tenth calendar year following such year, (ii) full payment of the vested Units in January of the calendar year following the year in which you cease to be an Eligible Director (and experience a "separation from service" with the Company within the meaning of U.S. Internal Revenue Code ("Code") Section 409A) for any reason, (iii) payment of the vested Units in five substantially equal annual installments, commencing in January of the calendar year following the year in which you cease to be an Eligible Director (and experience a "separation from service" with the Company within the meaning of Code Section 409A) for any reason, or (iv) payment of the vested Units in ten substantially equal annual installments, commencing in January of the calendar year following the year in which you cease to be an Eligible Director (and experience a "separation from service" with the Company within the meaning of Code Section 409A) for any reason; *provided, however*, that no shares of Common Stock shall be issued hereunder unless the Board determines that the consideration received by the Company in exchange for the issuance of Common Stock has a value not less than the par value thereof. Any

deferral election made pursuant to this Section II shall specify the distribution schedule from the options provided in this Section II and shall be irrevocable.

III. Transferability. No benefit payable under, or interest in, this Agreement shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge and any such attempted action shall be void and no such benefit or interest shall be, in any manner, liable for, or subject to, your or your beneficiary's debts, contracts, liabilities or torts; *provided*, *however*, nothing in this Section III shall prevent transfer (i) by will, (ii) by applicable laws of descent and distribution or (iii) to an Alternate Payee to the extent that a QDRO so provides, as further described in the Program.

IV. No Contract for Employment. This Agreement is not an employment or service contract and nothing in this Agreement shall be deemed to create in any way whatsoever any obligation on your part to continue in the employ or service of the Company, or of the Company to continue your employment or service with the Company.

V. Notices. Any notices provided for in this Agreement or the Plan shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at such address as is currently maintained in the Company's records or at such other address as you hereafter designate by written notice to the Company.

VI. Nature of Grant. In accepting the Units granted hereunder, you acknowledge that:

(a) the Plan is established voluntarily by the Company, is discretionary in nature and may be modified, amended, suspended or terminated by the Company at any time;

(b) the grant of the Units is voluntary and occasional and does not create any contractual or other right to receive future grants of Units, or benefits in lieu of Units, even if Units have been granted repeatedly in the past;

(c) your participation in the Plan is voluntary;

(d) all decisions with respect to future awards, if any, will be at the sole discretion of the Company;

(e) the future value of the underlying shares of Common Stock is unknown and cannot be predicted with certainty;

(i) in consideration of the grant of the Units, no claim or entitlement to compensation or damages shall arise from forfeiture of the Units resulting from termination of your service as an director (for any reason whatsoever and whether or not in breach of local labor laws) and you irrevocably release the Company from any such claim that may arise; if, notwithstanding the foregoing, any such claim is found by a court of competent jurisdiction to have arisen, you shall be deemed irrevocably to have waived your entitlement to pursue such claim; and

(j) the Units and the benefits under the Program and Plan, if any, will not automatically transfer to another company in the case of a merger, takeover or transfer of liability.

VII. No Advice Regarding Grant. The Company is not providing any tax, legal or financial advice, nor is the Company making any recommendations regarding your participation in the Program and Plan, or your acquisition or sale of the underlying shares of Common Stock. You are hereby advised to consult with your own personal tax, legal and financial advisors regarding your participation in the Plan before taking any action related to the Program and Plan.

VIII. Data Privacy. You hereby explicitly and unambiguously consent to the collection, use and transfer, in electronic or other form, of your personal data as described in this Agreement by and among, as applicable, the Company or Affiliates of the Company for the exclusive purpose of implementing, administering and managing your participation in the Program and Plan.

You understand that the Company or Affiliates of the Company may hold certain personal information about you, including, without limitation, your name, home address and telephone number, date of birth, social insurance number (to the extent permitted under applicable local law) or other identification number, salary, nationality, job title, residency status, any shares of stock or directorships held in the Company, details of all equity compensation or any other entitlement to shares awarded, canceled, vested, unvested or outstanding in your favor, for the purpose of implementing, administering and managing the Program and Plan ("Data"). You understand that Data may be transferred to UBS Financial Services, Inc. or any third parties assisting in the implementation, administration and management of the Program and Plan, that these recipients may be located in your country or elsewhere including outside the European Economic Area, and that the recipient's country (e.g., the United States) may have different data privacy laws and protections than Belgium. You understand that you may request a list with the names and addresses of any potential recipients of the Data by contacting the Company. You authorize the Company, Affiliates of the Company, UBS Financial Services, Inc. and any other possible recipients which may assist the Company (presently or in the future) with implementing, administering, and managing your participation in the Plan to receive, possess, use, retain and transfer the Data, in electronic or other form, for the sole purposes of implementing, administering and managing your participation in the Program and Plan, including any requisite transfer of such Data as may be required to any other broker, escrow agent or other third party with whom the shares issued upon vesting of the Units may be deposited. You understand that Data will be held only as long as is necessary to implement, administer and manage your participation in the Program and Plan. You understand that you may, at any time, view Data, request additional information about the storage and processing of Data, require any necessary amendments to Data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company. You understand that refusal or withdrawal of consent may affect your ability to participate in the Program and Plan. For more information on the consequences of your refusal to consent or withdrawal of consent, you understand that you may contact the Company.

IX. Language. If you have received this Agreement or any other document related to the Program and Plan translated into a language other than English and if the meaning of the translated version differs from the English version, the English version shall control.

X. Electronic Delivery. The Company may, in its sole discretion, decide to deliver any documents related to current or future participation in the Program and Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Program and Plan through an online or electronic system established and maintained by the Company or a third party designated by the Company.

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

XII. Plan and Program. This Agreement is subject to all the provisions of the Plan and Program and their provisions are hereby made a part of this Agreement, including without limitation the provisions of paragraph 7 of the Plan relating to stock bonuses, and is further subject to all interpretations, amendments, rules and regulations which may from time to time be promulgated and adopted pursuant to the Plan. In the event of any conflict between the provisions of this Agreement and those of the Plan and the Program, the provisions of the Plan shall control.

XIII. Governing Law. This Agreement shall be construed and interpreted, and the rights of the parties shall be determined, in accordance with the laws of the State of Delaware, without regard to conflicts of law provisions thereof. For purposes of litigating any dispute that arises hereunder, the parties hereby submit to and consent to the jurisdiction of the State of Delaware, or the federal courts for the United States for the federal district located in the State of Delaware, and no other courts, where this Agreement is made and/or to be performed.

XV. Imposition of Other Requirements. The Company reserves the right to impose other requirements on your participation in the Program and Plan, on the Units and on any shares of Common Stock acquired under the Program and Plan, to the extent the Company determines it is necessary or advisable in order to comply with local law or facilitate the administration of the Program and Plan, and to require you to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.

Very truly yours,

AMGEN INC.

By: _____
Name:
Title:

Accepted and Agreed,

this _____ day of _____, 200_.

By: _____
Name:

Exhibit 10.19

AMENDMENT AND RESTATEMENT OF THE
AMGEN CHANGE OF CONTROL SEVERANCE PLAN
EFFECTIVE DECEMBER 9, 2008

The Amgen Change of Control Severance Plan, effective as of October 20, 1998 (the "Plan"), is hereby amended and restated effective as of December 9, 2008, except as otherwise provided herein, to incorporate the following modifications:

1. The first paragraph of the Plan is amended in its entirety to read as follows:

AMGEN INC., a Delaware corporation, established this Change of Control Severance Plan (the "Plan"), effective as of October 20, 1998, for the benefit of certain key employees of the Company. By resolution of the Board of Directors of Amgen Inc., the Plan is hereby amended and restated, effective as of December 9, 2008, to add Anna Richo as a Group I Participant and establish an exemption from or otherwise comply with the requirements of Section 409A of the Internal Revenue Code.

2. Section 1(L) of the Plan is amended in its entirety to read as follows:

(L) "*Good Reason*," with respect to any Participant, shall mean the occurrence (without the Participant's express written consent) of any of the following conditions, but only if (1) the Participant provides written notice to the Company of the existence of the condition within thirty (30) days of the initial existence of the condition; (2) the Company fails to remedy the condition within the thirty (30)-day period following the Company's receipt of the notice delivered pursuant to clause (1); and (3) the Participant actually terminates employment within thirty (30) days following the expiration of the thirty (30)-day period described in clause (2):

(i) any adverse and material diminution in the Participant's authority, duties or responsibilities as they existed immediately prior to the Change of Control or as the same may be increased from time to time thereafter;

(ii) the Company's material reduction of the Participant's annual base salary as in effect on the date hereof or as the same may be increased from time to time;

(iii) relocation of the Company's offices at which the Participant is employed which increases the Participant's daily commute by more than one-hundred (100) miles on a round trip basis; or

(iv) any other action or inaction by the Company that constitutes a material breach of the agreement under which the Participant provides services.

A Participant's right to terminate his or her employment for Good Reason shall not be affected by the Participant's incapacity due to physical or mental illness.

3. Section 2 of the Plan is amended in its entirety to read as follows:

2. **Effective Date and Term of Plan**. The Plan, as amended and restated, shall be effective as of December , 2008 and shall continue in effect through December 31, 2012; *provided, however*, that commencing on December 31, 2012 and on each December 31 thereafter, the Plan shall automatically be extended for one additional year by adding one year to the last day of the term as then in effect unless, not later than September 30 of such year, the Company shall have given notice to the Participants that the term of the Plan will not be extended; *provided, further*, that if a Change of Control occurs during the original or any extended term of the Plan, the term of the Plan shall continue in effect for a period of not less than thirty-six (36) months beyond the month in which such Change of Control occurred.

4. Section 4.1(B) of the Plan is amended in its entirety to read as follows:

(B) *Benefits.* Subject to subsection (B) of Section 11.6,

(i) During the Benefits Continuation Period, the Company shall provide the Participant and his or her dependents with life, disability, accident, and health insurance benefits substantially similar to those provided to the Participant and his or her dependents immediately prior to the Date of Termination or the date of the Change of Control, whichever is more favorable to the Participant; *provided, however*, that such benefits shall be provided on substantially the same terms and conditions and at the same cost to the Participant as in effect immediately prior to the Date of Termination or the date of the Change of Control, whichever is more favorable to the Participant. At the termination of the group health plan coverage under this paragraph, the Participant and his or her dependents shall be entitled to continuation coverage pursuant to Section 4980B of the Code, Sections 601-608 of the Employee Retirement Income Security Act of 1974, as amended, and under any other applicable law, to the extent required by such laws, as if the Participant had terminated employment with the Company on the date such group health plan coverage terminates.

(ii) Notwithstanding the foregoing, if the Participant becomes reemployed with another employer and is eligible to receive such benefits under another employer's plans, the Company's obligations under its plans and this Section 4.1(B) shall be secondary to the coverage provided by such other employer's plans during the Benefits Continuation Period, and any such benefits actually received by the Participant shall be reported to the Company. In the event that the Participant is ineligible under the terms of the Company's benefit plans to continue

to be so covered, the Company, during the Benefits Continuation Period, shall provide the Participant with substantially equivalent coverage through other sources or will reimburse the Participant's expenses incurred in obtaining such coverage, provided the Participant provides the Company with reasonable documentation substantiating such expenses were incurred during the Benefits Continuation Period, and the Company reimburses the Participant's expenses no later than the end of the calendar year immediately following the calendar year in which the expenses were incurred by the Participant. Except as set forth in Treasury Regulation § 1.409A-3(i)(1)(iv)(B) or successor provision, the amount of expenses eligible for reimbursement, or the amount of in-kind benefits coverage provided under this Section 4.1(B) to the Participant in any calendar year, may not affect the expenses eligible for reimbursement or benefit coverage provided in any other calendar year. If any reimbursements under this Section 4.1(B)(ii) are includible in the gross income of the Participant for income or employment tax purposes, the Company shall pay the Participant an additional amount ("Gross-Up Payment") such that after the payment of all income and employment taxes (but not any excise or 409A taxes) on the reimbursements and the Gross-Up Payment, the Participant retains an amount equal to the reimbursements. The Company shall pay the Gross-Up Payment to the Participant no later than 30 days after the Participant is required to remit the taxes related to the reimbursements.

5. Section 4.1(D) of the Plan is amended in its entirety to read as follows:

(D) The Participant shall be fully vested in his or her accrued benefits under the Amgen Retirement Savings Plan and the Amgen Supplemental Retirement Plan, as applicable, and the Company shall provide the Participant with additional fully vested benefits under such plans in an amount equal to the benefits which the Participant would have accrued (based upon the amount of the contributions thereto by the Participant and the Company on the Participant's behalf, in each case immediately prior to the Date of Termination or, if more favorable to the Participant, immediately prior to the Change of Control) had he or she continued employment with the Company following his or her Date of Termination for that number of years equal to the Participant's Benefits Multiple; *provided, however*, that to the extent that the acceleration of vesting or enhanced accrual of such benefits under the Amgen Retirement Savings Plan would violate any applicable law or require the Company to accelerate the vesting of the accrued benefits of all participants in such plan or to provide additional benefit accruals to such participants, the Company shall pay the Participant a lump-sum cash payment at the time specified in Section 4.3 hereof in an amount equal to the value of such benefits. In no event shall a cash payment be made to the Participant in lieu of the acceleration of vesting or enhanced accrual of benefits under the Amgen Supplemental Retirement Plan.

6. Section 4.1(G) of the Plan is amended in its entirety to read as follows:

(G) If it shall be determined by the Accountants that any payment, distribution or acceleration of vesting or exercisability of any stock option or other right with respect to a Participant who is a "disqualified individual" within the meaning of Section 280G(c) of the Code, whether paid, distributed or accelerated pursuant to the terms of the Plan or otherwise (the "Payment"), would be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then the Participant shall be entitled to receive from the Company, within the time period set forth in Section 4.3 and no later than the end of the Participant's taxable year following the taxable year in which the Participant remits such taxes, an additional lump sum cash payment (the "20% Payment") in an amount equal to twenty percent (20%) of the amount of the Participant's "excess parachute payment" within the meaning of Section 280G(b)(1) of the Code.

7. Section 4.3 of the Plan is amended in its entirety to read as follows:

4.3 Subject to subsection (B) of Section 11.6, the cash payments provided in subsections (A), (C), (D) and (G) of Section 4.1 hereof shall be made by the fifth (5th) day following the receipt by the Participant of the Accountants' determination, but in no event later than March 15 of the calendar year following the calendar year in which the Participant's employment is terminated. As a result of uncertainty in the application of Section 280G and Section 4999 of the Code at the time of the initial determination by the Accountants hereunder, it is possible that the Cash Severance Payment and/or the 20% Payment made by the Company will have been less than the Company should have paid pursuant to Section 4.1(A) or (G) hereof, as the case may be (the amount of any such deficiency, the "Underpayment") or more than the Company should have paid pursuant to Section 4.1(A) or (G) hereof, as the case may be (the amount of any such overage, the "Overpayment"). In the event of an Underpayment, the Company shall pay the Participant the amount of such Underpayment (together with interest at 120% of the rate provided in Section 1274(b)(2)(B) of the Code) not later than five (5) business days after the amount of such Underpayment is subsequently determined, *provided, however,* such Underpayment shall not be paid later than the end of the calendar year following the calendar year in which the Participant remitted the related taxes. In the event of an Overpayment, the amount of such Overpayment shall constitute a loan by the Company to the Participant, payable not later than five (5) business days after the amount of such Overpayment is subsequently determined (together with interest at 120% of the rate provided in Section 1274(b)(2)(B) of the Code).

8. Section 5.2 of the Plan is amended in its entirety to read as follows:

5.2 *Date of Termination*. "Date of Termination," with respect to any purported termination of a Participant's employment (other than by reason of the Participant's death), shall mean (i) if the Participant's employment is terminated for Disability, the date upon which a Notice of Termination is given, and (ii) if the Participant's employment is terminated for any other reason, whether voluntarily or involuntarily, the date that the Participant's employment terminates, as specified in the Notice of Termination (which shall be within sixty (60) days from the date such Notice of Termination is given).

9. Section 9.3 of the Plan is amended by adding the following sentence to the end of that Section:

The Company shall make such payments no later than the last day of the Participant's taxable year immediately following the taxable year in which the expenses are incurred.

10. Section 11.5 of the Plan is amended in its entirety to read as follows:

11.5 *Tax Withholding*. The Company shall withhold from any payments made to a Participant under this Plan all federal, state and local income, employment and other taxes that the Company reasonably determines to be required to be withheld by the Company in connection with such payments, in amounts and in a manner to be determined in the sole discretion of the Company. Except to the extent specifically provided within this Plan or any separate written agreement between a Participant and the Company, a Participant shall be solely responsible for the satisfaction of any taxes with respect to the benefits payable to the Participant under this Plan (including, but not limited to, employment taxes imposed on employees and additional taxes on nonqualified deferred compensation).

11. The following is added to the Plan as Section 11.6:

11.6 *Code Section 409A.*

(A) *Generally*. Although the Company intends and expects that the Plan and its payments and benefits will not give rise to taxes imposed under Section 409A of the Code, neither the Company, nor its employees, directors, or agents shall have any obligation to mitigate or to hold any Participant harmless from any or all of such taxes.

(B) *Section 409A Six-Month Delayed Payment Rule*. If any payments or benefits that become payable under this Plan on account of the Participant's termination of employment constitute a deferral of compensation under Code Section 409A, such payments or benefits will be provided when the Participant incurs a "separation from service" within the meaning of Treasury Regulation § 1.409A-1(h) or successor provision ("Separation from Service"). If, at the time of the Participant's Separation from Service, the Participant is a "specified employee" (within the meaning of Section 409A of the Code and Treasury Regulation Section 1.409A-1(i) or successor provision), the Company will not pay or provide any "Specified Benefits" (as defined herein) during the six-month period beginning with the date of the Participant's Separation from Service (the "409A Suspension Period"). In the event of a Participant's death, however, the Specified Benefits shall be paid to the Participant's Beneficiary without regard to the 409A Suspension Period. For purposes of this Plan, "Specified Benefits" are any payments or benefits that would be subject to Section 409A additional taxes if the Company were to pay them, pursuant to this Plan, on account of the Participant's "separation from service." Within 14 calendar days after the end of the 409A Suspension Period, the Participant shall be paid a lump-sum payment in cash equal to any Specified Benefits delayed during the 409A Suspension Period.

12. Annex A to the Plan is revised in its entirety to read as follows:

ANNEX A

AMGEN INC. CHANGE OF CONTROL SEVERANCE PLAN
GROUP I PARTICIPANTS

Effective December 31, 2008, the following senior executive-level staff members are designated Group I Participants in the Amgen Inc. Change of Control Severance Plan (the "Plan") and such designation shall remain in effect until modified by the Administrative Committee as defined in the Plan:

Balachandran, Madhavan
Beier, David W.
Bonanni, Fabrizio
Bradway, Robert
Daly, James M.
Dere, Willard H.
Eisenberg, Paul
Flanagan, Thomas
Harper, Sean
Hoffman, Rolf
Lacey, David
McNamee, Brian M
Miletich, Joseph P.
Morrow, George J.
Perlmutter, Roger M.
Richo, Anna S.
Scott, David J.
Sharer, Kevin W.
Slaff, Geoffrey

13. All Plan references to section numbers and defined terms are amended to reflect the above modifications.

To record this Amendment and Restatement of the Plan as set forth herein, the Company has caused its authorized officer to execute this document (as well as a revised plan document incorporating all the above modifications) this 9th day of December, 2008.

AMGEN INC.

By: /s/ Brian McNamee
Brian McNamee
Senior Vice President
Human Resources

Exhibit 10.71

MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT (this "**Agreement**"), is made and effective as of October 22, 2008 (the "**Effective Date**"), by and between Amgen Inc., a Delaware corporation having a place of business at One Amgen Center Drive, Thousand Oaks, CA 91320 ("**Company**"), and International Business Machines Corporation, a New York corporation having a place of business at One New Orchard Road, Armonk, NY 10504 ("**Supplier**") (each a "**Party**", and collectively, the "**Parties**").

RECITALS

WHEREAS, Company is engaged in the business of the research, development and commercialization of human therapeutics;

WHEREAS, Supplier is in the business of, amongst other things, performing outsourcing services with respect to management of information technology systems; and

WHEREAS, pursuant to the terms of this Agreement, Company intends to establish a framework within which Company may engage Supplier to provide services to Company from time to time, which framework shall govern the relationship between the Parties in respect of such services.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 Definitions.

Abandonment. "**Abandonment**" means the [*****] by Supplier to (i) provide or perform [*****], or (ii) comply with [*****] of Supplier hereunder, in each case, [*****].

Accept or Acceptance. "**Accept**" or "**Acceptance**" means to accept a Deliverable in accordance with the acceptance criteria and acceptance testing procedures applicable to such Deliverable.

Affected Contractors. "**Affected Contractors**" means those individuals or entities who are subject to Company Contractor Agreements and who are identified as "affected contractors" in Exhibit 19 (Affected Personnel).

Affected Employees. "**Affected Employees**" means those Company employees identified as "affected employees" in Exhibit 19 (Affected Personnel).

Affected Personnel. "**Affected Personnel**" means, collectively, Affected Contractors and Affected Employees.

Affiliate. "**Affiliate**" means any entity Controlling, Controlled by or under common Control with a Party, but only for so long as such Control continues, where "Control" means: (i) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or the right to vote for or appoint a majority of the board of directors or other governing body of such entity; or (ii) the power to directly or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

Applicable Laws. "**Applicable Laws**" means Company Laws with respect to Company, and Supplier Laws and Legal Compliance Obligations with respect to Supplier.

Note: Redacted portions have been marked with [*]. The redacted portions are subjects to a request for confidential treatment that has been submitted to the Securities and Exchange Commission.

ARD Countries. "**ARD Countries**" means those jurisdictions that have implemented ARD Laws and in which Company or one of its Affiliates employs Affected Employees.

ARD Laws. "**ARD Laws**" means (1) the European Community Council Directive (77/187/EEC) of February 14, 1977 as consolidated by Council Directive 2001/23/EC of March 12, 2001, in each case as amended from time to time, and legislation and Laws implementing such directives in any country in which a Company Service Location or a Supplier Service Location is located or where Transitioned Employees are employed; and (2) equivalent legislation and Laws dealing with the same subject matter as such directives in each of Turkey and Switzerland.

Assigned Contracts. "**Assigned Contracts**" means the third-party agreements that are assigned, in whole or in part, to Supplier and identified as "Assigned Contracts" in Exhibit 11 (Assigned and Managed Contracts).

Authorized User. "**Authorized User**" means any individual (e.g., an employee, contractor, subcontractor, agent or representative of Company) who is designated by Company to receive or use the Services.

Base Charges. "**Base Charges**" means the base Charges applicable to the Services or to a Project as further defined in Exhibit 1 (Definitions) or the applicable Order.

Charges. "**Charges**" means the costs and fees for Services as further defined in Exhibit 4 (Pricing).

cGMP. "**cGMP**" means (i) the applicable regulatory requirements, as amended from time to time, for current good manufacturing practices, including without limitation those promulgated by the Food and Drug Administration under the United States Federal Food, Drug and Cosmetic Act, 21 CFR § 210 *et seq*. or under the Public Health Service Act, Biological Products, 21 CFR §§ 600-610, the European Medicines Agency or Health Canada under the Food and Drugs Act (Canada), R.S. 1985, CF-27 and its associated regulations; (ii) any applicable guidance documents published by a Governmental Authority; and (iii) current industry practice consistent and in accordance therewith.

Company Competitor. "**Company Competitor**" means those companies identified in Exhibit 27 (Company Competitors).

Company Data. "**Company Data**" means all information entered in Software or Equipment by or on behalf of Company, including information relating to Company's customers and vendors, and information derived from such information, including as stored in or processed through the Equipment or Software.

Company Group. "**Company Group**" means Company and its Affiliates who are receiving Services under this Agreement.

Company Laws. "**Company Laws**" means Laws to the extent applicable to the Services that are (i) identified by Company or Supplier as being applicable to Company and (ii) applicable to the collection, use, storage, or transfer of Company Data including without limitation the Laws set forth in Exhibit 20 (Company Laws) (as modified from time-to-time in accordance with Section 9.2).

Company Provided Equipment. "**Company Provided Equipment**" means Equipment owned or leased by Company.

Company Provided Materials. "**Company Provided Materials**" means Company Provided Equipment, Company Software, and all other materials provided by Company.

Company Service Location. "**Company Service Location**" means any facility or location to which Supplier shall provide the Services, including the facilities set forth in Exhibit 7 (Sites).

Company Software. "**Company Software**" means Software owned by Company.

Compliance Requirements. "**Compliance Requirements**" means the requirements of the Securities and Exchange Commission Act of 1934 and all amendments thereto, including the Sarbanes-Oxley Act of 2002, Regulation AB, and any similar, future SEC requirements, and any requirements and rules pertaining thereto established by Law, including requirements imposed by auditing standards or reporting requirements promulgated by the American Institute of Certified Public Accountants, the Public Company Accounting Oversight Board or the Securities and Exchange Commission.

Confidential Information. "**Confidential Information**" of a Party means all information, unless specifically identified by such Party as non-confidential, regardless of how communicated or stored, concerning the operations, affairs, products and businesses of such Party, the financial affairs of such Party, and the relations of such Party with its customers, employees and service providers, including without limitation, confidential or proprietary information, trade secrets, data, drafts, documents, communications, plans, know-how, formulas, improvements, designs, estimates, calculations, test results, specimens, schematics, drawings, tracings, studies, specifications, surveys, facilities, photographs, documentation, software, equipment, processes, programs, reports, orders, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, business and financial information, customer or client lists, account information, procedures, computer information and databases, business plans, budget forecasts, business arrangements, financial information and estimates, personnel data, and long-term plans and goals. "**Confidential Information**" of Company shall include (i) all information relating to the Services and Orders, including the terms and conditions of this Agreement, (ii) the specifications, designs, documents, correspondence, Software, documentation, data and other materials and work products produced by or for Supplier in the course of performing the Services, (iii) Deliverables and Company Data, and (iv) other Company information or data stored or otherwise or communicated, and obtained, received, transmitted, processed, stored, archived, maintained or derived by Supplier under this Agreement or in connection with the Services. "**Confidential Information**" of Supplier shall include (i) all information concerning the operations, affairs and businesses of Supplier, the financial affairs of Supplier, and the relations of Supplier with its other customers, employees and suppliers (including customer lists, customer (other than Company) information, account information, and consumer markets), and (ii) Software owned by Supplier and provided to Company by or through Supplier.

Control Objectives. "**Control Objectives**" means, collectively, as applicable to the Services and Systems (1) those control objectives included in Exhibit 24 (Compliance Requirements and Control Objectives), (2) additional control objectives established by Supplier (or Supplier Personnel) after the Effective Date that are relevant to the Services; and (3) those control objectives established by Company pursuant to Section 18.3(E) of this Agreement.

Core Software Deliverables. "**Core Software Deliverables**" means all Software Deliverables that are (i) specifically identified as Core Software Deliverables in an Order or (ii) designed to be used in Company's core business of research, development, manufacturing, or commercialization of human therapeutics.

Critical Affected Personnel. "**Critical Affected Personnel**" means Affected Personnel who are identified as "critical affected personnel" in Exhibit 19 (Affected Personnel).

Direct Damages. "**Direct Damages**" means actual, direct damages incurred by the claiming entity directly and naturally resulting from or arising out of a breach of this Agreement. Direct Damages include, by way of example but without limitation, the following: (i) costs of [*****]; (ii) costs of replacing [*****]; (iii) [*****] incurred by Company [*****]; (iv) the costs incurred by Company to correct any [*****], (v) the difference in the amounts to be [*****], (vi) the [*****], (vii) [*****]; and (viii) the costs and expenses incurred by Company to [*****]. A Party shall not be precluded from establishing that a particular damage is a Direct Damage on the basis that (i) [*****], or (ii) the Parties [*****].

Deliverables. "**Deliverables**" means any and all tangible work product, reports, data, specifications, designs, documents, correspondence, Software, documentation, and other materials, and other deliverables identified in an Order, including Transition Deliverables, Transformation Deliverables, Software Deliverables and Non-Software Deliverables.

Equipment. "**Equipment**" means the computer, telecommunications and other equipment (without regard to the entity owning or leasing such equipment) used by Supplier to provide the Services. Equipment includes the following: (1) computer equipment, including associated attachments, features, accessories, peripheral devices and other computer equipment; and (2) telecommunications equipment, including private branch exchanges, multiplexors, modems, CSUs/DSUs, hubs, bridges, routers, switches and other telecommunications equipment.

Event of Deteriorating Supplier Condition. "**Event of Deteriorating Supplier Condition**" means any of the following events: (i) Supplier or its Global Technology Services division ceases to do business as a going concern, makes an assignment of all or substantially all of its assets for the benefit of creditors, is insolvent or the subject of receivership, or any substantial part of Supplier's property is or becomes subject to any levy, seizure, assignment or sale for or by any creditor or governmental agency without being released or satisfied within a reasonable time thereafter; (ii) Supplier's auditors issue an opinion expressing doubt as to whether Supplier can maintain itself as a "going concern," or Supplier's credit is downgraded to a Moody rating of "Baa1" or below; (iii) any judgment or tax lien is filed or issued against Supplier that materially impacts Supplier's ability to provide the Services to Company, and such judgment or tax lien is not resolved or satisfied within a reasonable time thereafter; (iv) voluntary bankruptcy proceedings or involuntary bankruptcy proceedings that have not been dismissed within ninety (90) days of commencement, are commenced by or against Supplier; (v) Supplier sells all or substantially all of its assets, or a material portion of its assets related to the Services except in connection with a Change of Control as permitted under this Agreement; (vii) there is a material adverse change in the business, financial condition or prospects of Supplier's Global Technology Services division that is reasonably likely to result in a delay in the performance of Supplier's obligations hereunder, or a reduction in the quality of such performance; (viii) the [*****]; (ix) Supplier fails to [*****]; (x) Supplier's [*****] is not approved by Company (acting in good faith); and (xi) within thirty (30) days after Company's delivery of written notice to Supplier, Supplier fails to [*****].

Governmental Authorities. "**Governmental Authorities**" means any national, state or local, U.S. or foreign, governmental, regulatory or judicial authority having jurisdiction over Company, Supplier, this Agreement or any Services.

[*****]

Intellectual Property. "**Intellectual Property**" means: (i) patents, patent applications and statutory invention registrations (in the case of Non-Software Deliverables, based on inventions embodied therein); (ii) copyrights, including registrations and applications for registration thereof; (iii) trade secrets; and (iv) any other rights similar to the foregoing.

Law(s). "**Law(s)**" means all federal, state, provincial, regional, territorial and local laws, statutes, ordinances, regulations, rules, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters and other official releases of or by any government, or any authority, department or agency thereof, including the United States Securities and Exchange Commission and the Public Accounting Oversight Board. "Laws" shall include Laws relating to data privacy trans-border data flow or data protection, such as the implementing legislation and regulations of the European Union member states under the European Union Directive 95/46/EC, and any and all of Canada's federal and provincial privacy laws. Laws shall include Company Laws and Supplier Laws.

Legal Compliance Obligations. "**Legal Compliance Obligations**" means Supplier's obligations under Section 9.1 and Section 9.3.

Managed Contracts. "**Managed Contracts**" means the Third-Party agreements for which Supplier assumes management responsibility that are identified as "Managed Contracts" in Exhibit 11 (Assigned and Managed Contracts) or identified by Company from time to time.

Non-Core Software Deliverables. "**Non-Core Software Deliverables**" means all Software Deliverables other than Core Software Deliverables.

Non-Software Deliverables. "**Non-Software Deliverables**" means literary works or other works of authorship created for and required to be delivered to Company under this Agreement, including the Transition Plan, Transformation Plan, Change Request Authorizations, Orders, Policies and Procedures Manual, business requirements documents, design documents, manuals, training materials and documentation, but excluding Software.

Out-of-Pocket Expenses. "**Out-of-Pocket Expenses**" means reasonable, demonstrable and actual invoiced expenses for Equipment, materials, supplies or Services provided to or for Company as identified in this Agreement, but not including Supplier's overhead costs (or allocations thereof), internal administrative expenses or other mark-ups, in each case, (A) that are due and payable to a Third Party by Supplier and (B) (i) that are approved in advance by Company, or (ii) for which Supplier is entitled to be reimbursed as a Pass-Through Expense in accordance with Exhibit 4 (Pricing) of this Agreement. Out-of-Pocket Expenses shall be calculated at Supplier's actual incremental expense and shall be net of all refunds, returns, rebates and allowances.

Pass-Through Expenses. "**Pass-Through Expenses**" has the meaning set forth in Exhibit 4 (Pricing).

Personnel. "**Personnel**" of a Party means such Party's directors, officers, employees, Subcontractors (with respect to Supplier only), consultants, representatives and agents, excluding the other Party, who contribute to the performance of such Party's obligations under this Agreement.

Pre-Existing Rights. "**Pre-Existing Rights**" means any and all Software and other Intellectual Property rights (i) owned by or licensed to a Party and incorporated in or required to operate any Deliverable, and (ii) that is pre-existing on the Effective Date or the effective date of the applicable Order governing the development of such Deliverable, as applicable.

SAS 70 Gap Period. "**SAS 70 Gap Period**" means the period of time between the issuance of a SAS 70 Type 2 Report by the service auditor and the date of the assessment by Company of the adequacy of Company's controls pursuant to the Compliance Requirements.

SAS 70 Type 2 Report. "**SAS 70 Type 2 Report**" means a written opinion of a service auditor, issued in accordance with and subject to the requirements of SAS 70, covering each Supplier facility where Services are performed and addressing (1) whether Supplier's description of its controls presents fairly, in all material respects, the relevant aspects of Supplier's controls that had been placed in operation as of a specified date, (2) whether such controls were suitably designed to achieve the Control Objectives, and (3) whether the controls that were tested were operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the Control Objectives were achieved during the period specified; together with the service auditor's (a) description of the Control Objectives, (b) report on the operating effectiveness of the controls, and (c) description of the tests of the operating effectiveness of the controls that may be relevant to specified assertions in Company's financial statements, and the results of those tests. The SAS 70 Type 2 Report will contain any additional information that may be required under SAS 70 and will contain a paragraph stating that the SAS 70 Type 2 Report is intended to be used by customers of Supplier and such customers' independent auditors.

Service Level Credit. "**Service Level Credit**" means the applicable credit against the Charges payable by Supplier to Company hereunder for failure of Supplier to meet a particular Service Level.

Service Level Default. "**Service Level Default**" means in respect of each Critical Service Level or Key Measurement that (i) Supplier's Service Level Performance fails to [*****]; or (ii) Supplier's Service Level Performance fails to [*****]; or (iii) Measurement data for the [*****]**.** All capitalized terms used in but not defined in this definition or in the body of this Agreement are defined in Exhibit 1 (Definitions).

Software. "**Software**" means the object code versions of any applications programs, operating system software, computer software languages, utilities, other computer programs and related documentation, in whatever form or media, including the tangible media upon which such applications programs, operating

system software, computer software languages, utilities, other computer programs and related documentation are recorded or printed, together with all corrections, improvements, updates and releases thereof.

Software Deliverables. "**Software Deliverables**" mean all Deliverables that include Software that are required to be delivered to Company under this Agreement or an Order, including Core Software Deliverables and Non-Core Software Deliverables.

Subcontractor. "**Subcontractor**" means any individual or entity (other than Supplier), including an Affiliate of Supplier, that performs Services under this Agreement (including any Order).

Supplier Laws. "**Supplier Laws**" means all Laws applicable to Supplier in its capacity as a provider of IT services and all Laws that are generally applicable to Supplier, which Laws may include HIPAA, the Sarbanes-Oxley Act of 2002, the Gramm-Leach-Bliley Act and well-known Laws governing privacy.

Supplier Proprietary Software. "**Supplier Proprietary Software**" means the Software (which may include Tools) and related documentation (1) owned by Supplier and (2) any enhancements, modifications or derivatives thereof owned by Supplier, in each case, (a) that are used in connection with the Services, and (b) excluding Core Software Deliverables. The Supplier Proprietary Software includes the Software designated as "Supplier Proprietary Software" in Exhibit 10 (Equipment and Software Lists).

Supplier Service Location. "**Supplier Service Location**" means each facility of Supplier from which Supplier provides the Services, as set forth in Exhibit 17 (Supplier Service Locations).

Supplier Software. "**Supplier Software**" means, collectively, the Supplier Proprietary Software and the Supplier Third Party Software.

Supplier Third Party Software. "**Supplier Third Party Software**" means the Software (which may include Tools) and related documentation licensed or leased by Supplier from a Third Party that are used (1) in connection with the Services or (2) with any Supplier Proprietary Software. The Supplier Third Party Software includes the Software designated as "Supplier Third Party Software" in Exhibit 10 (Equipment and Software Lists).

System. "**System**" means the computing infrastructure, including Software, Tools and Equipment, used by Supplier to provide the Services, and to access, process or store any Company Data.

Third Party. "**Third Party**" means a legal entity, company or person that is not a Party, or an Affiliate of a Party, to this Agreement. Personnel of a Party or Subcontractors, or of an Affiliate of a Party, shall be considered "**Third Parties**" hereunder.

Tools. "**Tools**" means any testing, monitoring or other tools or utilities and related know-how, methodologies, processes, technologies, or algorithms.

Tower. "**Tower**" means a general grouping of related Services that are described within Exhibit 2 (Statement of Work), namely "Cross-Functional", "Messaging, Directory, & Collaboration", "Application Hosting", "Managed Network", or "End-User".

Transitioned Contractors. "**Transitioned Contractors**" means Affected Contractors whose contractor agreements are either terminated or assigned pursuant to Section 11.5(B).

Transitioned Employees. "**Transitioned Employees**" means Affected Employees who either accept an offer of employment with Supplier or whose employment is transitioned to Supplier pursuant to relevant ARD Laws (or the equivalent in countries outside of the EU) and become employed by Supplier effective as of the start of business on the Effective Date or such other date as to which the Parties mutually agree.

Transitioned Personnel. "**Transitioned Personnel**" means, collectively, Transitioned Employees and Transitioned Contractors.

Use. "**Use**" means the right to load, execute, store, transmit, display, copy and perform.

Wind-down Expenses. "**Wind-down Expenses**" means (1) Supplier's actual out-of-pocket reasonable costs and expenses related to the displacement of assets [*****] due to Company's early termination, excluding overhead and general expenses, markups and opportunity costs; and (2) Supplier's then-current net book value (using straight-line depreciation method) of Equipment, Software and materials used in and procured specifically for the delivery of Services under this Agreement, excluding costs and expenses for Transition and Transformation, provided in each case, that Supplier shall have an obligation to mitigate the foregoing, and that Wind-down Expenses shall be [*****] and shall be subject to audit by Company in accordance with this Agreement. In the event a Section of this Agreement specifically provides for (i) the purchase of (or option to purchase) Equipment or the assumption of leases by Company, and (ii) payment of Wind-down Expenses, the provisions of such Section governing the purchase of (or option to purchase) Equipment or the assumption of leases by Company shall prevail over this definition.

Section 1.2 Other Defined Terms Used in this Agreement.

"**ARD Affected Employees**"	Section 11.5(D)
"**Agreement**"	Preamble and Section 1.4(A)
"**Background Check Certification Form**"	Section 11.1
"**Benchmarked Representative Sample**"	Section 19.5(B)
"**Benchmark-Affected Employees**"	Section 19.5(D)(4)
"**Benchmarker**"	Section 19.5(A)
"**Change Control Procedure**"	Section 17.4
"**Change Request Authorization**"	Section 17.5
"**Change Request**"	Section 17.5
"**Company**"	Preamble
"**Company Contract Executive**"	Section 16.1
"**Company Contractor Agreements**"	Section 11.5
"**Company Facilities**"	Section 15.5
"**Company Indemnified Parties**"	Section 25.1
"**Company Non-Software Deliverables**"	Section 14.4
"**Company Policies**"	Section 9.3
"**Company Required Consents**"	Section 8.2
"**Company Service Recipients**"	Section 4.5
"**Company Transition Manager**"	Section 3.3(C)
"**Critical Affected Personnel**"	Section 11.5

"**Dispute Notice**"	Section 28.1
"**DRP**"	Section 27.1(A)
"**Effective Date**"	Preamble
"**Employee Transfer Date**"	Section 11.5(D)
"**Exhibit 4-Pre-Benchmark Charges Schedule**"	Section 19.5(D)(5)
"**Force Majeure Event**"	Section 27.1
"**HIPAA**"	Section 21.3
"**Initial Term**"	Section 2.1
"**IT**"	Section 1.2
"**Key Supplier Personnel**"	Section 11.2
"**Legal Compliance Obligations**"	Section 9.1
"**Local Country Agreement**"	Section 1.7
"**Losses**"	Section 25.1
"**Monthly Service Level Report**"	Section 10.8
"**New Service**"	Section 17.5
"**Notice of Election**"	Section 25.3
"**Offshore Location**"	Section 15.1
"**Offshore Tax Jurisdiction**"	Section 19.4
"**Order**"	Section 6.2
"**Parties**"	Preamble
"**Party**"	Preamble
"**Pass-through Subcontracts**"	Section 17.7(C)
"**Personally Identifiable Information**"	Section 21.3
"**PHI**"	Section 21.3
"**Policies and Procedures Manual**"	Section 17.3
"**Privacy Laws and Regulations**"	Section 21.3
"**Project**"	Section 6.2
"**Project Request**"	Section 6.2
"**Refresh Schedule**"	Section 13.4
"**Renewal Term**"	Section 2.2
"**Required Consents**"	Section 8.2

"**Resources**"	Section 4.1
"**RTOs**"	Section 27.1(A)
"**Qualifying Invoice**"	Section 19.4(D)
"**Service Levels**"	Section 10.1
"**Services**"	Section 4.1
"**Shared Subcontractors**"	Section 17.7(A)(2)
"**Software Deliverables**"	Section 14.3
"**Staffing Action Plan**"	Section 11.6
"**Staffing Notice**"	Section 11.6
"**Steering Committee**"	Section 17.1
"**Supplier**"	Preamble and Section 1.4(B)(5)
"**Supplier Data Connections**"	Section 13.7
"**Supplier Equipment**"	Section 13.2
"**Supplier Indemnified Parties**"	Section 25.2
"**Supplier Non-Software Deliverables**"	Section 14.4
"**Supplier Project Executive**"	Section 11.2
"**Supplier Provided Items**"	Section 25.1(I)
"**Supplier Required Consents**"	Section 8.1
"**Supplier Transition Manager**"	Section 3.3
"**Technology Refresh Plan**"	Section 17.1
"**Term**"	Section 2.1
"**Termination/Expiration Assistance Period**"	Section 29.7
"**Termination/Expiration Assistance**"	Section 29.7
"**Third Party Claims**"	Section 25.1
"**Third-Party Resources**"	Section 4.1
"**Third Party Vendor**"	Section 7.1
"**Top Quartile Average Price**"	Section 19.5(D)
"**Transformation**"	Section 5.1
"**Transformation Deliverables**"	Section 5.3
"**Transformation Milestone**"	Section 5.3
"**Transformation Milestone Credit**"	Section 5.6

"**Transformation Objectives**"	Section 5.1
"**Transformation Plan**"	Section 5.3
"**Transformation Project**"	Section 5.2
"**Transition**"	Section 3.1
"**Transition Deliverables**"	Section 3.2
"**Transition Milestone**"	Section 3.2
"**Transition Milestone Credit**"	Section 3.2
"**Transition Period**"	Section 3.1
"**Transition Plan**"	Section 3.2

Section 1.3 Other Defined Terms Used in the Exhibits.

"**Access Loop**"	Exhibit 4
"**Actual Foreign Exchange Rate**"	Exhibit 4
"**Actual Inflation**"	Exhibit 4
"**Action Item**"	Exhibit 1
"**Actual Uptime**"	Exhibit 1
"**Add/Change**"	Exhibit 4
"**Additional Resource Charge (ARC)**"	Exhibit 1
"**ADM**"	Exhibit 1
"**Allocation of Pool Percentage**"	Exhibit 1
"**Application Server(s)**"	Exhibit 1
"**Applications**"	Exhibit 1
"**Applications Software**"	Exhibit 1
"**Architecture**"	Exhibit 1
"**Asset Inventory and Management System**"	Exhibit 1
"**Authorized User**"	Exhibit 1
"**At-Risk Amount**"	Exhibit 1
"**Availability**"	Exhibit 1
"**Availability Management**"	Exhibit 1
"**AVTS**"	Exhibit 4

"**Base Charge**"	Exhibit 1
"**Base Charges**"	Exhibit 1
"**Base Foreign Exchange Rate**"	Exhibit 4
"**Base Year Index**"	Exhibit 4
"**BAU Resources or Business as Usual Resources**"	Exhibit 4
"**Benchmarking**"	Exhibit 1
"**Business Continuity (Services)**"	Exhibit 1
"**Business Continuity Lifecycle**"	Exhibit 1
"**Business Continuity Management (BCM)**"	Exhibit 1
"**CAB/Emergency Committee**"	Exhibit 1
"**Cabling**"	Exhibit 1
"**Calls**"	Exhibit 1
"**Call Seat Center**"	Exhibit 4
"**Capacity Management**"	Exhibit 1
"**Capacity Management Database**"	Exhibit 1
"**Carrier**"	Exhibit 1
"**Cascade**"	Exhibit 4
"**Change**"	Exhibit 1
"**Change Advisory Board (CAB)**"	Exhibit 1
"**Change Management**"	Exhibit 1
"**Change Request Authorization(s)**"	Exhibit 1
"**CI Release**"	Exhibit 1
"**Collaborative Applications**"	Exhibit 1
"**Commencement Date**"	Exhibit 1
"**Commercial Off The Shelf (COTS)**"	Exhibit 1
"**Company Information**"	Exhibit 1
"**Company Materials**"	Exhibit 1
"**Conferencing Network**"	Exhibit 1
"**Conferencing Premise Equipment**"	Exhibit 1
"**Confidentiality**"	Exhibit 1
"**Configuration Item (CI)**"	Exhibit 1

"**Configuration Management**"	Exhibit 1
"**Configuration Management Database (CMDB)**"	Exhibit 1
"**Connectivity**"	Exhibit 1
"**Contract Year**"	Exhibit 1
"**Control (and its derivatives)**"	Exhibit 1
"**Critical Deliverables**"	Exhibit 1
"**Critical Service Level**"	Exhibit 1
"**Critical Transition and Transformation Credits**"	Exhibit 1
"**Cross-Functional Services**"	Exhibit 1
"**Currency Pairs**"	Exhibit 4
"**Current Projects**"	Exhibit 1
"**Data Center**"	Exhibit 1
"**Deferred Countries**"	Exhibit 1
"**Definitive Hardware Store (DHS)**"	Exhibit 1
"**Definitive Software Library (DSL)**"	Exhibit 1
"**Deliverable Credits**"	Exhibit 1
"**Desktop**"	Exhibit 4
"**Disaster Recovery Planning**"	Exhibit 1
"**Disaster Recovery (Services)**"	Exhibit 1
"**Downtime**"	Exhibit 1
"**Earnback**"	Exhibit 1
"**Economic Change Adjustment**"	Exhibit 4
"**Email Account**"	Exhibit 4
"**End-User Computing (EUC)**"	Exhibit 1
"**End-User Services**"	Exhibit 1
"**Expected Service Level**"	Exhibit 1
"**Expected Service Level Default**"	Exhibit 1
"**Expiration Date**"	Exhibit 1
"**Extranet**"	Exhibit 1
"**Fees**"	Exhibit 1

"**Foreign Exchange Sensitivity**"	Exhibit 4
"**Forward Schedule of Changes**"	Exhibit 1
"**FTE Criteria**"	Exhibit 4
"**FXRCA Deadband**"	Exhibit 4
"Handheld Device"	Exhibit 4
"**Hard IMAC**"	Exhibit 1
"**High Availability (clusters)**"	Exhibit 1
"**Hypercare**"	Exhibit 1
"**IMAC(s)**"	Exhibit 1
"**Impact**"	Exhibit 1
"**Incident**"	Exhibit 1
"**Incident Management**"	Exhibit 1
"**Incident Management System**"	Exhibit 1
"**Incident Record**"	Exhibit 1
"**Inflation Index**"	Exhibit 4
"**Infrastructure**"	Exhibit 1
"**In-Scope**"	Exhibit 1
"**Install**"	Exhibit 4
"**Integrity**"	Exhibit 1
"**Inter-Office Channel (IOC)**"	Exhibit 4
"**Interconnect Devices**"	Exhibit 1
"**Internet Network**"	Exhibit 1
"**IT Service Continuity Management**"	Exhibit 1
"**ITIL**"	Exhibit 1
"**Key Measurements**"	Exhibit 1
"**Known Error**"	Exhibit 1
"**Known Error Database**"	Exhibit 1
"**LAN (Local Area Network)**"	Exhibit 1
"**LAN Equipment**"	Exhibit 1
"**LAN Segment**"	Exhibit 1
"**LAN Systems**"	Exhibit 1

"**Laptop**"	Exhibit 4
"**Level 1 Support**"	Exhibit 1
"**Level 2 Support**"	Exhibit 1
"**Level 3 Support**"	Exhibit 1
"**Logical Security**"	Exhibit 1
"**Long-Range IT Plan**"	Exhibit 1
"**Major Incident**"	Exhibit 1
"**Major Software Release**"	Exhibit 1
"**Materials**"	Exhibit 1
"**Measurement Window**"	Exhibit 1
"**Messaging**"	Exhibit 1
"**Messaging Service**"	Exhibit 1
"**Minimum Performance Default**"	Exhibit 1
"**Minimum Service Level(s)**"	Exhibit 1
"**Mobile Data Communications Equipment**"	Exhibit 1
"**Mobile Data Communications Network**"	Exhibit 1
"**Mobile Data Communications System**"	Exhibit 1
"**Mobile Short Messaging Equipment (MSM Equipment)**"	Exhibit 1
"**Mobile Short Messaging Network**"	Exhibit 1
"**Monthly Invoice Amount**"	Exhibit 1
"**N Release Level**"	Exhibit 1
"**N-1 Release Level**"	Exhibit 1
"**N-2 Release Level**"	Exhibit 1
"**Network**"	Exhibit 1
"**Network Topology**"	Exhibit 1
"**Nine-Month Measurement Period**"	Exhibit 1
"**One-Time Charges**"	Exhibit 1
"**Operating Software (Operating System)**"	Exhibit 1
"**Operating System Instance (OS Instance)**"	Exhibit 1
"**Operational Level Agreement**"	Exhibit 1
"**Other Peripheral Device**"	Exhibit 4

“**PBX Port” or “KTS Port**”	Exhibit 4
“**Performance Category**”	Exhibit 1
“**Performance Credit(s)**”	Exhibit 1
“**Planned Projects**”	Exhibit 1
“**Policies and Procedures Manual**”	Exhibit 1
“**Pool Percentage Available for Allocation**”	Exhibit 1
“**Portable Network Devices**”	Exhibit 1
“**Post Implementation Review (Post Project Review)**”	Exhibit 1
“**Print Pages**”	Exhibit 4
“**Problem**”	Exhibit 1
“**Problem Management**”	Exhibit 1
“**Problem Manager**”	Exhibit 1
“**Problem Tracking System**”	Exhibit 1
“**Procurement Catalog**”	Exhibit 1
“**Project FTE Day**”	Exhibit 4
“**Project IMAC**”	Exhibit 1
“**Qualified**”	Exhibit 1
“**Reduced Resource Credit (RRC)**”	Exhibit 1
“**Refresh**”	Exhibit 1
“**Regulated**”	Exhibit 1
“**Release Management**”	Exhibit 1
“**Replacement**”	Exhibit 4
“**Request for Change (RFC)**”	Exhibit 1
“**Request Management**”	Exhibit 1
“**Resource Baseline(s)**”	Exhibit 1
“**Resource Capacity Management (RCM)**”	Exhibit 1
“**Resource Unit(s)**”	Exhibit 1
“**Retained Employees**”	Exhibit 1
“**Retained Expense(s)**”	Exhibit 1
“**Scheduled Downtime**”	Exhibit 1
“**Scheduled Uptime**”	Exhibit 1

"**Security**"	Exhibit 1
"**Security Management**"	Exhibit 1
"**Security Manager**"	Exhibit 1
"**Security Officer**"	Exhibit 1
"**Server**"	Exhibit 1
"**Service Capacity Management**"	Exhibit 1
"**Service Catalog**"	Exhibit 1
"**Service Desk**"	Exhibit 1
"**Service Level Credit Allocation Percentage**"	Exhibit 1
"**Service Level Performance**"	Exhibit 1
"**Service Request**"	Exhibit 1
"**Severity Level**"	Exhibit 1
"**Site(s)**"	Exhibit 1
"**Soft IMAC**"	Exhibit 1
"**Standard Change**"	Exhibit 1
"**Standard Laptop**"	Exhibit 4
"**Standard Products**"	Exhibit 1
"**Standard Voice Network**"	Exhibit 1
"**Standard Voice Premise Equipment**"	Exhibit 1
"**Standard Voice Premise Systems**"	Exhibit 1
"**Sub-Towers**"	Exhibit 4
"**Successor**"	Exhibit 1
"**Supplier Materials**"	Exhibit 1
"**Supplier Requested Changes**"	Exhibit 4
"**System(s) Software**"	Exhibit 1
"**Termination Fees**"	Exhibit 1
"**Third-Party Materials**"	Exhibit 1
"**Transport**"	Exhibit 1
"**Transport Facilities**"	Exhibit 1
"**Transport Services**"	Exhibit 1
"**Transport Systems**"	Exhibit 1

"**Transport Vendor(s)**"	Exhibit 1
"**Unix Workstation**"	Exhibit 4
"**Unrelieved Service Level Credits**"	Exhibit 1
"**Unserviceable Equipment**"	Exhibit 1
"**Urgency**"	Exhibit 1
"**Utility Server(s)**"	Exhibit 1
"**Utility Server Support & Infrastructure**"	Exhibit 4
"**Validated**"	Exhibit 1
"**Video Conference Room**"	Exhibit 4
"**Voice IMAC**"	Exhibit 4
"**WAN (or Wide Area Network)**"	Exhibit 1
"**WAN Equipment**"	Exhibit 1
"**Wiring**"	Exhibit 1
"**Yearly Performance Average**"	Exhibit 1

Those terms, acronyms and phrases utilized in the biotechnology and pharmaceutical industry, information technology ("**IT**") services industry, or other pertinent business context that are not otherwise defined in this Agreement shall be interpreted in accordance with their generally understood meaning in such industries or business contexts.

Section 1.4 Incorporation and References.

(A) Incorporation of Exhibits, Schedules and Appendices

The Exhibits, Schedules and Appendices attached hereto are hereby incorporated into this Agreement by reference and deemed part of this Agreement for all purposes. All references to this "**Agreement**" shall include such Exhibits, Schedules and Appendices.

(B) References

(1) References to any Law means references to such Law in changed or supplemented form, or to a newly-adopted Law replacing a previous Law.

(2) References to and the use of the word "include" and its derivatives (such as "including" and "includes") means "include without limitation."

(3) References to and the use of the word "days" means calendar days, unless otherwise specified.

(4) References to and the use of the word "hours" means hours as determined on a 24x7 basis and not business hours, unless otherwise specified.

(5) References to "**Supplier**" include Supplier Personnel, Equipment providers, Software providers and service providers, where such entities are performing the Services or services related to the Services.

(6) References to "**Company**" include Company and members of Company Group.

Section 1.5 Headings and Cross-References. The Article and Section headings and the table of contents used in this Agreement are for reference and convenience only and shall not enter into the interpretation of this Agreement. Any reference herein to a particular Article or Section number or Exhibit, Schedule or Appendix means that the reference is to the specified Article, Section, Exhibit, Schedule or Appendix of this Agreement, except to the extent that the cross-reference expressly refers to another document.

Section 1.6 Interpretation of Documents. In the event of a conflict or inconsistency between the terms of this Agreement and the Exhibits, Schedules or Appendices, the terms of this Agreement shall prevail.

Section 1.7 Local Country Agreements. The Parties acknowledge and agree that this Agreement is intended to provide the framework for a global relationship. As deemed appropriate by Supplier and Company taking into account the Services and the country or region outside of the United States that is involved, the Parties will enter into one or more local country agreements to this Agreement between Supplier or corresponding Supplier Affiliates, and Company or Company Affiliate for the purpose of memorializing the implementation of this Agreement with respect to such entities and effecting the intent of the Parties under this Agreement (each, a "**Local Country Agreement**"). All references herein to this Agreement shall be deemed to include all Local Country Agreements. Supplier will agree to perform or cause to be performed the performance obligations under this Agreement, including the Local Country Agreements. Company and Supplier agree to be and remain liable and responsible to the other for all obligations undertaken by its Affiliates, respectively, under such Local Country Agreements, and that the execution of any Local Country Agreement will in no way either enlarge or reduce the obligations of either Company or Supplier under this Agreement, including with respect to the provision of Services to any Company Affiliate, except (i) provisions in a particular Local Country Agreement that are expressly acknowledged to be an amendment to this Agreement for purposes of such Local Country Agreement, which will include the listing of any provisions of applicable local law in the country for which the Local Country Agreement is entered identified by either Party as non-waivable, or (ii) terms for transition of Affected Personnel located in the country for which the Local Country Agreement is signed. No Local Country Agreement may be signed or, once signed, be modified or amended, without the consent of each of Supplier and Company.

ARTICLE 2
TERM

Section 2.1 Term. The term of this Agreement (the "**Initial Term**", together with any Renewal Terms, and as extended pursuant to Section 29.6, the "**Term**") shall commence on the Effective Date and shall expire at midnight (Pacific Time) on the fifth (5th) anniversary of January 18, 2009, unless this Agreement is extended pursuant to Section 2.2 or earlier terminated in accordance with this Agreement.

Section 2.2 Extension. On written notice to Supplier no less than one hundred twenty (120) days prior to the expiration of the Initial Term or then-current Renewal Term, Company shall have the right to extend the Term for one (1) year extensions (each a "**Renewal Term**") on the terms and conditions (including the Charges) then in effect. Company shall have three (3) such extension options of one (1) year each.

Section 2.3 Termination Charges. In the event that Company does not elect to extend the Term after the Initial Term or any Renewal Term, or upon expiration of the final Renewal Term, [*****], which at the time of such expiration, is [*****]. Section 29.2 (Termination for Convenience) sets forth the applicability of fees associated with Company's termination for convenience.

ARTICLE 3
TRANSITION

Section 3.1 General.

(A) Commencing on the Effective Date and ending on completion of the Transition Plan (the "**Transition Period**"), Supplier shall plan, prepare for and conduct transition activities in accordance with the Transition Plan (the "**Transition**"). Except with respect to those costs identified as Company's responsibility in Exhibit 4 (Pricing), Supplier's responsibilities with respect to the Transition shall include paying all costs associated with the Transition and otherwise performing such tasks as are required to enable Supplier to provide the Services, including following the Transition Completion Date.

(B) During the Transition Period, Company shall perform those tasks that are designated to be the responsibility of Company in the Transition Plan.

(C) Except as otherwise provided in Exhibit 4 (Pricing) or required for Company to complete those tasks which are designated to be the responsibility of Company in the Transition Plan, Company shall not incur any charges, fees, costs or expenses in connection with the Transition.

Section 3.2 Transition Plan.

(A) General

The Transition shall be conducted in accordance with a written plan (the "**Transition Plan**") which, at a minimum, shall include:

(1) a detailed description of the IT operations being transitioned to Supplier;

(2) a detailed description of the Transition activities and responsibilities to be performed by Supplier in order for Supplier to properly complete the Transition;

(3) a detailed description of the deliverables ("**Transition Deliverables**") and milestones ("**Transition Milestones**") to be completed by Supplier;

(4) a detailed description of any tasks that Company is required to complete in connection with the Transition;

(5) a detailed description of the technology, methods, procedures, Supplier Personnel and organization that Supplier shall use to perform the Transition;

(6) a detailed schedule and workplan of all Transition activities to be completed in connection with the Transition, including the dates on which each such activity and any Transition Milestones and Transition Deliverables shall be completed;

(7) for certain Transition Milestones and Transition Deliverables, the applicable Transition Milestone or Deliverable Credit (each a "**Transition Milestone Credit**") that shall be paid to Company if the Transition Milestone or Transition Deliverable is not achieved by Supplier, other than for the reasons set forth in Section 16.2 (Savings Clause), in accordance with the schedule set forth in the Transition Plan, which Transition Milestone Credits available for payment by Supplier to Company shall in the aggregate equal at least [*****] and Transition Milestone Credits payable by Supplier to Company shall in the aggregate not exceed [*****];

(8) a detailed description of the potential risks associated with the Transition and the risk mitigation strategies that shall be employed by Supplier to eliminate or minimize such risks;

(9) a process and set of standards and completion criteria acceptable to Company to which Supplier shall adhere in the performance of the Transition and that shall enable Company to determine whether Supplier has successfully completed the Transition activities and Transition Deliverables associated with each Transition Milestone; and

(10) any other information and planning necessary to ensure that the Transition takes place on schedule and without disruption to Company's business or IT operations.

(B) Completion of the Transition Plan

Supplier shall be responsible for preparing the Transition Plan. The initial draft of the Transition Plan as of the Effective Date is included in Exhibit 22 (Transition and Transformation). No later than thirty (30) days prior to the Commencement Date, Supplier shall finalize the Transition Plan which Transition Plan shall not be considered final until Accepted by Company. Supplier shall cooperate and work closely with Company in finalizing the Transition Plan (including incorporating Company's reasonable comments) and the final Transition Plan and any subsequent changes to the Transition Plan shall be subject to Acceptance by Company in accordance with schedule set forth in Exhibit 22 (Transition and Transformation).

Section 3.3 Performance of the Transition.

(A) General

Supplier shall perform the Transition in accordance with the Transition Plan and in such a manner so as to not disrupt Company's IT and business operations (except to the extent that Supplier has provided Company with reasonable advance written notice of such disruption and Company has agreed in writing that such disruption is acceptable). Supplier shall provide all cooperation and assistance reasonably required and requested by Company in connection with Company's evaluation and testing of the Transition Deliverables.

(B) Transition Manager

Supplier shall, in accordance with Section 11.2(D), designate an individual to manage the Transition (the "**Supplier Transition Manager**") on a dedicated, full-time basis during the Transition Period. The Supplier Transition Manager shall (1) report to the Supplier Project Executive, (2) serve as the single point of accountability for Supplier for the Transition and (3) have day-to-day authority for ensuring that the Transition is completed in accordance with the Transition Plan. The Supplier Transition Manager shall be one of the Key Supplier Personnel.

(C) Meeting and Reporting Requirements

The Supplier Transition Manager shall meet at least once each week with the individual designated to manage the Transition for Company (the "**Company Transition Manager**") to report on Supplier's progress in performing the Transition and meeting the requirements of the Transition Plan. As part of each weekly meeting, Supplier shall provide Company with a written status report that shall include (1) an updated Gantt chart

detailing the then-current status of all Transition activities, including the Transition Deliverables, against the Transition Plan, (2) a list of Tools or Software that shall be added (whether temporarily or permanently) to Company's IT environment during the forthcoming month and (3) any issues or problems that Supplier is experiencing in connection with the Transition and any efforts or remedial actions that Supplier is undertaking to resolve such issues or problems. The Supplier Transition Manager shall also meet at least once each week with the Company Transition Manager and the transition managers of applicable Third Party Vendors to report on, lead and coordinate such Third Party Vendors' efforts in connection with the requirements of the Transition Plan. The meetings described in this Section shall take place at the time and place designated by Company, and with agendas specified by Company.

(D) Company's Right to Participate in the Transition

Company reserves the right to monitor, test and otherwise participate in the Transition. Supplier shall immediately notify Company if such monitoring, testing or participation has caused (or in Supplier's reasonable opinion may cause) a problem or delay in the Transition and work with Company to prevent or circumvent such problem or delay.

Section 3.4 Completion of the Transition.

(A) The Transition shall not be considered to be complete until all Transition Deliverables have been Accepted by Company.

(B) If any Transition Deliverable with an associated Transition Milestone Credit is not Accepted by Company or any Transition Milestone with an associated Transition Milestone Credit is not completed by Supplier on or before the applicable Transition Milestone due to the fault of Supplier, Supplier shall pay to Company the applicable Transition Milestone Credit, as set forth in Exhibit 22 (Transition and Transformation), for each applicable period that the Transition Deliverable is not Accepted by Company or such Transition Milestone is not completed by Supplier.

(C) If any Transition Deliverable with an associated Transition Milestone Credit is not Accepted by Company or any Transition Milestone with an associated Transition Milestone Credit is not completed by Supplier on or before the applicable Transition Milestone due to the fault of Company, then for the period of delay Company shall reimburse Supplier for any Out-of-Pocket Expenses associated with such delay.

Section 3.5 [*****].

ARTICLE 4
SERVICES

Section 4.1 Description of the Services.

(A) General

Commencing on the Effective Date and continuing throughout the Term, Supplier shall provide to Company the following services, functions and responsibilities, as they may evolve or be supplemented, enhanced, modified or replaced (collectively, the "**Services**"):

(1) the services, functions and responsibilities described in this Agreement, including (a) the services, functions, responsibilities and Deliverables described in Exhibit 2 (Statement of Work), (b) the services, functions and responsibilities

relating to the Transition, including Transition Deliverables (and, if applicable, the Transformation, including Transformation Deliverables), and (c) the Termination/Expiration Assistance;

(2) the services, functions and responsibilities described in any Order approved in writing by Company;

(3) the services, functions and responsibilities described in any Change Request Authorization approved in writing by Company;

(4) the IT infrastructure-related services, functions and responsibilities forming part of the Services and performed in the ordinary course during the twelve (12) month period preceding the Effective Date by Affected Personnel and Third Party Vendors who were transitioned to Supplier or displaced, or whose functions were displaced, in each case, as a result of this Agreement, even if such IT-related services, functions and responsibilities are not specifically described in this Agreement; and

(5) the IT-related services, functions, projects and responsibilities reflected in those categories of the Company Base Case that Supplier is assuming pursuant to this Agreement, as set forth in Exhibit 4 (Pricing).

(B) Implied Services

If any facilities, Equipment, Software, services, functions, responsibilities or Deliverables not specifically described in this Agreement are required for the proper performance and provision of the Services, such facilities, Equipment, Software, services, functions, responsibilities or Deliverables shall be deemed to be implied by and included within the scope of the Services (and delivered to Company at no additional charge) to the same extent and in the same manner as if expressly described in this Agreement.

(C) Supplier Responsibility

(1) Supplier shall be responsible for the provision of the Services in accordance with the terms of this Agreement even if, by agreement of the Parties, such Services are actually performed by persons other than Supplier Personnel acting under the management and direction of Supplier, including Company Personnel and Third Party Vendors, except to the extent that such Company Personnel or Third Party Vendors other than Supplier fail to satisfactorily follow the reasonable management and direction of Supplier and such failure results in a deficiency in delivery of the Services, subject to Section 16.2 (Savings Clause).

(2) Except as otherwise expressly provided in this Agreement, Supplier shall be responsible for providing the facilities, Personnel, Equipment, Software, materials, technical knowledge, training, expertise and other resources necessary for the proper performance of the Services.

(3) Supplier shall ensure that all Services, Equipment, networks, Software, enhancements, upgrades, modifications, and other resources (collectively, the "**Resources**") utilized by Supplier or approved by Supplier for utilization by Company in connection with the Services shall be integrated and interfaced as necessary for performance of the Services in accordance with the Service Levels, and shall be compatible with the services, systems, items, and other resources that are being provided to, recommended to, or approved for use by, Company by Third Party Vendors as of the Effective Date (collectively, the

"**Third-Party Resources**") to the extent Company provides Supplier with all relevant information regarding these Third Party Resources prior to the Effective Date.

(4) Supplier shall ensure that none of the Services or other Resources provided to Company by Supplier shall be adversely affected by, or shall adversely affect, those of any such Third Party Resources identified by Company pursuant to Section 4.1(C)(3), whether as to functionality, speed, service levels, interconnectivity, reliability, availability, performance, security, response times, or similar measures. To the extent that any interfaces need to be developed or modified in order for the Resources to integrate successfully, and be compatible, with the Third-Party Resources, Supplier shall develop or modify such interfaces as part of the Services.

Section 4.2 Obligation to Evolve the Services and Keep Technology Current.

(A) Supplier shall cause the Services and the methods, processes and technologies being used to provide the Services, as approved by Company, to evolve and to be reasonably modified, enhanced, supplemented and replaced as necessary for the Services and the methods, processes and technologies being used to provide the Services to keep pace with advances in the methods, processes, technologies, Software and Equipment being used to deliver similar services, where such advances are at the time pertinent and in general use within the IT industry or among other customers of Supplier or Company's competitors. Any changes to the methods, processes, technologies, Software and Equipment used to provide the Services in accordance with this Section shall be deemed to be included within the scope of the Services to the same extent and in the same manner as if expressly described in this Agreement. Without limiting the foregoing, the Parties acknowledge and agree that any changes to the scope of the Services (other than changes to the methods, processes, technologies, Software and Equipment used to provide the Services) shall be implemented in accordance with the Change Control Procedure.

(B) Supplier shall meet with Company at least once during every sixty (60) day period during the Term to inform Company of any new methods, processes, technologies, Software or Equipment Supplier is developing or of which Supplier is otherwise aware that could reasonably be expected to have an impact on Company's IT or business operations.

Section 4.3 Non-Exclusivity; Right to In-Source and Re-Source the Services.

(A) Supplier acknowledges and agrees that this Agreement does not give Supplier any exclusive rights with respect to the provision of any services, including the Services, or products to Company.

(B) At any time during the Term, Company has the right to perform itself, or retain third parties to perform, any of the Services. To the extent Company in-sources or re-sources any of the Services pursuant to this Section: (1) Supplier shall cooperate with Company in accordance with Article 7 and (2) the Charges shall be reduced in accordance with the process and methodology described in Exhibit 4 (Pricing). At Company's request, Supplier shall assist Company in identifying qualified third-party service providers.

Section 4.4 Support for Acquisitions and Divestitures.

(A) Acquisition Support

(1) With respect to a potential acquisition by Company, upon Company's request, Supplier shall provide acquisition support (including assessments of any technology environments to be acquired, potential integration approaches, and the impact of the acquisition on the Services, Service Levels, Charges and other aspects of this Agreement) as reasonably necessary to assist with Company's assessment of the portion of the acquisition to which the Services relate. Such support shall be provided within the timeframe reasonably requested by Company or as required by the timing of the transaction.

(2) As requested by Company and as it relates to the Services, Supplier shall transition the IT environment of the acquired entity to Company's environment.

(3) As requested by Company, Supplier shall provide Supplier Personnel to staff vacancies and to provide management for the information technology functions needed to support an acquisition, including to the extent necessary, on-site support at any location of the acquired entity.

(4) Supplier shall provide acquisition support as described in this Section 4.4(A) as part of the Services to the extent that such acquisition support may be provided using applicable resources then primarily assigned to the performance of the Services according to the Service Levels and baselines, and without adversely impacting Supplier's ability or costs to perform such Services. If acquisition support will require the use of different or additional resources beyond that which Supplier is then using to provide the Services in accordance with the baselines and Service Levels, then such request for acquisition support shall be subject to the Change Control Procedure.

(B) Divestitures

(1) In the event that Company divests an entity or business unit, Supplier shall, at Company's request, for a period of two (2) years from the effective date of such divestiture (or such shorter time period as Company may require) or until termination of expiration of this Agreement, whichever is earlier, continue to provide the Services to such divested entity or business unit at the Charges and on the terms and conditions then in effect. At Company's request, Supplier shall separately invoice such divested entity. To the extent applicable, Services and Deliverables for Company and its divested entity shall be combined for purposes of determining Charges. Supplier shall not unreasonably withhold consent to novation of this Agreement in part as relates to the divested entity or business unit in favor of the divested entity or business unit or the acquirer thereof.

(2) Services provided to divested entities under Section 4.4(B)(1) shall be performed (A) until the termination or expiration of this Agreement, whichever is earlier, (B) under the terms of this Agreement, and (C) in the event this Agreement is not novated in favor of the divested entity or business unit or the acquirer thereof, and the divested entity or the purchaser of the divested entity is unable to provide adequate assurance of payment to the reasonable satisfaction of Supplier, Company shall remain liable in all respects under this Agreement, including the Charges. Supplier and Company shall address any increases or decreases in the scope of Services that might result (e.g., the need to create separate instances of technology for separate locations where Services would be delivered/received) in accordance with the Change Control Procedure.

Section 4.5 Service Recipients. Supplier shall provide the Services to: (A) Company and (B) such other entities as Company designates from time to time ("**Company Service Recipients**"). For purposes of this Agreement, Services provided to such entities shall be deemed to be Services provided to Company.

Section 4.6 Acceptance. All Deliverables provided by Supplier to Company as part of the Services under this Agreement shall be subject to Company's review and acceptance (or rejection) in accordance with Exhibit 6 (Governance).

ARTICLE 5
TRANSFORMATION

Section 5.1 Transformation Objectives. Supplier shall be required to conduct transformation activities to enable Company to achieve the transformation objectives set forth in the Transformation Plan (collectively, the "**Transformation Objectives**"), which objectives shall include performing all Transformation activities necessary to provide the Services as set forth in Exhibit 2 (Statement of Work) ("**Transformation**").

Section 5.2 Transformation Projects. Supplier shall complete the Transformation projects described in the Transformation Plan (each a "**Transformation Project**") to achieve the Transformation Objectives. Except as otherwise provided in Exhibit 4 (Pricing) or required for Company to complete those tasks that are designated to be the responsibility of Company in the Transformation Plan, Company shall not be responsible for any charges, fees, costs or expenses incurred in connection with the Transformation.

Section 5.3 Transformation Plan. The initial draft of the transformation plan describing all Transformation Projects as of the Effective Date is included in Exhibit 22 (Transition and Transformation) (the "**Transformation Plan**"). Within sixty (60) days of the Effective Date, Supplier shall revise and finalize the Transformation Plan for Company's review, comment and approval. Supplier shall cooperate and work closely with Company in finalizing the Transformation Plan (including incorporating Company's reasonable comments) and the final Transformation Plan and any subsequent changes to the Transformation Plan shall be subject to written approval by Company. The Transformation Plan shall include:

(A) a detailed description of how the Services and Company's associated IT environment, operations and business processes shall be transformed by Supplier via the Transformation Projects to achieve the Transformation Objectives;

(B) a detailed description of the Transformation Projects;

(C) a detailed description of each deliverable ("**Transformation Deliverables**") and milestone (each a "**Transformation Milestone**") to be completed by Supplier in connection with each Transformation Project;

(D) a detailed description of any tasks that Company is required to complete in connection with each Transformation Project;

(E) a detailed description of the methods and procedures, Personnel and organization Supplier shall use to complete the Transformation Projects;

(F) a detailed schedule and work plan of all Transformation Projects to be completed in connection with the Transformation, including the date on which each Transformation Project and each associated Transformation Deliverable and Transformation Milestone shall be completed;

(G) a detailed description of the potential risks associated with the Transformation and the risk mitigation strategies that shall be employed by Supplier to eliminate or minimize such risks;

(H) a process and set of standards acceptable to Company to which Supplier shall adhere in the performance of the Transformation and shall enable Company to determine whether Supplier has successfully completed the Transformation Projects, Transformation Deliverables and Transformation Milestones; and

(I) any other information and planning necessary to ensure that the Transformation takes place on schedule and without disruption to Company's business or IT operations.

Section 5.4 Completion of the Transformation Projects.

(A) Supplier shall complete the Transformation Projects in accordance with the Transformation Plan in such a manner so as to not disrupt Company's business and IT operations (except to the extent that Supplier has provided Company with reasonable advance written notice of such disruption and Company has agreed in writing that such disruption is acceptable). Company shall reasonably cooperate with Supplier in connection with the Transformation Projects and perform those tasks identified as Company tasks in the Transformation Plan.

(B) Supplier recognizes that its failure to meet the Transformation Milestones may have a material adverse impact on the business and operations of Company. Accordingly, if Supplier fails to meet a Transformation Milestone or Transformation Deliverable for which there is an associated Transformation Milestone Credit or Deliverable Credit, other than for the reasons set forth in Section 16.2 (Savings Clause), then, in addition to any other remedies available to Company under this Agreement, at Law or in equity, Company may elect to recover the applicable Transformation Milestone Credits or Deliverable Credits, which Transformation Milestone Credits and Deliverable Credits available for payment by Supplier to Company shall in the aggregate equal at least [**] and Transformation Milestone Credits and Deliverable Credits payable by Supplier to Company shall in the aggregate not exceed [**].

Section 5.5 Company-Requested Delays. Company shall have the right to request that Supplier delay any Transformation Projects for any reason at any time during the Term. If Company elects to delay any part of the Transformation Plan and such delay results in demonstrable increased costs to Supplier, Company shall pay such increased costs to Supplier; provided, however, that Supplier has used commercially reasonable efforts to mitigate such increased costs, Supplier has notified Company in advance of such increased costs and Company has approved in writing such increased costs. In addition, Company shall not incur any increase in Supplier's costs to the extent that Company's decision to delay any such Transformation activities is based on Supplier's failure to perform its obligations in accordance with the terms of this Agreement.

Section 5.6 [**].

ARTICLE 6
PROJECTS

Section 6.1 General. To the extent that any Projects include activities or components that otherwise fall within the scope of the Services, such activities and components shall be provided by Supplier within the Base Charges.

Section 6.2 Project Requests. Company may initiate a request for Supplier to perform a particular Project, as such term is defined in Exhibit 4 (Pricing), by providing such request in writing (each such

request, a "**Project Request**") to Supplier in accordance with the procedures set forth in the Policies and Procedures Manual. In engaging Supplier to perform a Project, Company shall enter into one or more written Orders (each an "**Order**") pursuant to which such particular Project shall be performed. Supplier shall, within a reasonable timeframe specified in such Project Request, prepare and deliver to Company a proposed Order as described in Section 6.3.

Section 6.3 Orders. Each Order prepared by Supplier for Company's consideration shall be in the form presented in the Policies and Procedures Manual contained in Exhibit 6.2 of Exhibit 6 (Governance) attached hereto and shall, at a minimum, contain the following information:

(A) a detailed description of the scope of work to be performed by Supplier to complete and implement the Project, including any required Deliverables;

(B) any specific performance standards that shall apply to the completion and implementation of such Project, including Supplier's agreement to meet applicable Service Levels;

(C) an anticipated schedule for completing and implementing the Project and any related Deliverables, including milestones and credits for failing to achieve milestone deadlines;

(D) the types of Supplier Personnel, or the specific Supplier Personnel, if known, who shall be assigned to each activity specified in the Order, including the location of such Personnel;

(E) Supplier's proposed productivity measures for the activities specified in the Order;

(F) a description of the acceptance criteria and acceptance testing procedures to be used by Company in connection with any acceptance testing of such Project and any related Deliverables;

(G) the estimated number of person-hours needed to complete the Project, or the fixed charge for the Project, as applicable;

(H) To the extent that any activities associated with the Project do not fall within the scope of the Services, a description of such activities, an explanation of why such activities are not included in the Services and the estimated number of person-hours associated with such activities (to the extent relevant to the pricing of the Project);

(I) any increase or decrease in the Base Charges on an ongoing basis caused by such Project (which adjustments shall be made in accordance with the mechanism therefore in Exhibit 4 (Pricing)), the date any such Base Charges adjustments would go into effect, and the reasons for such adjustments; and

(J) any adjustment in the Service Levels on an ongoing basis caused by such Project, the date any such Service Level adjustments would go into effect, and the reasons for such adjustments.

Each Party shall bear its own costs in connection with preparation of any Project Requests and Orders. Supplier shall not commence performing any Services in connection with a Project, and Company shall not be responsible for any Charges applicable to such Project, until the Company Contract Executive has provided Supplier with written approval of the Order. Any change to an Order shall be made pursuant to a Change Request approved in writing by Company pursuant to Section 17.5.

Section 6.4 In-Flight Projects. Supplier shall provide the services, functions and responsibilities necessary to complete and implement the in-flight projects described in Exhibit 9 (Current and Planned Projects). Such in-flight projects, including all activities associated with the management thereof, shall be performed by Supplier within the Base Charges.

ARTICLE 7
MULTI-VENDOR ENVIRONMENT; COOPERATION WITH THIRD PARTIES

Section 7.1 General.

(A) Supplier acknowledges that it is performing the Services in a multi-vendor environment and agrees that its responsibilities shall include leading and coordinating the efforts of any third-party vendors providing services or products to Company (collectively, "**Third Party Vendors**"), which leadership and coordination efforts shall include proactively communicating with Third Party Vendors regarding Services issues and coordination issues, acting as the single point of intake and resolution for Third Party Vendors' questions and issues, scheduling meetings for the discussion and exchange of information as appropriate, and providing guidance to Third Party Vendors with respect to Supplier's and Company's IT environment as it relates to the Services. Supplier further agrees to cooperate with Company and Third Party Vendors so as to allow such Third Party Vendors to provide any services (including services similar to the Services) or products in an integrated and seamless manner without disruption to Company's business or IT operations.

(B) Supplier's cooperation with Company and any Third Party Vendors shall include:

(1) providing access to the facilities being used by Supplier to provide the Services (as necessary for Company or a Third Party Vendor to perform its work);

(2) providing access to Company's technical environment and the Equipment and Software being used by Supplier to provide the Services (to the extent permitted under any underlying agreements with third parties and as necessary for Company or a Third Party Vendor to perform its work);

(3) providing to Third Party Vendors copies of such reports as are provided to Company pursuant to this Agreement, and providing such information, data (including performance data) and cooperation as are necessary for Third Party Vendors to create reports for Company's use;

(4) cooperating with Company and Third Party Vendors (including by providing any performance information or data obtained by Supplier in the conduct of its own root cause analysis pursuant to Section 10.2) in performing root cause analysis of problems with the Services or Company's IT environments, whether the ultimate responsibility for performing such root cause analysis lies with Supplier or with any such Third Party Vendor; and

(5) providing Company and Third Party Vendors such information and data regarding the Equipment, Software, Tools and operating environment, System constraints, processes and other operating parameters as a person with reasonable commercial skills and expertise would find reasonably necessary for Company or a Third Party Vendor to perform its work.

Section 7.2 Compliance with Supplier's Policies. To the extent that any Third Party Vendors retained by Company (other than pursuant to Managed Contracts) require any access as described in this Section, Company shall cause such Third Party Vendors to comply with Supplier's reasonable security and confidentiality requirements and with Supplier's reasonable work standards, methodologies and procedures, as these have been provided by Supplier to Company and such Third Party Vendors. Supplier shall use reasonable efforts to cause Third Party Vendors under Managed Contracts to comply with such requirements, standards, methodologies and procedures.

Section 7.3 Problems and Delays. Supplier shall immediately notify Company if an act or omission of a Third Party Vendor may cause a problem or delay in providing the Services and shall work with Company to prevent or circumvent such problem or delay.

ARTICLE 8
REQUIRED CONSENTS

Section 8.1 Supplier Required Consents. Supplier, with the cooperation of Company, shall obtain and maintain any licenses, consents, authorizations or approvals that are necessary or required for Supplier to provide the Services (collectively, the "**Supplier Required Consents**"), including those consents set forth in the Transition Plan or Exhibit 11 (Assigned and Managed Contracts) and those consents that are necessary to allow:

(A) Supplier to (1) grant any licenses or rights of use to Supplier Proprietary Software or (2) assign any of its interests in the Software Deliverables or Non-Software Deliverables, in each case, as described in Article 14;

(B) Company to use any Supplier Equipment;

(C) Company to take an assignment to any Equipment leases pursuant to Section 29.7(B)(3); and

(D) Supplier to take an assignment to any Assigned Contracts pursuant to Section 12.2.

Section 8.2 Company Required Consents. Company, with the cooperation of Supplier, shall obtain and maintain those consents set forth in the Transition Plan or Exhibit 11 (Assigned and Managed Contracts) and the following licenses, consents, authorizations or approvals (collectively, the "**Company Required Consents**", and together with the Supplier Required Consents, the "**Required Consents**") that are necessary to allow:

(A) Company to grant any of the licenses or rights described in Article 14; and

(B) Supplier to use any of the Company Provided Equipment as permitted in this Agreement.

Section 8.3 Compliance with Required Consents. Supplier and Company shall comply with the requirements of each of the Required Consents.

Section 8.4 Costs and Fees. Each Party shall pay any costs, expenses and fees (including license, re-licensing, transfer or upgrade fees or termination charges) as may be required to obtain the Parties' respective Required Consents.

Section 8.5 Alternative Approaches. If either Party is unable to obtain a Required Consent, then, unless and until such Required Consent is obtained, Supplier and Company shall determine and adopt, subject to Company's prior approval, such alternative approaches as are necessary and sufficient to provide the Services without such Required Consent. If such alternative approaches are required for a period longer than sixty (60) days following the Effective Date, the Parties shall utilize the Change Control Procedure to increase or decrease the Charges to reflect any increase in the costs and expenses of one Party due to the other Party's failure to obtain a Required Consent. If Supplier fails to obtain a Supplier Required Consent within sixty (60) days of the Effective Date and such failure has a material adverse impact on Company's receipt of the Services, [*****] The failure to obtain any Supplier Required Consent shall not relieve Supplier of its obligations under this Agreement and Supplier shall not be entitled to any additional compensation or reimbursement of any amounts in connection with obtaining or failing to obtain any Supplier Required Consent or implementing any alternative approach required by such failure.

ARTICLE 9
COMPLIANCE WITH LAWS AND COMPANY POLICIES

Section 9.1 Compliance with Laws. In performing under this Agreement, Supplier shall

(A) comply with all Supplier Laws;

(B) Monitor the issuance of and notify Company of new Laws applicable to the performance of the Services [**];

(C) upon becoming aware of new Laws applicable to the performance of the Services [**], either due to notification by Company, Supplier's own awareness of such, or from a third-party source, provide Company with Supplier's recommendations, and the basis for such recommendations, for changes in the Services or proposals that no changes in the Services are required to comply with such new Laws or changes in Law;

(D) exercise its expertise to assist Company in identifying Laws that may apply to [**] the Services, and suggest to Company approaches that Supplier may take with respect to the Services so as to comply with such Laws;

(E) perform changes to the Services to comply with new or changed Laws to the extent such changes have been authorized in accordance with the Change Control Procedure;

(F) upon Company's approval of such approaches, develop the means to implement the approaches within the Services procedures and techniques to comply with such Laws, and implement such procedures and techniques in accordance with the Change Control Procedure; and

(G) comply with Company's instructions or requirements in this Agreement; or, in accordance with the Change Control Procedure, as otherwise specified by Company in writing or required by Law; or assist Company in complying with Company Laws as specified in this Agreement or as otherwise specified by Company in writing or required by Law.

Supplier shall have no responsibility to Company for the accuracy of Company's interpretation of Company Laws. In meeting its obligations under this Section 9.1, Supplier shall not be deemed to be providing legal advice to Company.

Section 9.2 Changes in Applicable Laws. Each Party shall promptly notify the other Party of any changes in Applicable Laws of which it becomes aware that may impact Supplier's delivery of [**]. Supplier shall comply with additional or new Legal Compliance Obligations applicable to Company or to the Services upon becoming aware thereof, provided that, (i) such compliance shall be implemented in accordance with Change Control Procedure, and (ii) if such compliance will require the use of different or additional resources beyond that which Supplier is then using to provide the Services in accordance with the Service Levels, then the Charges shall be modified accordingly in accordance with the Change Control Procedure. Supplier shall provide reasonable cooperation to Company in Company's efforts to comply with Company Laws. Supplier shall remain fully informed of changes to Supplier Laws.

Section 9.3 Compliance with Company Policies. Company shall be solely responsible for reviewing, approving, modifying and granting waivers with respect to policies governing (A) Company's standards, practices, processes, procedures and controls, including those policies set forth in Exhibit 23 (Company Policies), (B) the Services and any activities, including the use of Deliverables, affecting Company's compliance with Applicable Laws, and (C) associated technologies, architectures and standards,

methodologies and procedures to be used by Supplier in providing the Services to Company that support Company's regulatory compliance programs (collectively, "**Company Policies**"). The Company Policies include those policies, procedures and practices relating to regulatory compliance and regulated Systems, as set forth in Exhibit 2 (Statement of Work) and Exhibit 24 (Compliance Requirements and Control Objectives). Company shall make available to Supplier in writing any Company Policies in existence as of the Effective Date and any new or revised Company Policies created or revised by Company during the Term provided that if such created or revised policies shall require a change in scope of the Services, such change shall be implemented through the Change Control Procedure. Supplier shall implement all Company Policies applicable to its delivery of the Services, including those created or revised following the Effective Date, and shall deliver the Services in accordance with the Company Policies. The Company Policies applicable to Supplier's delivery of the Services shall be deemed included as part of the Policies and Procedures Manual as of the time they are made available to Supplier and shall be added by Supplier to the Policies and Procedures Manual upon its next revision, provided, however, that to the extent that modifications to the Services are required to adapt to any new or revised Company Policies, then such revised Company Policies shall become applicable to Supplier's delivery of the Services as set forth in the Change Request authorizing the modification to the Services.

Section 9.4 Obligation to Perform. Supplier shall perform the Services regardless of changes in Applicable Laws unless performance of such Services would be unlawful. If changes in Applicable Laws prevent Supplier from performing its obligations under this Agreement, Supplier shall develop and, upon Company's approval in accordance with the Change Control Procedure, implement a suitable workaround until such time as Supplier can perform its obligations under this Agreement without such workaround. In the event such workaround is required due to a change in Supplier Laws, the cost of such change shall be borne by Supplier. In the event such workaround is required due to a change in Company Laws or Company Policies, and such change results in a material increase in the costs to Supplier in delivering the Services, then Supplier shall be entitled to an equitable increase in the applicable Charges under the Change Control Procedure.

Section 9.5 Notification of Failure. If Supplier (i) becomes aware of any material failure to comply with any Applicable Laws, any of the Company Policies, or any of Supplier's obligations under this Agreement or (ii) becomes aware of any other situation that may reasonably be expected to lead to, has had, or should have been expected to have, any material adverse impact on the Services, or Supplier's ability to perform its obligations hereunder, then Supplier shall immediately inform Company in writing of such failure or situation and the impact or expected impact and recommend means for addressing such, and Supplier and Company shall meet to discuss Supplier's recommended means and to formulate an action plan to minimize or eliminate the impact of such failure or situation.

Section 9.6 Evidence of Compliance. Supplier shall furnish any evidence Company reasonably requests in writing that is related to Supplier's compliance with Applicable Laws or with Company Policies at any time during the Term and, to the extent related to obligations that survive the Term, the period of such survival. The substance, form and timing of such evidence shall be subject to Company's reasonable satisfaction.

Section 9.7 Licenses. Supplier shall obtain and maintain all applicable authorizations, permits, certificates and licenses required of Supplier in connection with its obligations under this Agreement.

Section 9.8 Remote Computing Service. The Parties agree that in performing the Services contemplated under this Agreement, the parties intend for (i) Supplier to be a "remote computing service" as defined in the Stored Communications Act, 18 U.S.C. §2711, and (ii) Company to be the "subscriber" of the Services for purposes of 18 U.S.C. §2702.

ARTICLE 10
SERVICE LEVELS AND CUSTOMER SATISFACTION

Section 10.1 General. Supplier shall perform the Services at least (i) at the same level and with at least the same degree of accuracy, quality, completeness, timeliness, responsiveness, security and

efficiency as was provided prior to the Effective Date by or for Company, and (ii) at the level of the quantitative performance standards for required availability, response times, or other performance standards for the Services ("**Service Levels**") set forth in Exhibit 3 (Service Level Management). At all times Supplier's level of performance shall be at least equal to the Service Levels and to standards satisfied by well-managed operations performing services similar to the Services.

Section 10.2 Failure to Perform.

(A) If Supplier fails to meet a Service Level, Supplier shall immediately (1) investigate, assemble and preserve pertinent information with respect to, and report on the causes of, the problem, including performing a root cause analysis of the problem; (2) advise Company, as and to the extent requested by Company, of the status of remedial efforts being undertaken with respect to such problem; (3) minimize the impact of and correct the problem and begin meeting the Service Level; and (4) take appropriate preventive measures so that the problem does not recur.

(B) Supplier recognizes that its failure to meet certain Service Levels may have a material adverse impact on the business and operations of Company. In the event that Supplier fails to meet such Service Levels for reasons other than those that are excused pursuant to Section 10.4, then in addition to any other remedies available to Company under this Agreement, at law or in equity, Company may elect to recover the applicable Service Level Credit for such failure to meet such Service Level.

Section 10.3 Cooperation with Third Parties. In order for Supplier to provide the Services in accordance with the Service Levels, Supplier may be required to coordinate its efforts with Third Party Vendors. With respect to Service Level failures caused by Third Party Vendors: (A) Supplier shall provide a single point of contact for the management of the prompt resolution of such Service Level failures; and (B) except as set forth in Section 10.4, Supplier's failure to meet such Service Levels shall not be excused and Supplier shall remain responsible for the performance of the Services in accordance with the Service Levels.

Section 10.4 Excused Performance. To the extent Supplier demonstrates to Company's reasonable satisfaction that any Service Level Default or any failure to achieve a milestone or Deliverable deadline (e.g., Transition, Transformation or pursuant to an Order) is directly attributable to: (A) a Force Majeure Event; (B) a breach of this Agreement by Company that prevents Supplier from meeting the applicable Service Level or milestone or Deliverable; or (C) acts or omissions of Company or a Third Party Vendor, provided that (1) Supplier was unable to alert Company of the consequences of such acts or omissions or (2) Company disregarded any such alert by Supplier as to the consequences of such acts or omissions or fails to take necessary corrective actions requested of Company in writing and within the control of Company, (3) Supplier complied with the requirements of the DRP, and (4) Supplier was unable to take other reasonable steps to avert such consequences, then such Service Level shall be measured excluding the time (or other appropriate unit of measure) that the foregoing was in effect or such milestone or Deliverable deadline shall be extended in respect of the time that the foregoing was in effect.

Section 10.5 Periodic Reviews. At least annually and as more fully described in Exhibit 3 (Service Level Management), Company and Supplier shall review the Service Levels and shall make adjustments to them as appropriate to reflect improved performance capabilities associated with advances in the technology and methods used to perform the Services. The Parties expect and understand that the Service Levels shall be improved over time as further described in Exhibit 3 (Service Level Management).

Section 10.6 Measurement and Monitoring Tools. Supplier shall, with respect to each Service Level, prior to the date that such Service Level takes effect, implement and test measurement and monitoring Tools and procedures acceptable to Company to measure and report Supplier's performance of the Services against the applicable Service Levels. Such measurement and monitoring Tools and procedures shall permit reporting at a level of detail sufficient to verify Supplier's compliance with the Service Levels. Supplier shall also provide Company with (i) on-line, real time access to the data used by

Supplier to calculate its performance against the Service Levels and (ii) documentation relating to the measurement and monitoring tools and procedures utilized by Supplier to generate such data. Given the nature of Company's multi-vendor environment, any such data may be shared by Company with Third Party Vendors, provided that such Third Party Vendors have executed appropriate non-disclosure agreements or are otherwise bound by confidentiality obligations. The use of any such data by the Third Party Vendors shall be limited to managing the provision and delivery of services, products and resources to Company and resolving any issues or problems relating to the provision and delivery of any such services, products or resources. Company shall not be required to pay any amount in addition to the Charges for (A) such measurement and monitoring Tools or (B) any resources utilized in connection with such measurement and monitoring Tools.

Section 10.7 Third Party Vendor Performance Data. Supplier acknowledges and agrees that it may receive performance data from Third Party Vendors and such performance data shall be Confidential Information of Company. Supplier further agrees that it shall use such performance data only for managing the provision and delivery of services, products and resources and resolving any problems or issues that relate to such services, products and resources. Supplier shall not use any such performance data for any other purpose, except as otherwise agreed by Company.

Section 10.8 Service Level Reporting. No later than the tenth (10th) business day of each month during the Term, Supplier shall provide Company with a monthly performance report describing Supplier's performance of the Services in the preceding month, which report shall be made available to Company in an online, electronic form (the "**Monthly Service Level Report**"). The Monthly Service Level Report shall:

(A) for each area of the Services, assess the degree to which Supplier has attained or failed to attain the Service Levels;

(B) explain any Service Level Defaults and include a plan for corrective action where appropriate;

(C) describe any Service Level Credits that have been incurred by Supplier due to any Service Level Defaults;

(D) identify any problems or issues that are being caused by the acts or omissions of any Third Party Vendors and the steps being taken to resolve any such problems or issues; and

(E) include such documentation and other information as Company may reasonably request to verify compliance with the Service Levels.

Any failure by Supplier to report on Supplier's success or failure to meet any Service Level, including if such failure results from Supplier's failure to implement, or delay in implementing, appropriate measurement and monitoring Tools pursuant to Section 10.6, shall be deemed to be a Service Level Default with respect to the applicable Service Level.

Section 10.9 Quarterly Reporting. No later than ten (10) days after the end of each calendar quarter during the Term, Supplier shall provide Company with a quarterly analysis and report identifying and analyzing service trends and providing observations and suggestions for the continuous improvement of the Services.

Section 10.10 Customer Satisfaction Surveys.

(A) As set forth in Exhibit 13 (Customer Satisfaction Surveys), Supplier shall, on a periodic basis throughout the Term, survey a representative sample of Authorized Users to ascertain their level of satisfaction with Supplier's management and provision of the

Services. The representative sample, survey format and questions shall be as described in Exhibit 13 (Customer Satisfaction Surveys) and shall be subject to Company's review and approval.

(B) Supplier shall, within thirty (30) days of the completion of the applicable customer satisfaction survey, (1) conduct a root cause analysis as to the cause of any dissatisfaction; (2) develop an action plan to address and improve the level of satisfaction; (3) present such plan to Company for its review, comment and approval; and (4) take action in accordance with the approved plan and as necessary to improve the level of satisfaction. Supplier's action plan developed hereunder shall set forth the specific measures to be taken by Supplier and the dates by which each such measure shall be completed. Following implementation of such action plan, Supplier shall conduct a follow-up survey with the affected management to confirm that the cause of any dissatisfaction has been addressed and that the level of satisfaction has improved.

ARTICLE 11
PERSONNEL

Section 11.1 Qualifications, Retention and Replacement of Supplier Personnel.

(A) Supplier shall assign an adequate number of Supplier Personnel to perform the Services. Supplier Personnel shall be properly educated, trained and fully qualified with respect to the Systems and the Services they are to perform. Supplier acknowledges and agrees that it shall be the responsibility of Supplier to ensure that it provides adequate levels of training and education so that the Supplier Personnel remain current as to industry and technology developments and changes in the Systems. Company shall not be required to pay any amounts in addition to the Charges to train or educate any Supplier Personnel.

(B) Supplier shall be solely responsible for compliance with immigration and visa Laws and requirements in respect of the Supplier Personnel. Supplier represents and warrants that all non-United States citizens who are assigned by Supplier to perform the Services within the United States (1) shall hold appropriate and valid visas or other work authorizations, each of which shall be valid for a period at least equal to the anticipated duration of such employee's assignment to Company's account, and (2) shall not be provided by Supplier with any technology or information in violation of any U.S. export Laws.

(C) In the event that Company determines in good faith that the continued assignment to Company's account of one of the Supplier Personnel is not in the best interests of Company, then Company shall give Supplier written notice to that effect. After receipt of such notice, Supplier shall promptly remove such individual from the Company account and shall replace that person with another person of suitable ability and qualifications.

(D) Supplier shall comply with its physical and information security and access policies and procedures. In addition to that, no Supplier Personnel shall (1) receive access badges from Company, (2) drive Company-owned or leased vehicles, or transport Company Personnel or (3) have access to (i.e. ability to read, write or modify) Company Data or Company Confidential Information (including electronic mail, voicemail, networks, internet access and the Company web), without Supplier first providing to Company's security department the background check certification form ("**Background Check Certification Form**") included in Exhibit 21 (Background Check Certification Form) for the applicable Supplier Personnel. Notwithstanding the foregoing, if Supplier Laws prohibit the performance of background checks on Supplier's Personnel when required pursuant to this Section 11.1(D), Supplier shall comply with, and shall cause its Subcontractors to comply with, reasonable alternative background check requirements imposed by

Company for such Personnel, provided that such requirements (as the same may be subsequently revised) comply with Supplier Laws. Supplier Personnel and Subcontractors' Personnel who drive Company-owned or leased vehicles, or transport Company Personnel must meet all other obligations to do so, including proper licensure, insurance and insurability. Supplier shall perform, or shall use an outside agency to perform, the background check and all legally required notifications to Supplier Personnel and Subcontractor Personnel set forth in the Background Check Certification Form or alternative background check requirements, as applicable. Supplier shall return the appropriate Background Check Certification Form or alternative background check requirements, as applicable, for Supplier Personnel and Subcontractor Personnel to Company's security department, Mailstop 10-1-A, ATTN: Security Director, One Amgen Center Drive, Thousand Oaks, CA 91320-1799. Company may, by written notice to Supplier, change the recipient of such certifications.

(1) Supplier shall provide monthly reports to Company regarding Supplier's compliance with this Section 11.1(D).

(2) Supplier's failure or refusal to provide the requisite Background Check Certification Form which failure or refusal [*****].

(3) In the event at any time during the Term the [*****] Company may [*****].

(4) In the event Company suffers damages due to Supplier's failure to comply with Section 11.1(D)(2), without prejudice to any other rights or remedies Company may have, Company may recover any and all of such damages from Supplier, subject to the limitations set forth in Article 26(Liability).

(5) Company shall immediately notify Supplier in writing upon Company becoming aware of Supplier's failure to meet the obligations of this Section 11.1(D)). Supplier shall immediately notify Company in writing upon Supplier becoming aware of a failure to meet the obligations of this Section 11.1(D). Such notice from Supplier shall be sent to the notice recipients specified in Section 30.3 and the following:

Amgen Inc.
Security Department, Mailstop 10-1-A
Attn: Security Director
One Amgen Center Drive
Thousand Oaks, CA 91320-1799

Within five (5) days of Supplier becoming aware of a failure to meet the obligations of this Section 11.1(D), Supplier shall have completed an investigation of the events that led to the failure and shall provide Company with a written investigation report. Such written investigation report shall include, at a minimum, a description of the obligations that were not met, the role of the personnel for which the obligations of this Section 11.1(D) were not met, the access that such personnel had, and the corrective actions to be taken or taken to ensure that Supplier meets the obligations under this Section 11.1(D).

Section 11.2 Key Supplier Personnel.

(A) Company and Supplier may designate certain employees of Supplier as key employees ("**Key Supplier Personnel**"), which Key Supplier Personnel shall be named in Exhibit 18 (Supplier Personnel) or the relevant Order, if known. Supplier shall cause each of the Supplier Personnel serving as Key Supplier Personnel to devote substantially full time

and effort to the provision of the Services for at least twenty-four (24) months from the date that each such individual is assigned to fill a Key Supplier Personnel position, unless (i) a different period is specified in Exhibit 18 (Supplier Personnel) or the relevant Order, (ii) Company consents to reassignment or replacement of the Supplier Personnel filling such Key Supplier Personnel position; or (iii) Supplier Personnel filling such Key Supplier Personnel position (a) voluntarily resigns from Supplier; (b) is dismissed by Supplier for cause; (c) fails to perform his or her duties or responsibilities; or (d) dies or is unable to work due to his or her disability. The Supplier Personnel approved as of the Effective Date to serve as the Key Supplier Personnel are listed in Exhibit 18 (Supplier Personnel).

(B) Company may from time to time change the positions designated as Key Supplier Personnel positions under this Agreement, provided that without Supplier's consent, the number of Key Supplier Personnel shall not exceed the number then currently specified in Exhibit 18 (Supplier Personnel). If Company designates a new Key Supplier Personnel position pursuant to this Section 11.2(B) above, the reassignment restrictions set forth in Section 11.2(A), Section 11.2(B), and Section 11.2(D) shall not apply to the individuals assigned to such positions for a period of three (3) months following the date that Company notifies Supplier of such designation, unless and to the extent Supplier agrees that such Sections shall apply.

(C) Supplier shall, in accordance with Section 11.2(D), designate an individual to serve as the project executive under this Agreement (the "**Supplier Project Executive**"). The Supplier Project Executive shall be one of the Key Supplier Personnel. The Supplier Project Executive shall (a) serve as the single point of accountability for Supplier for the Services; and (b) have day-to-day authority for undertaking to ensure customer satisfaction. The Supplier Project Executive shall be located at Company's corporate headquarters or any other Company Service Location designated by Company.

(D) Before assigning an individual to a Key Supplier Personnel position, whether as an initial assignment or a subsequent assignment, Supplier shall notify Company of the proposed assignment and provide Company with a résumé and other information about the individual reasonably requested by Company, consistent with Supplier's applicable policies and Applicable Laws. If Company in good faith objects to the proposed assignment, the Parties shall attempt to resolve Company's concerns to the reasonable satisfaction of Company. If the Parties have not been able to resolve Company's concerns within five (5) business days, Supplier shall (1) not assign the individual to that position and (2) propose to Company the assignment of another individual of suitable ability and qualifications. Individuals serving as Key Supplier Personnel may not be transferred or reassigned until a suitable replacement has been approved by Company, and no such transfer shall occur at a time or in a manner that would have a material adverse impact on delivery of the Services. In no event shall Supplier transfer or reassign more than two (2) Key Supplier Personnel from the Company account in any six (6) month period, and in no event shall such Key Supplier Personnel include both the Supplier Project Executive and the Supplier Delivery Project Executive. Supplier shall establish and maintain an up-to-date succession plan for all individuals serving as Key Supplier Personnel, and such succession plan shall be made available to Company for review and subject to Company's approval. Upon Company's request, Supplier shall provide Company with a list of all the Supplier Personnel primarily assigned to the Company account.

(E) Supplier shall not assign an individual filling a Key Supplier Personnel position to the account of any Company Competitor without Company's prior written consent (1) while such individual is assigned to Company's account, and (2) for a period of twelve (12) months following the date that such individual is removed from or ceases to provide services in connection with Company's account. Should this Section 11.2(E) be declared unenforceable or invalid by a court with jurisdiction on the basis that it exceeds statutorily

required territorial or time limits on extensions of obligation not to compete, such a declaration will render this provision invalid only as it relates to the excess over what is allowed under Supplier Laws or Company Laws. The provision will be deemed amended to comply with statutorily required limits.

Section 11.3 Conduct of Supplier Personnel. While at Company Facilities, Supplier shall ensure that the Supplier Personnel (A) comply with the requests, standard rules and regulations of Company regarding safety and health, personal and professional conduct (including non-discrimination and anti-harassment policies, the wearing of an identification badge or personal protective equipment and adhering to facility regulations and general safety practices or procedures, and including any drug testing policies applicable to Company employees) generally applicable to such Company Facilities, including all obligations set forth in Exhibit 16 (Safety and Security Requirements) and (B) otherwise conduct themselves in a professional and businesslike manner. In the event that Company determines that any of the Supplier Personnel are not conducting themselves in accordance with this Section, Company may notify Supplier of such conduct. After receipt of such notice, Supplier shall promptly remove such individual from Company's account and shall replace that person with another person of suitable ability and qualifications.

Section 11.4 Performance of Supplier Personnel. Supplier shall ensure that all Supplier Personnel are performing their tasks, responsibilities and functions in accordance with the terms of this Agreement and in a productive and professional manner.

Section 11.5 Transitioned Personnel.

(A) Affected Employees

Supplier shall have offered employment to the appropriate number of Affected Employees who are not in ARD countries in accordance with the timing specified in Exhibit 5 (Human Resources) (including without limitation Attachment 5.A). The terms for such offers of employment and for employment of the Affected Employees are set forth in Exhibit 5 (Human Resources). Supplier shall treat the Transitioned Employees as its employees for all purposes, including tax reporting and employee benefits, and Supplier shall obtain from each Transitioned Employee a signed statement in a form acceptable to Company indicating that the Transitioned Employee understands that he or she is not a Company employee and is not entitled to any Company employee benefits, and that if it ever is determined that he or she actually was a Company employee, he or she shall disclaim all such benefits. Supplier shall supervise, pay, evaluate, discipline and set the hours of work of the Transitioned Employees, provide the Transitioned Employees with all necessary tools, supplies, offices and equipment, and provide training to the Transitioned Employees on how to perform their services.

(B) Affected Contractors

Company shall terminate or allow to expire the Company contractor agreements identified in Exhibit 2 (Statement of Work) (the "**Company Contractor Agreements**") or, subject to obtaining Required Consents as set forth in Section 12.2, assign such Company Contractor Agreements to Supplier. The action of termination, expiration or assignment for particular Company Contractor Agreements shall be in accordance with a plan prepared by Supplier and approved by Company. Supplier shall be responsible for the costs, charges and fees associated with such assignment actions and Company shall be responsible for the costs, charges and fees associated with termination actions. Supplier shall use commercially reasonable efforts to continue to use those Personnel of Affected Contractors identified in Exhibit 19 (Affected Personnel) as "Key Company Contractor Personnel" to perform the Services for the period specified therein.

(C) Critical Affected Personnel

Supplier acknowledges that certain of the Affected Personnel are Affected Personnel who Company believes are critical to Supplier in providing the Services ("**Critical Affected Personnel**"). The Critical Affected Personnel are identified in Exhibit 19 (Affected Personnel). During the first [*****] following the Effective Date, Supplier shall use the Critical Affected Personnel to provide Services and shall not, without Company's prior written approval: (1) terminate, except for cause, the employment of any Critical Affected Personnel who become employees of Supplier or (2) transfer or reassign any Critical Affected Personnel from performing the Services. In the event Supplier intends to terminate for cause any Critical Affected Personnel who are Transitioned Employees during the initial [*****] following the Effective Date, Supplier will (A) provide timely notice to Company of such termination and (B) give due consideration to Company's concerns with respect to the impact of terminating such Critical Affected Personnel prior to so terminating any such person. Without Company's prior written consent, Supplier and its Subcontractors shall not assign Critical Affected Personnel to the account of any Company Competitor without Company's prior written consent (1) while such individual is assigned to Company's account, and (2) for a period of [*****] following the date that such individual is removed from or ceases to provide services in connection with the Company's account.

(D) Acquired Rights Directive

(1) In accordance with its obligations under local legislation implementing ARD Laws, any relevant collective agreements and other Supplier Laws or Company Laws, respectively, the Parties shall work together to obtain and deliver all information as is necessary so as to enable both Parties to be in compliance with ARD Laws, and any other Supplier Laws or Company Laws, respectively. It is the Parties' understanding that ARD Laws may require that certain Affected Employees in ARD Countries receive offers of employment from Supplier ("**ARD Affected Employees**"), that the time of transfer under ARD Laws be the date(s) that such ARD Affected Employees actually transition to Supplier ("**Employee Transfer Date**"), and that the contract of employment between Company and each of the ARD Affected Employees shall have effect on and from the Employee Transfer Date. Each Party shall comply with ARD Laws (and other Applicable Laws) with respect to the ARD Affected Employees before, on and after the Effective Date. To the extent that any entitlement under a ARD Affected Employee's contract of employment or ancillary employment rights is not automatically transferred to Supplier under ARD Laws (e.g., certain occupational pension rights in the United Kingdom), then Supplier shall nonetheless provide to the relevant ARD Affected Employee actually hired by Supplier, either on an individual or collective basis, entitlement to rights that are equivalent and no less favorable than the existing Company position, except for entitlement to pension rights.

(2) Supplier may not transfer the employment of the Transitioned Employees to any Third Party who is not performing any of the Services and shall during the Term remain the employer of the Transitioned Employees except only to the extent: (1) that ARD Laws shall apply to transfer the employment of any Transitioned Employees to any Third Party or subcontractor which, subject to the terms of this Agreement, Supplier engages to perform any of the Services; or (2) that Supplier shall terminate the employment of any Transitioned Employees for misconduct, non-performance, or economic reasons.

(3) For the avoidance of doubt, Supplier shall be obligated to make offers to and hire only such Affected Employees required by ARD Laws to receive such transfer

offers. If ARD Laws do not operate to mandate the transfer to Supplier of any Affected Employee who is working in an ARD Country, Supplier may nonetheless make to such Affected Employees an offer of employment at Supplier's sole discretion, provided, however, that such offer shall remain open for a period of twenty-eight (28) days.

Section 11.6 Staffing Issues. Company and Supplier agree that it is in their best interests to keep the attrition rate of Supplier Personnel to a reasonably low level. If Company believes that Supplier's attrition rate may be excessive and so notifies Supplier, Supplier shall provide data concerning its attrition rate and meet with Company to discuss the reasons for, and impact of, the attrition rate. In any event, Supplier shall use commercially reasonable efforts to keep the attrition rate to a reasonably low level. Notwithstanding transfer, attrition or other turnover of Supplier Personnel, Supplier remains obligated to perform the Services without degradation (in accordance with the Service Levels) and in accordance with the terms of this Agreement. Without limiting the foregoing, Supplier shall promptly give written notice to Company (a "Staffing Notice") upon the occurrence of either of the following: [**] No later than ten (10) days after the time Supplier is required to provide Company with a Staffing Notice, Supplier shall develop and submit to Company for Company's approval an action plan (a "Staffing Action Plan") pursuant to which Supplier shall retain a sufficient number of new employees, or otherwise assign employees from other divisions or Affiliates of Supplier, to perform Services for the Project to cause the Services to be completed in a timely manner and consistent with the requirements of this Agreement (taking into account the then-current scope and volumes of the Services, and productivity and technology improvements in the delivery of the Services). Upon Company's approval of a Staffing Action Plan, Supplier shall promptly and diligently implement such Company-approved Staffing Action Plan. Upon Company's request and otherwise on a monthly basis after Company's approval of a Staffing Action Plan, Supplier shall provide Company with a written report describing any changes in Supplier's staffing of an Order and any other facts and circumstances which may impact Supplier's ability to provide adequate staffing to timely perform the Services in a manner consistent with the requirements of this Agreement.

ARTICLE 12
THIRD PARTY CONTRACTS

Section 12.1 General. Supplier shall structure its arrangements with Third Party Vendors of services (e.g., maintenance agreements) that shall be primarily dedicated to the performance of the Services so that the relevant contracts may be assigned to Company upon the termination, in whole or in applicable part, or expiration of this Agreement and so that the ongoing fees under those arrangements payable by Company after such assignment are consistent with and no higher than the fees payable by Supplier prior to such assignment. If Supplier is not able to accomplish the foregoing after using commercially reasonable efforts, Supplier shall notify Company and discuss with Company the consequences (including any impact on the Services and Service Levels) of Supplier not being able to use the services from the provider who shall not allow the assignment sought by Company. If, following that discussion, Company directs Supplier to not use such services, and Supplier is not able to find a suitable work-around, Supplier shall be relieved of its obligations under this Agreement to the extent its ability to perform is adversely impacted by the inability to use such third-party services.

Section 12.2 Assigned Contracts. Effective as of the Effective Date and subject to Supplier having obtained any applicable Required Consents, Company shall assign to Supplier, and Supplier shall assume from Company, the Assigned Contracts. Supplier shall pay directly, or reimburse Company if Company has paid, the charges and other amounts under the Assigned Contracts, where such charges are attributable to the periods on or after the Effective Date. Supplier shall comply with the duties imposed on Company under such contracts.

Section 12.3 Managed Contracts.

(A) General

Effective as of the Effective Date and subject to Supplier and Company having obtained any applicable Required Consents, Supplier shall manage, administer and maintain the Managed Contracts. Supplier shall provide Company with no less than ninety (90) days notice of any renewal, termination or cancellation dates and fees with respect to the Managed Contracts. Supplier shall not renew, modify, terminate or cancel, or request or grant any consents or waivers under any Managed Contracts without the consent of Company. Any fees or charges or other liabilities or obligations imposed upon Company in connection with any such renewal, modification, termination or cancellation of, or consent or waiver under, the Managed Contracts that is obtained or given without Company's consent shall be paid or discharged, as applicable, by Supplier.

(B) Managed Contract Invoices

Supplier shall (1) receive all Managed Contract invoices, (2) review and correct any errors in any such Managed Contract invoice in a timely manner, and (3) submit such Managed Contract invoices to Company within a reasonable period of time prior to the due date or the date on which Company may pay such Managed Contract invoice with a discount. Company shall be responsible for payment of Managed Contract invoices received and approved by Supplier. Company shall only be responsible for payment of Managed Contract invoices and shall not be responsible to Supplier for any management, administration or maintenance fees of Supplier in connection with the Managed Contract invoices beyond those included in the Base Charges. Company shall be responsible for any late fees in respect of the Managed Contract invoices, provided that Supplier submitted the applicable Managed Contract invoices for payment within a reasonable period of time prior to the date any such Managed Contract is due, but in no event later than twenty (20) days prior to the date upon which payment is due (provided that Supplier receives such invoice at least thirty (30) days prior to the date upon which payment is due). If Supplier fails to submit a Managed Contract invoice to Company for payment in accordance with the preceding sentence, Supplier shall be responsible for any discount not received or any late fees in respect of such Managed Contract invoice not to exceed the amount of the applicable discount or late fee that would have applied if Company had paid such Managed Contract invoice a number of business days after the applicable payment due date that is equal to the actual number of business days that Supplier was late in submitting the Managed Contract invoice to Company for payment.

(C) Performance Under Managed Contracts

Supplier shall promptly notify Company of any breach of, or misuse or fraud in connection with, any Managed Contracts of which Supplier becomes aware or receives written notification, and shall cooperate with Company to prevent or stay any such breach, misuse or fraud. Supplier shall pay all amounts due for any penalties or charges (including amounts due to a Third Party as a result of Supplier's failure to promptly notify Company pursuant to the preceding sentence), associated taxes, legal expenses and other incidental expenses incurred by Company as a result of Supplier's non-performance of its obligation under this Agreement with respect to the Managed Contracts.

ARTICLE 13
EQUIPMENT AND CONNECTIVITY

Section 13.1 Company Provided Equipment. Company shall retain the Company Provided Equipment and provide Supplier with access to such Company Provided Equipment on an "as is, where is" basis for

use by Supplier in delivering the Services. Company's and Supplier's respective responsibilities with respect to the upgrade, replacement and refresh of Company Provided Equipment may vary by Equipment type and shall be as set forth in Exhibit 4 (Pricing). Company shall be responsible for procuring any upgrades with respect to such Company Provided Equipment. Unless otherwise set forth in Exhibit 2 (Statement of Work) or Exhibit 4 (Pricing), Supplier shall manage and maintain all of the Company Provided Equipment in accordance with the maintenance schedules recommended by the applicable Equipment manufacturer.

Section 13.2 Supplier Equipment. Supplier shall be responsible for providing any Equipment other than the Company Provided Equipment that is necessary to provide the Services (collectively, the "**Supplier Equipment**"). Supplier shall install, operate, manage and maintain all of the Supplier Equipment as required to provide the Services in accordance with the Service Levels. Notwithstanding the location of Supplier Equipment at a Company Service Location, all right, title and interest in and to any such Supplier Equipment shall be and remain in Supplier, and Company shall not have any title or ownership interest in the Supplier Equipment.

Section 13.3 New Equipment. Supplier shall acquire new Equipment in addition to existing Supplier Equipment and Company Provided Equipment that is (A) necessary or appropriate to provide the Services in accordance with the Service Levels and (B) in the case of upgrading or replacing Company Provided Equipment, in accordance with the provisions of Section 13.4. Unless otherwise set forth in Exhibit 4 (Pricing), such new Equipment shall be purchased or leased in the name of Supplier, except for purchases or leases of upgrades for Company Provided Equipment, which shall be purchased or leased in the name of Company.

Section 13.4 Technology Refresh. Exhibit 2 (Statement of Work), Exhibit 4 (Pricing), and Exhibit 8 (Technical Architecture and Product Standards) set forth the strategy and schedule pursuant to which particular items or types of Equipment and Software shall be replaced or upgraded during the Term (the "**Refresh Schedule**"). With respect to each item of Equipment and Software, Supplier shall procure and install the required upgrade or replacement in accordance with the Technology Refresh Plan, but no later than the date upon which the applicable item of Equipment or Software has been in service for the period of time set forth on the Refresh Schedule. Company shall direct Supplier, in accordance with the Change Control Procedure, as to any changes to the strategy or schedule pursuant to which particular items or types of Equipment and Software shall be replaced or upgraded during any Renewal Term.

Section 13.5 Procurement Responsibilities. With respect to Equipment procured by Supplier pursuant to the provisions of this Article 13, Supplier's responsibilities shall include: (A) evaluating the Equipment and the qualifications of the Equipment vendor; (B) negotiating commercially reasonable pricing and terms; (C) ordering, receiving, configuring, installing, testing, maintaining and distributing all new Equipment; (D) performing tracking and asset management for all such Equipment; and (E) tracking license counts, informing Company of any discrepancies with applicable license count restrictions, and assisting Company in restoring compliance with applicable license count restrictions. With respect to any new Equipment leased by Supplier that may be assumed by Company upon termination of this Agreement, (i) Supplier shall structure its leasing arrangements so that the applicable leases may be assigned to Company upon the termination or expiration of this Agreement and so that any ongoing payments under those leases payable by Company after such assignment are consistent with, and no higher than, the payments payable by Supplier prior to such assignment, and (ii) such leases shall be subject to prior review and approval by Company.

Section 13.6 Equipment Disposal. Unless otherwise set forth in Exhibit 4 (Pricing), Supplier shall be responsible for the disposal of Supplier Equipment and Company Provided Equipment that are no longer required by Supplier for the provision of the Services. Supplier shall dispose of all such Equipment in a manner consistent with the requirements of Law and Company's IT and information security and privacy standards, including those set forth in this Agreement, and including any Company Policies applicable to the destruction of stored information and charitable donations (in the case of Company Provided Equipment). Supplier shall be responsible for all costs, charges or fees associated with the disposal of Supplier Equipment and Company Provided Equipment.

Section 13.7 Supplier Data Connections. Supplier shall provide data connections among the Supplier Service Locations and between Company-designated points of access to the Company data network and secure firewalls to be provided by Supplier and located at Supplier Service Locations (the "**Supplier Data Connections**"), all as necessary to provide the Services in accordance with the Service Levels. Supplier shall use the Supplier Data Connections to and between the Company data network only for the purpose of delivering the Services. Supplier shall be responsible for procuring any upgrades and replacements with respect to the Supplier Data Connections as necessary to provide the Services in accordance with the Service Levels. Supplier shall be responsible for managing and maintaining (A) the Supplier Data Connections, (B) the firewalls at its end of the Supplier Data Connections and (C) all of Supplier's networks and Equipment beyond such firewall Equipment.

Section 13.8 Data Connection Security. Supplier shall ensure that all Supplier Data Connections conform to the data and network security requirements contained in Exhibit 16 (Safety and Security Requirements).

Section 13.9 Equipment and Software Verification. Within thirty (30) days after the Effective Date, Supplier shall verify that all Software and Equipment that shall be used by Supplier to provide the Services, and all Supplier Data Connections, operate in accordance with their specifications and intended functions in a reliable manner. In the event that during verification Supplier finds any nonconformities, Supplier shall provide to Company by the end of such 30-day period an action plan to eliminate such nonconformities within ninety (90) days after the Effective Date. Prior to using any other software or equipment to provide the Services or creating new connections with Company systems and networks, Supplier shall verify that such software, equipment and connection operates in accordance with applicable specifications and intended functions in a reliable manner. Prior to testing any such software, equipment and connections, Supplier shall document the testing protocols to be used and submit such testing protocols to Company to obtain written approval thereof.

ARTICLE 14
SOFTWARE AND INTELLECTUAL PROPERTY RIGHTS

Section 14.1 Company Software. As between Company and Supplier, and except as expressly set forth in this Section, all right, title and interest in and to the Company Software shall remain the exclusive property of Company. Company hereby grants to Supplier (to the extent permitted under and subject to the restrictions set forth in applicable third-party agreements) a non-exclusive, non-transferable, limited right to access and use, solely for the purposes of providing the Services, the Company Software; provided that the rights granted to Supplier hereunder shall automatically expire effective as of the date upon which Supplier ceases, for any reason, to provide the Services.

Section 14.2 Supplier Software.

(A) General

As of the Effective Date, Supplier shall be responsible in all respects for the Supplier Software. Supplier shall install, operate and maintain at its expense any Supplier Software needed to provide the Services. Before using any Supplier Software on Company's production or development systems infrastructure or any Company Equipment, Supplier shall notify Company of its intent to use such Supplier Software and obtain Company's advance, written approval of such use. Upon Company's request, Supplier shall provide Company with a list of all Supplier Software being used in connection with the Services on Company's production or development systems infrastructure or any Company Equipment as of the date of such request. In addition to the foregoing Supplier shall notify Company in the event that it shall install, operate or maintain any Software within Supplier's systems that could have a material impact on the Services.

(B) Supplier Proprietary Software

All right, title and interest in and to the Supplier Proprietary Software shall remain the exclusive property of Supplier, except as expressly set forth in this Section. Any modifications or enhancements owned by Supplier that are made to Supplier Proprietary Software in the course of the Services shall be deemed Supplier Proprietary Software. To the extent necessary to receive the Services, Supplier hereby grants to Company a non-exclusive, royalty free license to Use (and to allow third parties to Use solely for the benefit of Company) the Supplier Proprietary Software.

(C) Supplier Third Party Software

(1) Rights of Use During Term

As between Supplier and Company, and except as expressly set forth in this Section 14.2(C)(1), all right, title and interest in and to the Supplier Third Party Software shall remain the exclusive property of Supplier. To the extent necessary to receive the Services, Supplier hereby grants to Company (to the extent permitted under and subject to the restrictions set forth in applicable third-party agreements) a non-exclusive, non-transferable, limited right to Use (and to allow third parties to Use solely for the benefit of Company) during the Term the Supplier Third Party Software.

(2) Post-Termination and Expiration Rights

Effective as of the date upon which Supplier ceases, for any reason, to provide the Services to Company, and to the extent necessary to continue to receive services similar to the Services, Supplier shall either (i) assign the license for such Supplier Third Party Software to Company upon Company's payment to Supplier in an amount equal to the remaining unamortized initial license or purchase charges for such Supplier Third Party Software, if any, and subject to the terms and conditions of the license for such Supplier Third Party Software, or (ii) if Supplier is unable to assign the license for any such Supplier Third Party Software, provide reasonable assistance to Company for Company to obtain a license for such Supplier Third Party Software; provided that, in the case of Supplier Third Party Software assigned pursuant to clause (i), Company shall be solely responsible for the procurement of post-expiration or post-termination support and maintenance services with respect to such Supplier Third Party Software. To the extent that third-party restrictions prevent Company from obtaining such a license, Supplier shall recommend, and subject to the written consent of Company, obtain functionally-equivalent alternative Software or Tools; provided that Company shall be solely responsible for the procurement of post-expiration or post-termination support and maintenance services with respect to such functionally-equivalent Software or Tools.

Section 14.3 Software Deliverables.

(A) Incorporated Supplier Software

To the extent any Supplier Software is incorporated into a Software Deliverable, Supplier grants to Company a non-exclusive, perpetual, irrevocable, worldwide, fully paid up, royalty-free license to Use (and to allow third parties to Use solely for the benefit of Company) such Supplier Software in its incorporated form and solely to the extent necessary to use the Software Deliverable.

(B) Software Deliverables

Company shall own all worldwide right, title and interest in all Core Software Deliverables, including all Intellectual Property rights therein. Company shall own all worldwide right, title and interest in copyrights in Non-Core Software Deliverables. To the extent that applicable rights in any Software Deliverables are not deemed owned by Company by operation of law, Supplier hereby irrevocably assigns, and shall cause Supplier Personnel to assign, to Company without further consideration, all right, title and interest in all (i) Intellectual Property rights in Core Software Deliverables, and (ii) all copyrights in Non-Core Software Deliverables. Supplier shall execute any documents and take any other actions as may reasonably be necessary, or as Company may reasonably request, to perfect Company's ownership of rights in Software Deliverables and applicable Intellectual Property rights herein. At any time, Company may request and Supplier shall promptly provide Company with copies on industry standard media of all executable code, object code, source code and documentation for any and all Software Deliverables, whether completed or works-in-progress. Supplier hereby grants to Company a global, fully paid-up, perpetual, irrevocable, nonexclusive license under all Intellectual Property rights owned by Supplier, whether now existing or hereinafter developed, to Use and modify the Non-Core Software Deliverables in connection with the business of Company.

Section 14.4 Non-Software Deliverables. Non-Software Deliverables shall be owned by (i) Supplier in the case of Non-Software Deliverables that are customarily prepared by a Supplier that is providing services similar to the Services with the expectation that such Non-Software Deliverables or derivative works thereof will be used at multiple customers and provided that such Non-Software Deliverable shall not contain any Company Confidential Information ("**Supplier Non-Software Deliverables**"), and (ii) Company in the case of all other Non-Software Deliverables including the Policies and Procedures Manual (collectively, "**Company Non-Software Deliverables**"). Company shall own all right, title and interest in all Company Non-Software Deliverables, including all Intellectual Property rights therein. To the extent that any Company Non-Software Deliverables are not deemed owned by Company by operation of Law, Supplier hereby irrevocably assigns, and shall cause Supplier Personnel to assign, to Company without further consideration all right, title and interest in such Company Non-Software Deliverables, including all Intellectual Property rights therein. Supplier shall execute, and shall cause Supplier Personnel to execute, any documents or take any other actions as may reasonably be necessary, or as Company may reasonably request, to perfect Company's ownership of Non-Software Deliverables. Company hereby grants to Supplier, solely to provide the Services, a non-exclusive, non-transferable, limited right to have access to and Use, modify, maintain, enhance and create derivative works of Company Non-Software Deliverables. Supplier may sublicense to Subcontractors that are to provide any of the Services the right to have access to and Use, modify, maintain, enhance and create derivative works of Non-Software Deliverables solely to provide those Services that Supplier and Subcontractors are responsible for providing and as may otherwise be agreed to by the Parties. Notwithstanding anything to the contrary in this Section 14.4, as between Supplier and Company, all of Pre-Existing Rights of Supplier shall remain owned by Supplier and Supplier hereby grants to Company a non-exclusive limited license thereunder to use and exploit the Non-Software Deliverables as permitted hereunder.

Section 14.5 License to Supplier Non-Software Deliverables. Supplier hereby grants to Company a global, fully paid-up, perpetual, irrevocable, nonexclusive license to (a) Use the Supplier Non-Software Deliverables to receive the benefit of the Services during the Term and (b) Use, modify, maintain, enhance and create derivative works (and to engage third parties to do the foregoing on behalf of Company) of such Supplier Non-Software Deliverables for use in providing services that are similar to the Services to Company and Company Service Recipients after the Term. Company may sublicense any of the foregoing rights to third parties for their use in providing services to Company that are similar to the Services.

Section 14.6 Residual Knowledge. Supplier will be free to use "Residuals" resulting from access to or work with Confidential Information of Company, and Company will be free to use "Residuals" resulting from access to or work with Confidential Information of Supplier, provided: (i) in no case will the Supplier disclose Company Data or the source of Residuals; and (ii) this section does not grant either Party a license under the other Party's copyrights or patents. The term "Residuals" means information in intangible form (e.g., ideas, concepts, know-how, techniques, etc.), which is unintentionally retained in the unaided memory by persons who had rightful access to Confidential Information or Supplier's Information, as the case may be.

Section 14.7 Export.

(A) The Parties acknowledge that certain Systems, Deliverables and associated technical data to be provided under this Agreement and certain transactions under this Agreement may be subject to export controls under the Laws of the United States and other countries. Neither Party shall export or re-export any such items or any direct product thereof or undertake any transaction in violation of any such Laws. To the extent within Supplier's control, Supplier shall be responsible for, and shall coordinate and oversee, compliance with such export Laws in respect of the System, Deliverables or other items provided by Supplier under this Agreement. In the event Supplier determines that it needs to export, with Company approval, any material supplied by Company, then upon request of Supplier, Company shall provide all information in its possession that is necessary to determine the ECCN or equivalent classification and reasonably to assist Supplier with making any required filings and obtaining necessary export authorizations.

(B) If, in the course of performing the Services, Supplier requires, with Company approval, a change in the use, export, release, or transfer of a material supplied by Company not otherwise specified in or contemplated by this Agreement, then upon request by Supplier Company shall provide all information in its possession that is necessary to determine export authorizations and licenses, including the ECCN and subheadings or munitions list category number (if known to Company), and reasonably to assist Supplier with making any required filings and obtaining necessary export authorizations. Company is responsible for ensuring that any information knowingly provided to Supplier for submission to such agencies with respect to such material supplied by Company is accurate.

ARTICLE 15
FACILITIES

Section 15.1 Service Locations. The Services shall be provided (A) to the Company Service Locations and (B) from the Supplier Service Locations and Company Facilities. The provision of the Services from any other location must be approved by Company, which approval shall not be unreasonably withheld, in accordance with the Change Control Procedure. Any incremental expenses incurred by Company or Supplier as a result of a relocation to, or use of, any other location at the request of Company shall be paid by Company or reimbursed to Supplier by Company. Any incremental expenses incurred by Company or Supplier as a result of a relocation to, or use of, any other location at the request of Supplier shall be paid by Supplier or reimbursed to Company by Supplier.

Section 15.2 Offshore Resources. Prior to providing any component of the Services from a location not located in the country to which such Services are being provided (each, an "**Offshore Location**"), except where otherwise previously approved in writing by Company, Supplier shall obtain Company's written approval, such approval not to be unreasonably withheld. Before providing any Services from an Offshore Location not set forth in this Agreement or otherwise previously approved in writing by Company, Supplier shall provide Company with (1) at least ninety (90) days' prior written notice specifying the components of the Services affected, the city and country from where the Services shall be provided, (2) a description of the facility (including the address) from where the Services shall be provided, (3) a description of how Company Data and intellectual property shall be protected, including a description of

the logical and physical data safeguards that Supplier shall use to protect the Company Data, (4) a report that fully examines and evaluates the impact of such relocation on the delivery and receipt of the Services, including any operational, technical, security and regulatory impacts, (5) a copy of the transition plan that details how and when the relocation to the new Offshore Location shall occur, and (6) any other information requested by Company relating to the offshoring of such Services. All Supplier subcontracts involving Offshore Locations shall be subject to Section 17.7(A)(1).

Section 15.3 Safety and Security Requirements.

(A) Safety and Security Procedures

Supplier shall maintain and enforce at the Supplier Service Locations (and any Company Facilities under Supplier's control) safety and security procedures including: (1) the procedures applicable to Supplier Service Locations that shall be at least equal to industry standards for locations similar to the Supplier Service Locations; (2) the procedures applicable to the Company Facilities, including as such may be updated by Company from time to time during the Term, provided that, subject to the Change Control Procedure, Company shall be responsible for any additional costs incurred by Supplier in complying with the updated procedures; and (3) the procedures set forth in Exhibit 16 (Safety & Security Requirements); and (4) any higher standard otherwise agreed upon by the Parties. Supplier shall comply with the safety and security procedures that are applicable to the Company Service Locations, including the safety and security procedures set forth in Exhibit 16 (Safety & Security Requirements), as well as the business practices, hours, working conditions, and Company Policies related to the Company Facilities and Supplier's performance under this Agreement. Supplier shall be responsible to inquire, inspect and acquaint itself with all conditions as required to perform the Services at Company Facilities. In the performance of its obligations under this Agreement, Supplier shall at all times: (a) ensure the presence of competent supervisory Personnel, when appropriate; (b) keep the Company Facilities clean and safe, including keeping the at Company Facilities free from debris and hazards; (c) be responsible for the safe and orderly performance of such obligations in accordance with all Applicable Laws; and (d) upon completion of such performance, remove all of Supplier Equipment and unused material from Company Facilities, thoroughly clean up all refuse and debris, and leave the at Company Facilities neat, orderly and in good condition.

(B) Access to Company Service Locations

Any Supplier Personnel who require access to Company Service Locations may be required to complete forms relevant to security and confidentiality, and shall adhere to all security requirements of Company's security manager. Such Supplier Personnel may also have restricted access to Company Service Locations for business purposes only from 8:30 a.m. to 5:30 p.m. Monday through Friday, unless otherwise pre-approved by Company. Supplier shall (and shall cause Supplier Personnel to) return all badges to Company's Security Department promptly upon the completion of such individuals' assignment at Company Service Locations or their resignation or termination.

(C) Physical Security Requirements

The physical portion of the Supplier Service Locations that shall be used by Supplier to provide the Services shall be physically segregated from the remainder of such facilities. Access to facilities used by Supplier to provide the Services, including applicable portions of the Supplier Service Locations, shall be controlled by swipe card access or other security controls that are at least consistent with industry best practices. Access to such facilities shall be restricted to Supplier Personnel (and other Supplier employees and contractors or third parties shall not be permitted to access such facilities). Supplier shall not provide any Services to Company from a site or facility of any Company Competitor

without Company's prior written consent. If Supplier is to provide Company with Services from a Supplier Service Location that has a shared storage environment or that is otherwise shared with a Company Competitor, Supplier shall develop a process, subject to Company's approval, to restrict access in any such shared storage environment so that such Company Competitor, and any other Third Party, shall have no access to Confidential Information of Company.

Section 15.4 Right of Access to the Company IT Environment. Subject to the terms and conditions of this Agreement, including the security requirements of Section 15.1 and Article 21, and the security procedures set forth in Exhibit 16 (Safety and Security Requirements), Supplier shall have the right to access the Company IT environment to the limited extent necessary to perform the Services.

Section 15.5 Company Obligations With Respect to Facilities.

(A) Company shall provide to Supplier during the Term, for Supplier's use in providing the Services, the space, Equipment, furnishings and fixtures as specified in Exhibit 7 (Sites), or comparable facilities designated by Company (collectively, the "**Company Facilities**"). The Company Facilities shall include, for Supplier Personnel working at Company Service Locations, the provision of phone and network resources and office services support (e.g., copy and fax) at the same levels offered to Company employees in such location. Supplier shall be responsible for providing all other facilities and support it needs to provide the Services. Company shall retain the costs of applicable facilities leases and related leasehold improvements with respect to the Company Facilities. The Company Facilities shall be made available to Supplier on an "as is, where is" basis, with no warranties whatsoever. If any Supplier Personnel require access to any Company Facilities outside of normal working hours (or otherwise outside the access permitted under this Agreement), Supplier shall request permission for such access from Company.

(B) Company shall inform Supplier of any plans or determination to relocate Company Service Locations and Company Facilities so that Supplier shall have a reasonable amount of time to prepare for and implement such change or relocation as it impacts Supplier, with Company reimbursing Supplier for Supplier's Out-of-Pocket Expenses incurred in such relocation.

Section 15.6 Supplier Obligations With Respect to Facilities.

(A) Supplier shall use the Company Facilities for the sole and exclusive purpose of providing the Services, subject to Company's approval in its discretion of another use. Company grants Supplier a license for all such approved use of the Company Facilities. The use of Company Facilities by Supplier does not constitute a leasehold or other property interest in favor of Supplier.

(B) Supplier shall use the Company Facilities in an efficient manner and in a manner that is coordinated, and does not interfere, with Company's IT or business operations. To the extent that Supplier operates the space in a manner that unnecessarily increases facility or other costs incurred by Company, Company reserves the right to deduct such excess costs pursuant to Section 20.7. Supplier shall be responsible for any damage to the Company Facilities resulting from the abuse, misuse, neglect or negligence of Supplier or other failure to comply with its obligations respecting the Company Facilities.

(C) Supplier shall keep the Company Facilities in good order, not commit or permit waste or damage to Company Facilities or use Company Facilities for any unlawful purpose or act, and shall comply with Company's standard policies and procedures and applicable leases as these are made available to Supplier regarding access to and use of the Company Facilities, including procedures for the physical security of the Company Facilities.

(D) Supplier shall permit Company Personnel and representatives to enter into those portions of the Company Facilities occupied by Supplier Personnel at any time.

(E) Supplier shall not make improvements or changes involving structural, mechanical or electrical alterations to the Company Facilities without Company's prior written approval. Any improvements to the Company Facilities shall become the property of Company.

(F) When the Company Facilities are no longer required for performance of the Services, Supplier shall return them to Company in substantially the same condition as when Supplier began use of them, subject to reasonable wear and tear.

ARTICLE 16
COMPANY RESPONSIBILITIES

Section 16.1 Responsibilities. In addition to Company's responsibilities as expressly set forth elsewhere in this Agreement, Company shall be responsible for the following:

(A) Company shall designate one individual to whom Supplier operational communications concerning this Agreement may be addressed (the "**Company Contract Executive**").

(B) Company shall cooperate with Supplier, including by making available management decisions, information, approvals and acceptances, as reasonably requested by Supplier so that Supplier may accomplish its obligations and responsibilities under this Agreement. The Company Contract Executive or his designee shall be the principal point of contact for obtaining such decisions, information and approvals.

Section 16.2 Savings Clause. Company's failure to perform its responsibilities set forth in this Agreement (other than as provided in Section 29.1(B).) shall not be deemed to be grounds for termination by Supplier. Supplier's nonperformance of its obligations under this Agreement shall be excused if and to the extent (A) such Supplier nonperformance results from Company's acts, omissions or failure to perform any responsibilities of Company that are set forth in this Agreement; and (B) Supplier provides Company with reasonable notice of such acts, omissions or nonperformance and uses commercially reasonable efforts to perform notwithstanding Company's acts, omissions or failure to perform (with Company reimbursing Supplier for its additional Out-of-Pocket Expenses incurred in connection with such efforts).

ARTICLE 17
MANAGEMENT AND CONTROL

Section 17.1 Governance Organizations.

(A) Steering Committee

Within thirty (30) days of the Effective Date, the Company Contract Executive and the Supplier Project Executive shall appoint an equal number of representatives to serve on a steering committee (the "**Steering Committee**"). Company shall designate one of its representatives on the Steering Committee to act as the chairperson. The Steering Committee shall be authorized and responsible for (1) advising with respect to Company's strategic and tactical decisions regarding the establishment, budgeting and implementation of Company's priorities and plans for the Services, and (2) monitoring and resolving disagreements regarding the provision of the Services and the Service Levels. A Party may change any of its representatives on the Steering Committee upon notice to the other Party. Subject to approval of Company, the Steering Committee may include representatives from Third Party Vendors.

(B) Other Governance Bodies

In addition to the Steering Committee, Company and Supplier shall establish the governance organizations (e.g., committees and positions) as set forth in Exhibit 6 (Governance) in accordance with the time frames set forth in Exhibit 6 (Governance).

(C) Governance Procedures and Processes

In addition to the processes and procedures specifically identified in this Agreement, Company and Supplier shall establish the governance processes and procedures described in Exhibit 6 (Governance) in accordance with the time frames set forth in Exhibit 6 (Governance).

(D) Technology Planning

Supplier shall participate, at Company's request, in Company's annual financial, operational and technology planning process, as further set forth in Exhibit 8 (Technical Architecture and Product Standards). Such technology planning process shall include (1) the identification of the least cost/highest benefit methods to implement technology changes and improvements in architecture, platforms, processes and methodologies, and (2) the creation of a comprehensive, integrated, technology refresh and total lifecycle management plan for each Tower, platform, Software type, Equipment type and technology, on each of a one-year, three-year and five-year planning horizon ("**Technology Refresh Plan**"), which plan shall meet the minimum requirements specified in Exhibit 8 (Technical Architecture and Product Standards). In addition, such plan shall address any technology requirements associated with any expansion of or changes in Company Service Locations and/or facility requirements of Company.

Section 17.2 Reports, Meetings and Site Visits.

(A) Reports

In addition to the Monthly Service Level Report, Supplier shall provide the reports described in Exhibit 12 (Reports). Such reports shall (1) be no less comprehensive than the reporting provided to Company prior to the Effective Date and (2) be issued at the frequency specified in the applicable Exhibit.

(B) Meetings

Supplier shall participate in the meetings described in Exhibit 6 (Governance) and any other meetings requested by Company in connection with this Agreement. Supplier shall prepare and circulate an agenda sufficiently in advance of each such meeting to give participants an opportunity to prepare for the meeting. Supplier shall incorporate into such agenda items that Company desires to discuss. At Company's request, Supplier shall prepare and circulate minutes promptly after a meeting.

(C) Site Visits

In addition to Company's rights under Article 18, Company may at any time during the Term, at Company's expense and upon reasonable notice to Supplier, visit Supplier Service Locations, and Supplier shall make available specialists, as reasonably requested or designated by Company, to discuss the Services and to provide requested information, as needed.

Section 17.3 Policies and Procedures Manual.

(A) Supplier shall be responsible for developing and maintaining a policies and procedures manual (the "**Policies and Procedures Manual**") that describes how Supplier shall perform and deliver the Services under this Agreement, the Equipment and Software being used, and the documentation (e.g., operations manuals, user guides, specifications) which provide further details of such activities. The Policies and Procedures Manual shall describe the activities Supplier proposes to undertake in order to provide the Services, including the direction, supervision, monitoring, staffing, reporting, planning and oversight activities normally undertaken to provide services of the type Supplier is to provide under this Agreement. The Policies and Procedures Manual also shall include descriptions of the acceptance testing and quality assurance procedures approved by Company, Supplier's problem management and escalation procedures, and the other standards and procedures of Supplier pertinent to Company's interaction with Supplier in obtaining the Services. The Policies and Procedures Manual shall be suitable for use by Company to understand the Services.

(B) In accordance with the Transition Plan, Supplier shall deliver an initial draft Policies and Procedures Manual to Company for Company's review, comment and approval. Company shall provide its approval or comments and suggestions in accordance with the timeframes set forth in the Transition Plan. Within thirty (30) days of receiving Company's comments or suggestions, Supplier shall incorporate such comments or suggestions and re-submit the Policies and Procedures Manual for Company's approval. Throughout the Term, Supplier shall be responsible for updating the Policies and Procedures Manual to ensure that it remains current and reflects any changes to the Services, Company's IT environment, operations and business processes, and any changes or updates to the Policies and Procedures Manual shall be provided to Company for review, comment and approval.

(C) Supplier shall perform the Services in accordance with the Policies and Procedures Manual; provided, however, that until such time as the Policies and Procedures Manual is approved by Company pursuant to Section 17.3(B), Supplier shall provide the Services in accordance with the policies and procedures being followed by Company immediately prior to the Effective Date.

(D) In the event of a conflict between the provisions of this Agreement and the Policies and Procedures Manual, the provisions of this Agreement shall control.

Section 17.4 Change Control Procedure. As part of the Policies and Procedures Manual, Supplier shall prepare and provide to Company a change control procedure (the "**Change Control Procedure**") detailing how Supplier shall comply with, manage and implement: (A) the requirements set forth in Section 17.5 with respect to change control, (B) the requirements set forth in Section 17.6 and Exhibit 2 (Statement of Work) with respect to change management, (C) the requirements set forth in Exhibit 6 (Governance), and (D) any other requirements under this Agreement (or pursuant to Applicable Laws) dealing with changes to Systems or the Services. The Change Control Procedure shall not be used to amend the terms of this Agreement. The Change Control Procedure shall be provided to Company for review, comment and approval (reasonable comments or suggestions of Company shall be incorporated into the Change Control Procedure). All changes to the Services shall be made in accordance with the Change Control Procedure.

Section 17.5 Change Control. Company may from time to time during the Term request that Supplier remove or change a Service or perform a new service (a "**New Service**") (each, a "**Change Request**"). Change Requests shall be addressed and implemented in accordance with the provisions of this Article, the Change Control Procedure and, where applicable, Company's change management requirements.

(A) Upon receipt of a Change Request from Company, Supplier shall (within ten (10) days, or such other period of time agreed by Company) provide Company with a written response to the Change Request (each, a "**Change Request Authorization**"), containing the following information:

(1) a written description of any changes in the services, functions, responsibilities and Deliverables of Supplier in connection with the Change Request and any Service Levels or other performance standards, or changes in any Service Levels or other performance standards, that shall apply in connection with the Change Request;

(2) a schedule for commencing and completing the Change Request;

(3) when appropriate, a list and description of any existing and new Software or Equipment to be used or provided by Supplier in connection with the Change Request;

(4) a written description of the Supplier Personnel necessary to complete and implement the Change Request, including the location of such Personnel;

(5) when appropriate, acceptance test criteria and procedures for any Software or any products or services to be provided to Company in connection with the Change Request;

(6) any changes or amendments to the Transition Plan (or, if applicable, the Transformation Plan) relating to the New Services requested in the Change Request or any effects that any such New Services or any other aspect of the Change Request would have on the Transition Plan and the Transformation Plan;

(7) if the Change Request would require Supplier to expend or commit material additional resources, or permit Supplier to expend materially fewer resources, a quotation for any increase or decrease in the Charges, as applicable, to implement or perform the Change Request. In the event of a quotation for increased Charges, such quotation shall be no more than the charge Supplier provides to customers similar to Company for similar services under similar circumstances. Such quote shall be reduced, as applicable, to take into account resources and expenses of Supplier for then-existing Services that would no longer be required as a result of the Change Request.

(B) No Change Request Authorization shall be effective until approved in writing by an authorized representative of Company's Global Sourcing Services (GSS) department. Upon Company's written approval of any such proposed Change Request Authorization, Supplier shall implement and perform the Change Request Authorization in accordance with its terms, the Charges under this Agreement shall be adjusted as agreed upon in the Change Request Authorization, the Services shall be considered changed as set forth therein, and any New Services agreed upon therein shall thereafter be deemed "**Services**" and shall be subject to the provisions of this Agreement. Supplier shall not unreasonably withhold consent to any Change Request proposed by Company.

(C) Each Party shall bear its own costs in connection with preparation of any Change Requests and Change Request Authorizations. Supplier shall not commence performing any services, functions or responsibilities under a Change Request Authorization until the Company Contract Executive has provided Supplier with written approval of the Change Request Authorization.

(D) Supplier acknowledges that Supplier is expected to provide the Services on the terms and conditions agreed by Supplier, including the costs agreed to by Supplier, and that Company is under no obligation to agree to any Change Request Authorization requested by Supplier.

(E) Changes to the Services necessary for Supplier to comply with changes to the IT architecture, standards and strategic direction as specified by Company during the Term shall be implemented as a Change Request.

Section 17.6 Change Management.

(A) In addition to Company's requirements with respect to change management as set forth in Exhibit 2 (Statement of Work), Supplier shall comply with the following change control requirements:

(1) Prior to using any new Software or new Equipment to provide the Services, Supplier shall have verified that the item is consistent with the IT architecture, standards and strategic direction specified by Company, has been properly installed, is operating in accordance with its specifications and is performing its intended functions in a reliable manner.

(2) Supplier shall not make the following changes, including implementing a change in technology, without first obtaining Company's approval, which approval Company may withhold in its discretion: (a) a change adversely affecting the function or performance of, or decreasing to any significant degree the resource efficiency of, the Services; (b) a change increasing the Charges or other costs to Company; (c) a change affecting Company that is inconsistent with the IT architecture, standards or strategic direction specified by Company; or (d) a change impacting the way in which Company conducts its business or operations that Company considers to be adverse.

(3) Supplier shall assist Company in moving programs from development and test environments to production environments in a controlled and documented manner, so that no changes are introduced into the programs by Supplier during such activity.

Section 17.7 Use of Subcontractors.

(A) Subcontractors

(1) Company shall have the right to approve or reject the subcontracting of Supplier's performance under this Agreement at any time during the Term. Furthermore, Company shall have the right to specify the use by Supplier of certain Subcontractors. Such approval or specification by Company shall not create any liability for Company to any Subcontractors or privity of contract between Company and any such Subcontractors. Furthermore, such approval or specification shall not relieve Supplier of its obligations under this Agreement or constitute a representation or endorsement by Company that such Subcontractor is qualified or capable to perform. Supplier shall not substitute or replace any

Subcontractor approved or specified by Company if Company objects to such substitution or replacement. Subcontractors approved or specified as of the Effective Date, including Affiliates of Supplier, are set forth in Exhibit 28 (Approved Supplier Subcontractors).

(2) Notwithstanding the provisions of Section 17.7(A)(1) above, Supplier may, in the ordinary course of business without the approval of Company, enter into subcontracts (A) for Third Party products that are used by Supplier to perform its internal functions, or (B) with a total estimated value of less than [*****] per year for (i) for Third Party services that are not exclusively dedicated to Company and that do not include regular direct contact with Company Personnel or the performance of Services at Company Facilities, (ii) with temporary personnel firms for the provision of temporary contract labor, or (iii) product vendor specialists who Supplier engages on a temporary basis to address urgent problems (collectively, "**Shared Subcontractors**"); provided that such Shared Subcontractors (i) shall not have access to Company Facilities, (ii) possess the training and experience, competence and skill to perform the work in a skilled and professional manner, (iii) do not have access to Company Data, and (iv) do not perform, in the aggregate, a material portion of the Services in any Tower.

(3) Any performance by approved Subcontractors in connection with this Agreement shall be pursuant to an appropriate written agreement between Supplier and such Subcontractors and shall contain a provision requiring that such performance be in accordance with the applicable requirements of this Agreement and identify Company as an intended third-party beneficiary that may enforce any applicable warranty and similar rights under such agreement. At a minimum, each subcontract shall require the Subcontractors, at no cost to Company, to correct such Subcontractors' performance not meeting the requirements of this Agreement, shall require such Subcontractors to comply with the obligations and restrictions applicable to Supplier under this Agreement, shall contain applicable obligations and restrictions substantially similar to the following: Article 7, Article 9, Section 11.3, Article 14, Section 15.1, Section 15.5, Section 15.6, Article 18, Article 21, Article 22, Section 23.1, Section 23.10, Section 23.11 and Section 23.12, and shall be submitted to Company (in redacted form necessary to verify compliance with the foregoing requirements), together with such other relevant information necessary to verify compliance with the foregoing requirements as Company may request prior to commencement of the Subcontractor's performance. In no event shall Supplier be required to disclose its costs for services performed by Subcontractor except to the extent that such services are charged to Company on a pass-through or cost-plus basis. Company shall have the right, at any time, to negotiate and contract directly with any Subcontractors for any goods or services, including those to be provided under this Agreement. No agreement between Supplier and any Subcontractor shall relieve Supplier from any of its obligations or liabilities under this Agreement. Nothing in this Agreement or any subcontract shall create any contractual relationship, with the exception of the above-mentioned third-party beneficiary, between Company and any Subcontractor including any obligation on Company's part to pay, or be responsible for the payment of, any sums to any Subcontractor.

(4) Supplier shall properly direct and control Subcontractor and inspect Subcontractor's performance for defects and deficiencies. Supplier shall be responsible for (a) all conduct, actions and omissions of Subcontractor; (b) compliance by each Subcontractor with the requirements of this Agreement to at least the extent that Supplier would be responsible if it were performing directly; and (c) management and coordination of the performance of all such Subcontractors.

Note: Redacted portions have been marked with [*]. The redacted portions are subject to a request for confidential treatment that has been submitted to the Securities and Exchange Commission.

(B) Affiliates

Supplier shall give Company written notice regarding any subcontracting of any portion of the Services to Supplier's Affiliates prior to entering into any agreement with such Affiliate for such Services. Any agreement with an Affiliate of Supplier for performance of Services shall be subject to Company's prior written consent. Any subcontract or supply agreement with an Affiliate shall not exceed market prices. Company may elect, in its sole discretion, to cause any subcontract or supply agreement which Supplier proposes to award to an Affiliate to be competitively bid to a minimum of three qualified bidders which are not Supplier's Affiliates.

(C) Payments to Subcontractors

Supplier shall promptly pay each Subcontractor the amount to which such Subcontractor is entitled no later than the due date for payment under the applicable subcontract unless Supplier has a good faith dispute regarding the Charges of such Subcontractor and the terms of the subcontract between Supplier and such Subcontractor permit Supplier to withhold payment in the event of a good faith dispute. With respect to subcontract Services for which the costs for such Services are invoiced by Supplier to Company on a Pass-Through Expense basis ("**Pass-through Subcontracts**"), upon request, Supplier shall submit to Company copies of all checks and payments to Subcontractors in connection with such Pass-through Subcontracts. With respect to other subcontracts, Supplier shall provide Company with reasonable evidence of payment to the applicable Subcontractor on the request of Company. Should Supplier neglect or refuse to cause to be paid promptly any bill or charge legitimately incurred by Supplier in support of the Services, Company shall have the right, but not the obligation, to pay such bill or charge directly, and Supplier shall immediately reimburse Company for the same. If Supplier does not so reimburse Company, Company may offset the amount of such bill or charge pursuant to Section 20.8(B).

(D) Notice of Subcontractor Breach

Supplier shall provide Company with prompt written notice of all actual or potential disputes with Subcontractor that have or are likely to have a material adverse impact on the Services, including, without limitation, breaches, defaults, insolvencies, defects in Subcontractor's goods or services, and work stoppages. Such notice shall include the reasons and circumstances giving rise to such disputes in such detail so as to enable Company, in its sole discretion, to exercise any of its rights or remedies against such Subcontractor. Notwithstanding the foregoing, neither the provisions of this Section nor the exercise by Company of any of its rights or remedies shall relieve Supplier of any of its obligations or liabilities under this Agreement.

Section 17.8 Quality Assurance and Improvement Programs. Supplier, as part of its total quality management process, shall provide continuous quality assurance and quality improvement through: (A) the identification and application of proven techniques and Tools from other installations within its operations (i.e., "best practices"); and (B) the implementation of concrete programs, practices and measures designed to improve Service Levels. Such procedures shall include checkpoint reviews, testing, acceptance, and other procedures for Company to confirm the quality of Supplier's performance, and shall be included in the Policies and Procedures Manual. Supplier shall utilize project management Tools, including productivity aids and project management Systems, as appropriate, in performing the Services. All documentation and certifications pertaining to such procedures and programs, including reports and data related to performance and quality testing, shall be provided to Company upon request at no additional cost.

ARTICLE 18
AUDITS AND RECORDS RETENTION

Section 18.1 Audit Rights.

(A) Supplier shall maintain a complete audit trail of all financial transactions and non-financial activities resulting from this Agreement sufficient to document its performance of the Services and the fees paid or payable by Company under this Agreement. Supplier shall provide to Company, its auditors (including internal audit staff and external auditors), inspectors, regulators and other representatives as Company may from time to time designate in writing (who are neither competitors of Supplier or hired on a contingency-fee basis), access at all reasonable times (and in the case of regulators at any time required by such regulators) to any facility or part of a facility at which either Supplier or any Supplier Personnel is providing the Services, to Supplier Personnel, and to data and records relating to the Services for the purpose of performing audits and inspections of either Supplier or any Supplier Personnel during the Term and for the period Supplier is required to maintain records under this Agreement to:

(1) verify the accuracy of Charges and invoices;

(2) verify the integrity of Company Data and examine the Systems that process, store, secure, support and transmit that data;

(3) examine Supplier's performance of the Services and conformance to the terms of this Agreement including, to the extent applicable to the Services and to the Charges therefor, performing audits: (a) of practices and procedures; (b) of Systems, Equipment and Software; (c) of supporting information and calculations regarding compliance with Service Levels; (d) of general controls and security practices and procedures; (e) of disaster recovery and back-up procedures; (f) of the efficiency and costs of Supplier in performing the Services (but only to the extent affecting "time-and-materials" or "cost-plus" Charges for, or timing of, Services); and (g) as necessary to enable Company to meet, or to confirm that Supplier is meeting, applicable requirements of Law, including Company's compliance with the Sarbanes-Oxley Act of 2002. Except as expressly set forth herein, in no event shall Supplier be required to provide information relating to its costs or other customers; and

(4) verify the net book value of Equipment to be purchased by Company under this Agreement.

(B) Supplier shall provide to such auditors, inspectors, regulators and other representatives (1) such assistance as they require, including installing and operating audit Software and (2) on Supplier's premises (or, if the audit is being performed of a Supplier Personnel, such Supplier Personnel's or agent's premises if necessary), space, office furnishings (including lockable cabinets), telephone and facsimile services, utilities and office-related Equipment and duplicating services as such auditors, inspectors, regulators and other representatives may reasonably require to perform the audits described in this Article. Supplier shall cooperate fully with Company or its designees in connection with audit functions and with regard to examinations by regulatory authorities. Company's auditors and other representatives shall comply with Supplier's reasonable security requirements.

(C) Supplier shall conduct audits of or pertaining to the Services in such manner and at such times as is consistent with the audit practices of well-managed operations performing services similar to the Services.

(D) Supplier shall perform a security audit at least annually in accordance with the security audit requirements set forth in Exhibit 16 (Safety and Security Requirements), including Company's right to participate in testing.

Section 18.2 Audit Follow-up.

(A) Following an audit or examination, Company shall conduct, or request its external auditors or examiners to conduct, an exit conference with Supplier to obtain factual concurrence with issues identified in the review. If any review or audit of Supplier's operating practices and procedures relating to the Services conducted by Supplier or its Affiliates (including by internal audit staff or external auditors), or by inspectors, regulators or other representatives (including internal and external auditors) reveals a risk to the Services or Company, or nonconformance with the terms of this Agreement, Supplier shall promptly review such issues with Company.

(B) Supplier and Company shall meet to review each audit report promptly after the issuance thereof and agree upon the appropriate manner, if any, in which to respond to the changes suggested by the audit report. Company and Supplier agree to develop operating procedures for the sharing of audit and regulatory findings and reports related to Supplier's operating practices and procedures produced by auditors or regulators of either Party.

Section 18.3 SAS 70 Type II Report.

(A) Each year during the Term (and the Termination/Expiration Assistance Period) or on the request of Company from time-to-time such that there is no gap in coverage, commencing no earlier than six (6) months after the completion of the Transition, Supplier shall obtain a SAS 70 Type 2 Report. Supplier shall provide Company with a copy of the SAS 70 Type 2 Report within fifteen (15) days of Supplier's receipt thereof from the service auditor. Supplier shall bear all costs and expenses associated with obtaining and delivering each SAS 70 Type 2 Report.

(B) If any Services are provided or related Systems are operated by a Supplier Personnel, and if such Services or Systems (or any controls or other aspects of such Services or Systems) would fall within the scope of the SAS 70 Type 2 Report had such Services or Systems been provided directly by Supplier, then Supplier shall cause each such Supplier Personnel to comply with the requirements of Section 18.3(A) and, if applicable, Section 18.3(C).

(C) As requested by Company, Supplier shall either (1) certify to Company in writing that during the applicable SAS 70 Gap Period no changes have been made to the Services or the Systems, the manner in which the Services or Systems are provided or operated, applicable controls, or the Control Objectives that could reasonably be expected to have any impact on the contents of, or opinions set forth in, the applicable SAS 70 Type 2 Report; or (2) provide Company with a written description of any such changes.

(D) The SAS 70 Type 2 Report shall be Confidential Information of Supplier (or the applicable Supplier Personnel); provided, however, that notwithstanding the foregoing or the confidentiality provisions of this Agreement, Company (and Company's independent auditors) shall be permitted to disclose the SAS 70 Type 2 Report (or any of the content thereof) to any person, entity or Governmental Authority as necessary for Company to comply with the Sarbanes-Oxley Act of 2002 or any other Applicable Laws.

(E) As of the Effective Date, the Control Objectives include those set forth in Exhibit 24 (Compliance Requirements and Control Objectives). Company may update the Control Objectives set forth in Exhibit 24 (Compliance Requirements and Control Objectives) at any time during the Term (or the Termination/Expiration Assistance Period) provided that, subject to the Change Control Procedure, Company shall be responsible for any additional costs incurred by Supplier in complying with the updated Control Objectives to the extent that such updated Control Objectives apply only to Company and not to any other customer of Supplier. To the extent that such updated Control Objectives apply to other customers of Supplier, then the costs associated with compliance with such updated Control Objectives shall be, subject to the Change Control Procedure, equitably allocated among Company and such customers.

Section 18.4 Sarbanes-Oxley Requirements. Supplier recognizes that Company shall be subject to the Sarbanes-Oxley Act of 2002. In addition to those requirements set forth in Exhibit 2 (Statement of Work) and Exhibit 24 (Compliance Requirements and Control Objectives), Supplier shall provide whatever assistance is necessary to enable Company to comply with such requirements with respect to its outsourced information technology functions. Supplier's performance of the Services and other obligations under this Agreement shall comply with Company's financial reporting and control processes as set forth in the Policies and Procedures Manual (and as such processes are revised from time to time by Company) and provide Company with copies of all related records, reports and data as necessary for Company to satisfy the Sarbanes-Oxley Act of 2002. Supplier shall recommend and, subject to Company approval, implement compliance measures to satisfy the Sarbanes-Oxley Act of 2002.

Section 18.5 Records Retention. Until the later of (A) seven years after expiration or termination of this Agreement; (B) all pending matters relating to this Agreement (e.g., disputes) are closed; or (C) the information is no longer required to meet Company's records retention policy as disclosed by Company to Supplier and as such policy may be adjusted from time to time, Supplier shall maintain and provide access upon request to the records, documents and other information required to meet Company's audit rights under this Agreement. Before destroying or otherwise disposing of such information, Supplier shall provide Company with ninety (90) days prior notice and offer Company the opportunity to recover such information or to request Supplier to deliver such information to Company, with Company paying Supplier's Out-of-Pocket Expenses associated with such delivery.

Section 18.6 Inspections and Government Contact. To the extent that Supplier is, or becomes, aware of meetings with or inspections by Governmental Authorities regarding Supplier's obligations under this Agreement, Supplier shall notify Company within one business day of becoming aware of any such meeting or inspection with any such Governmental Authority. Company shall have the right to be present at all such meetings and inspections that are (A) of general nature; or (B) specific to Supplier's performance of the Services. Supplier shall provide Company with an opportunity to comment on drafts of documents Supplier is required to submit to Governmental Authorities. Supplier shall submit to Company copies of documents to be submitted to Governmental Authorities or insurance companies relating to Supplier's obligations under this Agreement, including reports of accidents or injuries occurring at Company Service Locations. Notwithstanding anything contained in this Agreement to the contrary, Supplier shall not initiate or participate in any communications with any Governmental Authorities concerning the subject matter hereof unless required by Applicable Laws or requested to do so by Company and, then, only upon prior consultation with Company.

ARTICLE 19
PAYMENT

Section 19.1 General. All Charges for the Services are set forth in this Article or in Exhibit 4 (Pricing). Company shall not be required to pay Supplier any amounts for the Services in addition to those that are payable to Supplier pursuant to Exhibit 4 (Pricing).

Section 19.2 Efforts to Reduce Costs and Charges. From time to time during the Term, Company may request that Supplier (with Company's cooperation) identify ways to achieve reductions in the cost of

providing the Services and corresponding reductions in the applicable Charges, including by modifying or reducing the nature or scope of the Services to be performed by Supplier, the applicable Service Levels or other contract requirements. If requested by Company, Supplier shall promptly prepare a proposal at such a level of detail as Company may reasonably request identifying all viable means of achieving the desired reductions without adversely impacting Company's IT or business operations. In preparing such a proposal, Supplier shall give due consideration to any means of achieving such reductions proposed by Company, negotiate in good faith with Company about each requested reduction in Charges and identify for Company if, and to what extent, the Charges for the Services may be reduced by implementing various changes in the contract requirements. Company shall not be obligated to accept or implement any proposal, and Supplier shall not be obligated to implement any change that affects the terms of this Agreement unless and until such change is agreed upon pursuant to the Change Control Procedure.

Section 19.3 Pass-Through Expenses.

(A) All Pass-Through Expenses are listed in Exhibit 4 (Pricing). Supplier shall arrange for delivery by third parties to Supplier of invoices for Pass-Through Expenses, and Supplier promptly shall review such invoices and provide Company with the original invoice together with a statement identifying which Charges are proper and valid and should be paid by Company.

(B) Supplier shall use commercially reasonable efforts to minimize the amount of Pass-Through Expenses. With respect to services or materials paid for on a Pass-Through Expenses basis, Company reserves the right to: (1) obtain such services or materials directly from a Third Party; (2) designate the third-party source for such services or materials; (3) designate the particular services or materials (e.g., Equipment make and model) Supplier shall obtain, provided that if Supplier demonstrates to Company that such designation shall have an adverse impact on Supplier's ability to provide the Services in accordance with the Service Levels or on Supplier's costs for providing the Services, such designation shall be subject to Supplier's approval; (4) designate the terms for obtaining such services or materials (e.g., purchase or lease and lump sum payment or payment over time); (5) require Supplier to identify and consider multiple sources for such services or materials or to conduct a competitive procurement; and (6) review and approve the applicable Pass-Through Expenses before entering into a contract for particular services or materials.

Section 19.4 Taxes. The Parties' respective responsibilities for taxes arising under or in connection with this Agreement shall be as follows:

(A) Each Party shall be responsible for any personal property taxes on property it owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

(B) Supplier shall be responsible for any sales, use, excise, value-added, services, consumption and other taxes and duties payable by Supplier that is assessed on or in connection with the purchase of goods and services used by Supplier in the provision of the Services as a whole, or on any particular Service.

(C) Company shall be responsible for any sales, use, excise, value-added, services, consumption or other tax, whether existing as of the Effective Date or increased or becoming applicable during the Term, that is assessed on or in connection with the consumption of the Services as a whole, or on any particular Service; provided, however, that with respect to Services performed from any Offshore Locations (each an "**Offshore Tax Jurisdiction**"), the applicable local tax Laws will determine which Party shall be responsible for the fulfillment of any sales, use, excise, value-added, services, consumption, withholding or other tax, whether existing as of the Effective Date or increased or becoming applicable during the Term, that is assessed on or in connection with the provision of such Services from such Offshore Tax Jurisdiction.

(D) In the event that a sales, use, excise, value added, services, consumption or other tax is assessed on the provision of any of the Services, the Parties shall work together to segregate the payments under this Agreement into three payment streams:

(1) those for taxable Services;

(2) those for which Supplier functions merely as a payment agent for Company in receiving goods, supplies, or services (including leasing and licensing arrangements); and

(3) those for other nontaxable Services.

Supplier is obligated to issue and provide to Company invoices that, if applicable, at all occasions qualify for a valued added tax reimbursement for Company (each a "**Qualifying Invoice**"). If necessary, Supplier shall issue multiple Qualifying Invoices to meet its obligations

(E) The Parties agree to cooperate with each other to enable each to more accurately determine its own tax liability and to minimize such liability to the extent legally permissible. Such cooperation shall include Supplier's provision of reports, asset lists and similar information requested by Company (e.g., lists of Equipment leased by Company (or in Company's name) and managed by Supplier). Supplier's invoices (which shall comply with all requirements of Law and the requirements of this Section) shall separately state the amounts of any sales, use, excise, value added, services, consumption or other taxes Supplier is collecting from Company, and Supplier shall remit such taxes to the appropriate authorities. Supplier's invoices shall be sufficiently detailed and documented so as to enable Company to, where applicable, deduct input VAT. Each Party shall provide and make available to the other any resale certificates, information regarding out-of-state or out-of-country sales or use of Equipment, materials or services, and other exemption certificates or information reasonably requested by the other Party.

(F) Supplier shall promptly notify Company of any claim for taxes asserted by applicable taxing authorities for which Company is responsible hereunder. It being understood that with respect to any claim arising out of a form or return signed by a Party to this Agreement, such Party shall have the responsibility to elect to control the response to and settlement of the claim, but the other Party shall have the right to review and comment on the responses and settlements to the extent such responses or settlements would have an adverse impact on such other Party's potential responsibilities or liabilities and the input provided through such review and comment shall be considered in good faith by the Party responding to and settling the claim. If Company requests Supplier to challenge the imposition of any tax which imposition is new or a material change to a previous position, interpretation, or application of such tax to the Services, Supplier shall cooperate with Company and so challenge such tax. Company shall reimburse Supplier for the reasonable legal fees and expenses Supplier incurs with respect to such challenge and Company may elect to control such challenge. Company shall be entitled to any tax refunds or rebates granted to the extent such refunds or rebates are of taxes that were paid by Company.

Section 19.5 Benchmarks. Company shall have the right during the Term, [*****] to benchmark the Charges and quality for the Services of one or more of the Sub-Towers, provided that benchmarking of Charges for each Sub-Tower cannot be undertaken more than [*****] during the Term. The purpose of any benchmarking exercise is to verify that Company is receiving competitive market pricing and service level quality with respect to the management, delivery and receipt of the Services.

(A) A benchmarking under this Section shall be conducted by an independent industry-recognized benchmarking service provider designated by Company and approved by Supplier (the "**Benchmarker**"). Supplier agrees that Gartner and Nautilus are acceptable as a Benchmarker as of the Effective Date. The Benchmarker shall be engaged by Company on a non-contingent fee basis. The fees and costs of the Benchmarker shall be paid by Company. The Parties shall cooperate with the Benchmarker, including, as appropriate, making available knowledgeable personnel and pertinent documents and records, subject to the Benchmarker's execution of a confidentiality agreement with Company and Supplier (or separate confidentiality agreements if the Parties so agree) containing obligations of confidentiality approved by the Parties, which approval shall not be unreasonably withheld. All information provided to or obtained from the Benchmarker will be provided to both Parties. Supplier shall not be required to make available cost data or data with respect to Supplier's other customers.

(B) The Benchmarker shall perform the benchmarking in accordance with Benchmarker's documented procedures which shall be provided to and subject to review by the Parties prior to the start of the benchmarking process. The Benchmarker shall compare the Charges [*****] under this Agreement for the Services of the Sub-Tower being benchmarked to the costs [*****] being incurred in a representative sample of IT operations for other entities (the "**Benchmarked Representative Sample**"). The Benchmarker shall select the Benchmarked Representative Sample from entities (1) identified and approved by the Benchmarker, and (2) identified by a Party and approved by the Benchmarker, which approval shall not be unreasonably withheld. The following conditions apply to the Benchmarked Representative Sample: (a) it shall include only entities that have outsourced similar services, (b) it may include entities that are outsourcing customers of Supplier, and [*****] If the Benchmarker-proposed Benchmarked Representative Sample consists of [*****], such selection shall be subject to the Parties' approval, which shall not be unreasonably withheld. If the Benchmarker-proposed Benchmarked Representative Sample consists of [*****].

(C) The Benchmarker shall commence the benchmarking exercise within thirty (30) days of receipt of Company's request and issue its initial report to the Parties within one-hundred-and-twenty (120) days of receipt of Company's request. In conducting the benchmarking, the Benchmarker shall normalize the data used to perform the benchmarking to accommodate, as appropriate, differences in volume of services, scope of services, quality of services, including the service levels, financing or payment streams, and other pertinent factors. If the Benchmarked Representative Sample consists of [*****]**.** Each Party shall be provided a reasonable opportunity (but no more than thirty (30) days) to review, comment on and request changes in the Benchmarker's proposed findings. Within ten (10) days of receiving any comments from the Parties, the Benchmarker shall issue a final report of its findings and conclusions.

(D) If in the Benchmarker's final report the aggregate of the then-applicable Charges under this Agreement for a benchmarked Sub-Tower are [*], then no adjustments to Charges hereunder for such Sub-Tower shall be made as a result of the Benchmark. However, if in the final report of the Benchmarker, the aggregate of the then-applicable Charges under this Agreement for a benchmarked Sub-Tower are [*] the following shall apply:

(1) If in the Benchmarker's final report the aggregate of the then-applicable Charges under this Agreement for the benchmarked Sub-Tower are [*]

(2) If in the Benchmarker's final report the aggregate of the then-applicable Charges under this Agreement for the benchmarked Sub-Tower are [*]

(3) [*] Supplier shall, within 30 days after issuance of the Benchmarker's final report, [*] If Supplier does not [*], Company may [*]

(4) For each benchmarked Sub-Tower, if (A) Supplier fails to [*] (B) fails to [*], or (C) Company does not [*], then Company may [*] Provided, however, that in the event of [*], Company shall [*] In the case of termination by Company of Services in accordance with this Section, the Charges payable under this Agreement for the continuing Services shall be equitably adjusted to reflect the services that are terminated.

(5) Attachment 4-A to Exhibit 4 (Pricing) sets forth the Charges for each of the Sub-Towers for each year of the Term [***].** The Attachment 4-A to Exhibit 4 (Pricing) included as part of this Agreement at the commencement of each benchmarking exercise shall be referred to as "Exhibit 4-Pre-Benchmark Charges Schedule". After a reduction in Charges pursuant to Section 19.5(D)(1) or Section 19.5(D)(2), such reduced Charges for the Sub-Tower shall remain in effect and apply, and such Sub-Tower shall not be subject to subsequent benchmarking, [*****] The foregoing shall have no effect on adjustments to the Charges because of ARCs and RRCs.

ARTICLE 20
INVOICING

Section 20.1 Invoicing.

(A) Supplier shall act in good faith in its issuance of invoices hereunder and invoice Company pursuant to the terms of this Agreement. Supplier shall invoice Company for Charges due and owing for the Monthly Base Charges and Transition Charges for each month at any time prior to the fifteenth (15th) day of such month. ARCs/RRCs and any other variable charges shall be invoiced in arrears at any time after the beginning of a month for Charges due and owing for the prior month.

(B) Invoicing and payment will be by and between the Parties in the United States in U.S. dollars except where material services are performed by Supplier and used by Company in a country outside of the United States.

(C) Supplier shall have the right upon notice to Company to render either a single consolidated invoice for each month's Charges or an invoice for each Tower, in each case in the form specified by Company, including in electronic format. The approved form as of the Effective Date is attached to Exhibit 4 (Pricing). Each invoice shall (1) meet all requirements of Applicable Laws, including tax requirements, (2) contain all information necessary to enable Company to deduct input value added taxes when applicable, (3) include all tax information required by Section 19.4(E) (including any GST or VAT on-charged to Company), and (4) contain information specified by Company to satisfy Company's internal accounting requirements. Supplier shall maintain appropriate documentation, measurement and reporting Systems as necessary to satisfy such Company internal accounting requirements.

(D) All Out-of-Pocket Expenses shall be invoiced pursuant to the requirements for invoicing under this Agreement, accompanied by documentation in form and detail sufficient for Company to recognize such expenses for Company's tax reporting purposes.

(E) All amounts listed in an invoice shall specify the amounts actually incurred in the currency in which such amounts were incurred. Company may require additional information for any amounts stated on an invoice, including without limitation evidence that all parties furnishing labor or materials to Supplier in connection with the performance of Supplier's obligations under this Agreement that are related to Pass-Through Expenses that have been paid. Supplier shall respond to Company's reasonable request for additional information in connection with an invoice promptly, but in no event any later than two (2) business days after delivery of Company's request, provided, however, if Supplier reasonably requires additional time to respond to Company's request for information, Supplier may request Company to agree to an extension of the above deadline.

(F) Company may request that Supplier submit at times other than those specified herein an invoice for portions of Charges that have not yet been invoiced but represent amounts payable for actual performance of Supplier's obligations under this Agreement. When Company makes such a request, Supplier shall deliver to Company a complete invoice reflecting such portions of Charges, if any, believed by Supplier to be payable. Supplier shall deliver such invoice by the deadline identified in Company's request therefore and, if no deadline is specified in Company's request, then no later than thirty (30) days following the date of Company's request.

(G) To the extent a credit may be due Company pursuant to this Agreement, Supplier shall provide Company with an appropriate credit against amounts then due and owing; if no further payments are due to Supplier, Supplier shall pay such amounts to Company within thirty (30) days.

Section 20.2 Payment Due. Subject to the other provisions of this Article, invoices provided for under Section 20.1 and properly submitted to Company pursuant to this Agreement shall be due and payable by Company within [**] after receipt thereof. Any amount due under this Agreement for which a time for payment is not otherwise specified shall be due and payable within [**] after receipt of a proper invoice for such amount. All payments shall be made by electronic funds transfer.

Section 20.3 [*]. Subject to Company's right to withhold amounts pursuant to Section 20.8, in the event that Company [*]

Section 20.4 Accounting. Supplier shall maintain complete and accurate records of and supporting documentation for the amounts billable to and payments made by Company under this Agreement in accordance with generally accepted accounting principles applied on a consistent basis. Supplier agrees to provide Company with documentation and other information with respect to each invoice as may be reasonably requested by Company to verify accuracy and compliance with the provisions of this Agreement.

Section 20.5 Proration. Periodic Charges under this Agreement are to be computed on a calendar month basis, and shall be prorated for any partial month.

Section 20.6 Refundable Items.

(A) Prepaid Amounts

Where Company has prepaid for a service or function for which Supplier is assuming financial responsibility under this Agreement, Supplier shall refund to Company, upon either Party identifying the prepayment, that portion of such prepaid expense that is attributable to periods on and after the Effective Date.

(B) Refunds and Credits

If Supplier should receive a refund, credit or other rebate for goods or services previously paid for by Company, Supplier shall promptly notify Company of such refund, credit or rebate and shall promptly pay the full amount of such refund, credit or rebate, as the case may be, to Company.

Section 20.7 Deductions. With respect to any amount to be paid by Company under this Agreement, Company may deduct from such amount any amount that Supplier is obligated to pay Company under this Agreement.

Section 20.8 Disputed Charges.

(A) Disputes Regarding Invoices

If Company disputes in good faith an amount stated in an invoice, Company shall notify Supplier in writing of the dispute promptly upon becoming aware of the dispute, but no later than the day before the due date, and the basis therefore. Upon receipt of such notification, Supplier shall submit a revised invoice stating only undisputed amounts. Upon receipt of a revised invoice stating only undisputed amounts, Company shall pay such invoice by the later of (i) the due date for the original invoice, or (ii) five (5) business days following receipt of the revised invoice. Upon resolution of disputed amounts, Supplier shall submit an invoice pursuant to this Article for the amounts that the Parties mutually agree are no longer in dispute. In the event Company in good faith disputes an invoice submitted by Supplier, Company may, at its option, withhold payment of the disputed amount and (1) Company shall continue to pay all undisputed amounts in accordance with the terms hereof, and (2) Supplier shall continue to perform its obligations under this Agreement. In the event of a dispute regarding any amount on any invoice, the Parties shall resolve the dispute pursuant to Article 28. Both Parties shall provide full supporting documentation concerning any disputed amount or invoice within thirty (30) days after written notification of the dispute. [**]. If the amount disputed by Company exceeds an aggregate amount at any point in time greater than [*], then Company shall [**].

(B) Withholding Payment

Notwithstanding Section 20.8(A), if, through subsequently discovered evidence or subsequent observations, Company becomes aware that it could have withheld approval and payment (but did not) of an amount previously invoiced by Supplier and paid by Company, Company reserves the right, subject to Section 20.8, to deduct the applicable disputed amount from later invoices or request a credit from Supplier for the applicable amount. The provisions of this Section shall not lessen or diminish, but shall be in addition to, the right or duty of Company to withhold payments under the provisions of this Agreement and Laws respecting the withholding of sums due to Supplier.

(C) Invoice Dispute Escalation

If the Parties are not able to resolve a dispute regarding Charges within thirty (30) days of Company's notice of a disputed amount, the Parties shall attempt to resolve their dispute informally pursuant to Section 28.1 (Informal Dispute Resolution).

ARTICLE 21
PROTECTION OF COMPANY DATA

Section 21.1 Company Data.

(A) Company Data shall be and remain, as between the Parties, the property of Company. Supplier shall not possess or assert any lien or other right against or to Company Data. No Company Data, or any part thereof, shall be sold, assigned, leased or otherwise disposed of or disclosed to third parties by Supplier or commercially exploited by or on behalf of Supplier.

(B) Upon Company's request, the termination or expiration of this Agreement for any reason (including termination for cause) or, with respect to any particular Company Data, on such earlier date that the same shall be no longer required by Supplier in order to render the Services, such Company Data (including copies thereof) shall be promptly returned to Company by Supplier in a form reasonably requested by Company or, if Company so elects, shall be destroyed by Supplier, all at no additional charge to Company.

(C) Company Data shall not be utilized by Supplier for any purpose other than that of rendering the Services under this Agreement.

(D) Supplier shall use commercially reasonable efforts to correct any errors occurring in any Company Data and restore any losses of any Company Data to the extent that such errors or losses result from Supplier's failure to comply with the terms of this Agreement.

(E) Regardless of whether Company approves the provision of certain Services from an Offshore Location, except as expressly provided in Exhibit 28 (Approved Supplier Subcontractors), in no event shall Supplier physically install Software owned or licensed by Company (or electronically install such Software, if the media is in electronic form) on any server or other Equipment located at an Offshore Location or store any Company Data on any server or other Equipment located at an Offshore Location.

Section 21.2 Protection of Company Data.

(A) Supplier shall establish and maintain safeguards against the disclosure, destruction, loss or alteration of Company Data in the possession or control of Supplier that are no less rigorous than those maintained by Company as of the Effective Date. During the Term, Supplier shall make recommendations to Company on additional safeguards that may be implemented, including recommendations based on the safeguards maintained by Supplier for its own information of a similar nature. Company shall have the right to establish backup security for Company Data and to keep backup Company Data and Company Data files in its possession if it chooses.

(B) Without limiting the generality of Section 21.2(A):

(1) Supplier Personnel shall not attempt to access, or allow access to, any Company Data which they are not permitted to access under this Agreement. If such access is attained, Supplier shall immediately report such incident to Company, describe in detail the accessed Company Data and return to Company any copied or removed Company Data.

(2) Supplier shall utilize commercially reasonable efforts, including through Systems security measures, to guard against the unauthorized access, disclosure, loss, alteration or destruction of Software and Company Data. Such measures shall include the installation of Software that: (a) requires all users to enter a user

identification and password prior to gaining access to the information Systems; (b) controls and tracks the addition and deletion of Authorized Users; and (c) controls and tracks user access to areas and features of the information Systems.

(3) Supplier shall at all times protect such Company Systems through procedures and Tools deemed satisfactory by Company. Such procedures and Tools in connection with remote access to Company Systems shall include:

(a) a mechanism to determine and immediately report to Company possible security breaches;

(b) controls to ensure the return or destruction, at Company's direction, of information transmitted through Company Systems;

(c) a process for maintaining the confidentiality, integrity and availability of information transmitted through Company Systems; and

(d) methods for controlling access to Company Systems, which shall include (i) permitted access methods; (ii) an authorization process for users' access and privileges; and (iii) maintenance of a list of authorized users.

(4) Prior to Supplier remotely accessing Company Systems, in order for Company to determine its satisfaction with the procedures and Tools required by this Section, Supplier shall submit to Company:

(a) a list of established connections that Supplier has with the electronic information systems of third parties from Supplier systems that will also be used to remotely access Company Systems in order for Company to evaluate security issues associated with such connection and Company Systems;

(b) a copy of Supplier's security policies applicable to electronic information systems; and

(c) a copy of Supplier's most recent external penetration test or network audit of its electronic information systems that will be used to remotely access Company Systems.

(5) All Supplier interconnectivity to Company Systems and all attempts at such interconnectivity shall be only through Company's security gateways and firewalls. Supplier shall not access, and shall not permit unauthorized persons or entities to access, Company Systems without Company's express written authorization, and any such actual or attempted access shall be consistent with any such authorization.

(6) Without limiting any rights and remedies set forth elsewhere in this Agreement, Company shall have the right to audit and monitor the procedures and Tools required pursuant to this Section to ensure Supplier's compliance with such requirements. Company shall have the right to revoke or limit Supplier's access to Company Systems at any time, including in the event Supplier is deemed by Company, in its sole discretion, to have failed to comply with the requirements of this Article.

(C) In the event of an attack or threatened or suspected intrusion or other breach of security against any Systems, Equipment and/or Software, Supplier shall, at its expense, and without limiting the Service Level obligations under this Agreement, take whatever steps are necessary to immediately protect such Systems, Equipment and/or Software and prevent any further breaches, including: (1) preventing further access to the Systems, Equipment and Software from the source of the attack, (2) immediately backing up the affected Systems, Equipment, Software and Company Data, (3) enhancing defensive systems to prevent any similar breaches in the future, (4) contacting the ISP where the threat or attack originated and relevant law enforcement authorities, (5) investigating the extent of the damage, if any, (6) producing an incident report detailing Supplier's findings and providing such report to Company, (7) providing supplemental monitor traffic from the attack source until risk of further attacks is deemed to be eliminated, and (8) temporarily disabling affected components of the Services, if warranted by the circumstances and with prior approval of Company, provided that such Services are reinstated as soon as the risk of further breaches is deemed to have been eliminated or adequate additional security measures have been implemented. Supplier shall immediately contact Company upon discovering such an attack or threatened or suspected intrusion or breach of security and provide to Company all information reasonably requested, and the Parties shall mutually agree on appropriate measures to be taken with respect thereto.

Section 21.3 Privacy Requirements.

(A) Privacy Laws and Regulations

(1) Supplier expressly understands and acknowledges that Confidential Information of Company may include information that can be used to identify a specific individual and/or is subject to applicable privacy Laws (collectively, "**Personally Identifiable Information**"), and agrees to comply with all such Applicable Laws, including the Federal Gramm-Leach-Bliley Act and any state statutes adopted to comply therewith, the FTC regulations promulgated pursuant thereto (including 16 CFR § 313, 16 CFR § 314, 12 CFR § 332 and 12 CFR § 364), and any state regulations promulgated under state privacy statutes or in compliance with the Gramm-Leach-Bliley Act; the Health Insurance Portability and Accountability Act of 1996 (45 CFR parts 160 and 164) and regulations, including Laws and regulations related to medical records and patient privacy, confidentiality, and consumer protection; and the European Union's Directive 95/46/EC on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data and implementing legislation of EU Member States, and similar legislation of other countries, including Canada, Australia, New Zealand and Switzerland (collectively, the "**Privacy Laws and Regulations**"). Supplier acknowledges and agrees that, as part of the Personally Identifiable Information, it shall receive "non-public personal information" regarding Company's customers, employees, vendors and other individuals, as that information is defined in Title V of the Federal Gramm-Leach-Bliley Act, "protected health information," regarding Company's employees and other agents, and their beneficiaries and other individuals, as that term is defined in 45 CFR § 164.501, and "personal data" and "sensitive personal data" regarding Company's employees and other agents, as that term is defined under the European Union's Directive 95/46/EC on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data and implementing legislation of EU Member States, and similar legislation of other countries to which Services are provided under this Agreement.

(2) Without limiting the generality of part (1) of this Section, in accordance with Supplier shall adhere to all current and future Applicable Laws pertaining to privacy or confidentiality of patient information, including without limitation, the

Health Insurance Portability and Accountability Act of 1996 (45 CFR parts 160 and 164) ("**HIPAA**"), including Applicable Laws related to medical records and patient privacy, confidentiality, and consumer protection. Supplier shall not provide or otherwise disclose to Company any information that could be used to identify individual patients, including "protected health information" ("**PHI**") as defined by HIPAA. Supplier shall properly screen and de-identify PHI in any and all documents, material, or other information prior to delivering or making them available to Company to ensure that Company does not receive PHI or individually identifiable health information.

(B) Data Controller/Data Processor

Company, in its capacity as a data controller, hereby appoints Supplier as a data processor in each case where Supplier needs to process the Personally Identifiable Information.

(C) Compliance with Data Protection Laws

Notwithstanding any other term of this Agreement, Company and Supplier shall each be responsible for complying with their respective obligations under the applicable Privacy Laws and Regulations with respect to the Personally Identifiable Information. Company remains solely responsible for determining the purposes of Supplier's processing of Personally Identifiable Information under this Agreement, and Supplier confirms that it shall act only on Company's instructions in relation to its processing of any Personally Identifiable Information; provided, however, that nothing in this Agreement shall prevent Supplier or Company from doing what it reasonably considers necessary to comply with all applicable Privacy Laws and Regulations. Supplier shall not subcontract its processing of Personally Identifiable Information without Company's prior approval. Where any subcontract is entered into by Supplier, Supplier shall ensure that it is in accordance with all applicable Privacy Laws and Regulations.

(D) Transborder Data Flows

Supplier shall not transfer any Personally Identifiable Information originating in the European Economic Area to outside the European Economic Area unless Supplier obtains Company's prior consent and Supplier implements such arrangements as are necessary to ensure that such transfers of Personally Identifiable Information are made in accordance with all Privacy Laws and Regulations and as may be requested by Company.

(E) Information

If under Applicable Laws, Company is required to provide information to an individual regarding Personally Identifiable Information, Supplier shall reasonably cooperate with Company in providing such information. Upon Company's reasonable written request, Supplier shall provide Company with such information that it has regarding Personally Identifiable Information and the processing of such data that is necessary to enable Company to comply with its obligations under this Section and all applicable Privacy Laws and Regulations.

(F) Supplier Obligations

Supplier understands and acknowledges the following:

(1) Without exception, Supplier shall not use any Personally Identifiable Information it receives for purposes other than carrying out the Services and shall not disclose any Personally Identifiable Information to any Third Party (including any Affiliates of Supplier) without Company's prior written consent and subject to all applicable Privacy Laws and Regulations.

(2) Supplier shall implement and maintain technical, physical and administrative safeguards for the Personally Identifiable Information it receives consistent with the Company's requirements as they relate to all applicable Privacy Laws and Regulations, including as set forth at 45 CFR § 164.500 et seq., in order to: (a) ensure the security and confidentiality of the Personally Identifiable Information; (b) protect against anticipated threats or hazards to the security or integrity of such information; and (c) protect against unauthorized access to or use of such information.

(3) In the event Supplier breaches any Applicable Laws governing Personally Identifiable Information, Supplier shall: (a) give Company prompt notice of such a violation, including all notices required by Law; and (b) take all remedial or other actions required by Law and as reasonably requested by Company, including notifying all affected individuals and entities.

ARTICLE 22
PROTECTION OF CONFIDENTIAL INFORMATION

Section 22.1 Confidentiality. Each Party shall maintain in confidence all Confidential Information of the other Party, and shall not disclose such Confidential Information to any Third Party except to those of its Personnel as are necessary in connection with such Party's activities as contemplated by this Agreement. In maintaining the confidentiality of Confidential Information, each Party shall exercise the same degree of care that it exercises with its own confidential information, and in no event less than a reasonable degree of care. Supplier shall ensure that each of the Supplier Personnel holds in confidence and makes no use of the Confidential Information of Company for any purpose other than those permitted under this Agreement or otherwise required by law. Supplier shall clearly and completely convey the requirements of this Article 22 to all Supplier Personnel to ensure such requirements are understood and followed. If requested by Company, Supplier shall secure written commitments from Supplier's Personnel to comply with the confidentiality requirements of this Agreement.

Section 22.2 Obligations.

(A) As requested by the other Party during the Term and upon expiration or any termination of this Agreement and completion of Supplier's obligations under this Agreement, each party shall return or destroy, as the other Party may direct, all material in any medium that contains, refers to, or relates to Confidential Information of such Party, and retain no copies.

(B) In the event of any disclosure or loss of, or inability to account for, any Confidential Information of the furnishing Party, the receiving Party promptly shall (1) notify the furnishing Party upon becoming aware thereof; (2) take such actions as may be necessary or reasonably requested by the furnishing Party to minimize the violation; and (3) cooperate in all reasonable respects with the furnishing Party to minimize the violation and any damage resulting therefrom.

(C) The Parties' obligations respecting Confidential Information shall survive any expiration or termination of this Agreement [**].

Section 22.3 Exclusions. Section 22.2 shall not apply to any particular information that Supplier or Company can demonstrate: (A) was, at the time of disclosure to it, in the public domain; (B) after disclosure to it, is published or otherwise becomes part of the public domain through no fault of the receiving Party; (C) was in the possession of the receiving Party without any obligation of confidentiality at the time of disclosure to it; (D) was received after disclosure to it from a Third Party who had a lawful right to disclose such information to it without any obligation to restrict its further use or disclosure; or (E) was independently developed by the receiving Party without reference to Confidential Information of the furnishing Party. The foregoing exclusions shall in no event apply to Personally Identifiable Information or PHI, which shall always be deemed to be Confidential Information of Company. In addition, a Party shall not be considered to have breached its obligations by disclosing Confidential Information of the other Party as required to satisfy any legal requirement of a competent government body to the minimum extent necessary as advised by counsel; provided that, immediately upon receiving any such request and to the extent that it may legally do so, such Party promptly advises the other Party of the request and prior to making such disclosure in order that the other Party may interpose an objection to such disclosure, take action to assure confidential handling of the Confidential Information, or take such other action as it deems appropriate to protect the Confidential Information.

Section 22.4 Disclosure of Confidential Information Based on Governmental Request. In the event that Supplier receives a request from a Third Party, pursuant to a valid subpoena, legally valid governmental authority request, or other valid legal request, that requires it to disclose Company's Confidential Information, Supplier shall (i) give Company prompt (but in no event later than twenty-four (24) hours after receipt of the request) prior written notice of the requested disclosure which notice shall include a copy of such subpoena or request, (ii) use reasonable efforts to resist disclosing the Confidential Information, (iii) cooperate with Company on request to obtain a protective order or otherwise limit the disclosure of the Confidential Information, (iv) consent to an injunction or protective order and not oppose Company's request to intervene, and (v) prior to such disclosure, provide a letter from its counsel confirming that the Confidential Information is, in fact, required to be disclosed. A disclosure of Confidential Information in accordance with this Section 22.4 shall not be deemed a breach of the confidentiality obligations hereunder.

Section 22.5 No Implied Rights. Subject to the provisions of Article 14, each Party's Confidential Information shall remain the property of that Party. Nothing contained in this Section shall be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or license to the Confidential Information of the other Party, and any such obligation or grant shall only be as provided by other provisions of this Agreement.

Section 22.6 Unauthorized Disclosure. Each Party acknowledges and confirms that the Confidential Information of the other Party constitutes proprietary information or trade secrets valuable to the other Party, and that the unauthorized use, loss or outside disclosure of such Confidential Information shall be presumed to cause irreparable injury to the other Party. Each Party acknowledges that monetary damages may not be a sufficient remedy for unauthorized disclosure of Confidential Information of the other Party and that the other Party may be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. If a court of competent jurisdiction should find that a Party's acts or omissions have, or could, lead to an unauthorized use, loss or outside disclosure of the other Party's Confidential Information, then each Party agrees that, without any additional findings of irreparable injury or other conditions precedent to injunctive relief, it shall not oppose the entry of an order restraining it from any further acts or omissions which have or could have lead to an unauthorized use, loss or outside disclosure of the other Party's Confidential Information.

ARTICLE 23
REPRESENTATIONS AND WARRANTIES

Section 23.1 Work Standards. Supplier represents, warrants and covenants that the Services shall be rendered with promptness and diligence and shall be executed in a workmanlike manner, in accordance with the practices and high professional standards used in well-managed operations performing services similar to the Services. Supplier represents, warrants and covenants that it shall use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the Services.

Section 23.2 Maintenance. Supplier represents, warrants and covenants that it shall maintain the Systems, Supplier Equipment and Supplier Software so that they operate in accordance with their specifications, including (A) maintaining Supplier Equipment in good operating condition, subject to normal wear and tear; (B) undertaking repairs and preventive maintenance on Supplier Equipment in accordance with the applicable Equipment manufacturer's recommendations; and (C) performing Software maintenance in accordance with the applicable Software provider's documentation and recommendations.

Section 23.3 Efficiency and Cost Effectiveness. Supplier represents, warrants and covenants that it shall use commercially reasonable efforts to use efficiently the resources or services necessary to provide the Services. Supplier represents and warrants that it shall use commercially reasonable efforts to perform the Services in the most cost-effective manner consistent with the required level of quality and performance.

Section 23.4 Technology and Equipment.

(A) Supplier represents, warrants and covenants that it shall provide the Services using proven, current technology, Equipment and Software that shall enable Company to take advantage of technological advancements in their industry, subject to the Change Control Procedure, and support Company's efforts to maintain competitiveness in the markets in which it competes.

(B) Supplier represents, warrants and covenants that (1) all Equipment provided by Supplier pursuant to Supplier's technology refresh obligations under this Agreement shall be new, not refurbished or reconditioned, except to the extent agreed to by Company in writing and (2) Supplier is either the owner of, or authorized to use, the Equipment provided by Supplier pursuant to this Agreement.

(C) Supplier shall ensure that if Company is to, or it is foreseeable under this Agreement that Company will, hold title or a license to any of the Equipment or Software, either during or after the Term, Supplier shall (i) obtain warranties for such Equipment and Software corresponding to the Refresh lifecycle applicable to such Equipment or Software as set forth in this Agreement, or if such Equipment or Software is not covered under the Refresh lifecycle then it shall obtain such warranties as are commercially reasonable, and (ii) ensure that such warranties may be passed through or assigned to Company upon the granting or transfer of title or license to Company. Supplier warrants that it shall perform its obligations in such manner so as to preserve any such third-party warranties. Supplier shall use its commercially reasonable efforts to assist Company in enforcing such third-party warranties. If this Agreement obligates Supplier to obtain the warranties and Supplier fails to do so without the written agreement of Company, then, without additional cost to Company and without waiving any other rights or remedies available to Company, Supplier shall either perform, or cause another to perform, the warranty obligations that Supplier should have obtained or secure a warranty to cover such all for the benefit of Company.

Section 23.5 Non-Infringement. Each Party represents, warrants and covenants that it shall perform its responsibilities under this Agreement in a manner that does not infringe, or constitute an infringement or misappropriation of, any patent, copyright, trademark, trade secret or other proprietary rights of any Third Party.

Section 23.6 Software Ownership or Use. Supplier represents and warrants that it is either the owner of, or authorized to Use, the Supplier Software.

Section 23.7 Authorization and Other Contracts. Each Party represents and warrants to the other that:

(A) It has the requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement;

(B) The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by the requisite corporate action on the part of such Party; and

(C) The execution, delivery and performance of this Agreement and the consummation of this Agreement shall not constitute a material default under any material contract by which it or any of its material assets is bound; or an event that would, with notice or lapse of time, or both, constitute such a default.

Section 23.8 Inducements. Supplier represents and warrants to Company that neither Supplier nor any employee, agent or representative of Supplier has knowingly violated any Applicable Laws or any Company Policies regarding the offering of unlawful inducements in connection with this Agreement.

Section 23.9 Ethics and Conflict of Interest. In its performance of its obligations under this Agreement, Supplier shall adhere to business practices that meet and are in the spirit of Applicable Laws and ethical principles, including the following:

(A) All transactions undertaken in connection with Supplier's obligations under this Agreement shall be accurately reflected in Supplier's records;

(B) Supplier shall perform its obligations under this Agreement and conduct itself with respect to Supplier Personnel and third parties so as to avoid loss or embarrassment to Company, including loss or embarrassment due to any real or apparent conflict of interest; and

(C) Supplier shall not enter into any other agreement, whether written or oral, that would conflict with the performance of Supplier's obligations under this Agreement.

Section 23.10 No Debarment. Supplier represents and warrants that neither Supplier nor any Supplier Personnel rendering Services is presently: (A) the subject of a debarment action or is debarred pursuant to the Generic Drug Enforcement Act of 1992, (B) the subject of a disqualification proceeding or is disqualified as a clinical investigator pursuant to 21 CFR §312.70, (C) the subject of an exclusion proceeding or excluded from participation in any federal health care program under 42 CFR Part 1001 et seq., or (D) listed on the United States Department of Health & Human Services, Office of Research Integrity's Administrative Actions Listing. Supplier shall notify Company immediately upon any inquiry concerning, or the commencement of any such proceeding concerning, Supplier or any Supplier Personnel.

Section 23.11 Viruses. Supplier represents, warrants and covenants that it shall use commercially reasonable efforts so that no Viruses are coded or introduced into the Systems or Software Deliverables. Supplier agrees that, in the event a Virus is found to have been introduced into the Systems or Software Deliverables, Supplier shall use commercially reasonable efforts at no additional charge to assist Company in reducing the effects of the Virus and, if the Virus causes a loss of operational efficiency or loss of data, to assist Company to the same extent to mitigate and restore such losses.

Section 23.12 Disabling Code. Supplier represents, warrants and covenants that, without the prior written consent of Company, Supplier shall not knowingly insert into the Systems or Software Deliverables any code that would have the effect of disabling or otherwise shutting down all or any portion of Systems, Software Deliverables or the Services, other than code that is inserted into commercially available products to ensure that the purchaser or licensee uses the product in accordance with the applicable license. Supplier further represents and warrants that, with respect to any disabling code that may be part of the Systems or Software Deliverables, Supplier shall not knowingly invoke such disabling code at any time resulting in a material impact on the business of Company, including upon expiration or termination of this Agreement for any reason, without Company's prior written consent.

Section 23.13 Deliverables. Supplier represents, warrants and covenants that, for a period of one (1) year after (i) in the case of Transition or Transformation Deliverables used by Supplier to perform the Services, the expiration or termination of this Agreement, whichever is earlier, or (ii) in the case of all other Deliverables, final acceptance of such Deliverable by Company, each such Deliverable (1) shall conform to the Acceptance Criteria for such Deliverable and shall not deviate from the specifications and requirements for such Deliverable agreed upon by the Parties, including as set forth or referred to in Exhibit 2 (Statement of Work), and (2) shall comply with cGMP, as applicable. Supplier further represents, warrants and covenants that the use of each Deliverable by Company shall not infringe, or constitute an infringement or misappropriation of, any patent, copyright, trademark, trade secret or other proprietary rights of any Third Party provided, however, this representation, warranty and covenant shall not apply to the extent the infringement results from (a) a modification of or to, or the misuse of, such Supplier Provided Items other than according to or in compliance with the specifications or designs of the applicable Deliverable, or (b) the combination, operation or use of such Supplier Provided Items with Software or Equipment not furnished or approved by Supplier or not contemplated by the specifications of documentation for such Supplier Provided Items.

Section 23.14 Compliance with Laws and Regulations.

(A) Supplier represents, warrants and covenants that (1) it has a high level of expertise and significant experience in providing services of the kind contemplated by this Agreement, and (2) it is familiar with Applicable Laws, including, but not limited to, HIPAA, [*****] and the regulations promulgated pursuant thereto, and current good clinical practices and current good laboratory practices (each as defined under Applicable Laws).

(B) Supplier represents, warrants and covenants that (1) it is as of the Effective Date and will at all times be fully and properly licensed, qualified, experienced, equipped, organized and financed to perform its obligations under this Agreement, (2) it is as of the Effective Date and will at all times be in compliance with all Applicable Laws, and (3) all Services and Deliverables provided under this Agreement will be in material compliance with all Applicable Laws.

(C) To the extent Supplier creates, uses or modifies Software or Systems, Supplier represents, warrants and covenants that all such Software and Systems (1) shall be maintained in accordance with this Agreement and (2) shall comply with, through electronic and/or manual (e.g., paper copies, personnel access controls), the standards contained in this Agreement that are related to all applicable U.S. and international regulations governing software or information systems relating to the conduct of clinical trials, including, but not limited to, Title 21 of the United States Code of Federal Regulations Part 11 (electronic document and data management).

Section 23.15 Solvency. Supplier represents and warrants that Supplier is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete its obligations hereunder.

Section 23.16 Disability Claims. Company represents that as of the date of their hiring by Supplier, none of the Transitioned Employees are receiving or are due to receive payments under any disability or

permanent health or any similar insurance scheme and to Company's knowledge there are no claims pending or threatened which may give rise to such a claim by any of the Transitioned Employees against Company in respect of any accident, injury, disability or ill-health.

Section 23.17 Disclaimer. OTHER THAN AS PROVIDED IN THIS AGREEMENT, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES MADE BY EITHER PARTY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

ARTICLE 24
INSURANCE

Supplier shall during the Term have and maintain in force at least the insurance coverage set forth in Exhibit 25 (Insurance Requirements), in accordance with the terms and conditions set forth in such Exhibit.

ARTICLE 25
INDEMNITIES

Section 25.1 Supplier Indemnification. Supplier shall defend, indemnify and hold harmless Company, its Affiliates, and their respective officers, directors and Personnel (the "**Company Indemnified Parties**") from and against any and all (i) damages, liabilities, losses, costs, fees, penalties, and fines awarded to a Third Party by a court, in arbitration, by any judicial, regulatory or governmental authority or agreed to in a settlement approved by Supplier, and (ii) expenses (including without limitation reasonable attorneys' fees and expenses (both in-house and outside attorneys), and costs of investigation, litigation, settlement, and judgment associated therewith ((i) and (ii) collectively, "**Losses**") in connection with Third Party suits, actions, legal or administrative proceedings, claims, liens or demands ("**Third Party Claims**") arising out of or related to:

(A) Breach of Supplier's representations, warranties and covenants [*****] of this Agreement;

(B) Supplier's misappropriation of Confidential Information of Company;

(C) any breach of Supplier's obligations under this Agreement that results in a [*****]; provided, however, that (i) [*****];

(D) Any and all acts or omissions of Supplier or its Personnel resulting in any death, bodily injury or damage to real or tangible personal property in connection with the Services [*****];

(E) Any and all breaches by Supplier of its obligations to its Subcontractors providing the Services;

(F) Any and all breaches by Supplier of Supplier Laws provided that [*****];

(G) Any and all breaches by Supplier of its obligations under [*****];

(H) Relating to Supplier's failure to observe or perform any duties or obligations to be observed or performed on or after the Effective Date by Supplier under any contracts, including Software licenses, Equipment leases, Assigned Contracts and Managed Contracts, in each case, that are assigned to Supplier or for which Supplier has assumed financial, administrative or operational responsibility;

(I) Claims that the performance or use of the Services, or that the Deliverables, Supplier Software, Supplier Equipment, any other enhancements or modifications to any Company Software or other works prepared or provided by Supplier or any other resources or items provided to Company by Supplier (collectively, "**Supplier Provided**

Items") infringe the patent, copyright, trademark, service mark, trade name or other similar proprietary rights of such Third Party, [*****]. Further, Supplier and its subsidiaries shall not be liable to Company or indemnify Company for any claims of patent infringement, including contributory infringement or inducement to infringe, of any patents owned or licensable now or hereafter by Ronald A. Katz or Ronald A. Katz Technology Licensing, L.P. or by his or its successors or assigns, but only if and to the extent any such claim of infringement is based on the fact that the Services are not being provided from facilities owned or leased by Supplier or that Supplier is not providing substantially all automated call processing and updating all databases associated with the Services;

(J) Any claims for Supplier's tax liabilities arising out of provision of Services, as set forth in Section 19.4;

(K) Any claim by [*****] against any Company Indemnified Party alleging [*****] Notwithstanding any other language in this Article 25, Supplier shall defend, indemnify and hold any Company Indemnified Parties harmless with respect to all [*****];

(L) Any claim or action by, on behalf of, or related to, Affected Personnel arising on or after the Effective Date, including claims relating to employment or engagement, termination of employment or engagement, occupational health and safety, worker's compensation, ERISA or arising under other Applicable Laws, and any representations, oral or written, made by Supplier to Company's employees [*];

(M) Any claims relating to any Transitioned Personnel arising before, on or after the Effective Date arising from the acts or omissions of Supplier, or one of its Affiliates or in connection with a failure by Supplier to comply with ARD Laws or other Laws [*****];

(N) Any claim by or on behalf of any Personnel of Supplier engaged in the provision of Services by Supplier or any Supplier Personnel relating to the employment by Supplier or a claim of co-employment by Company [*];

(O) Failure by Supplier to [*****].

Section 25.2 Company Indemnification. Company shall defend, indemnify and hold harmless Supplier, its Affiliates, and their respective officers, directors and Personnel (the "**Supplier Indemnified Parties**") from and against any and all Losses in connection with Third Party Claims arising out of or related to:

(A) Breach of Company's representations, warranties and covenants set forth in Article 23;

(B) The acts or omissions of Company or its Personnel resulting in any death, bodily injury or damage to real or tangible personal property in connection with this Agreement [*****];

(C) Claims that the use of the Company Provided Materials in connection with the Services infringes the Intellectual Property or other proprietary rights of such Third Party, except as may have been caused by (i) a modification or misuse of such Company Software other than according to or in compliance with the specifications or designs thereof, or (ii) the combination, operation or use of such Company Software with Software or Equipment not furnished or approved by Company or not contemplated by the documentation for or expected use of such Company Software;

(D) Any claim or action by, or on behalf of, or related to the Transitioned Personnel arising from the acts or omissions of the Company, or one of its Affiliates, prior to the Effective Date, including claims relating to employment or engagement, occupational health and safety, worker's compensation, ERISA or arising under other Applicable Laws[*];

(E) Any claim or action relating to Company's failure to observe or perform any duties or obligations to be observed or performed prior to the Effective Date by Company under any of the contracts, including Software licenses, Equipment leases, Assigned Contracts and Managed Contracts;

(F) Any claim or action commenced against Supplier by a Company Service Recipient that directly and solely arises out of the Services under this Agreement, provided, however, that (i) Company shall not be obligated to defend, indemnify or hold harmless Supplier under this Section 25.1(F) if such Company Services Recipient has a direct contractual relationship with Supplier or one of its Affiliates for the provision of the Services that are the subject of the Losses, and (ii) indemnification hereunder shall not limit any rights Company may have against Supplier based on the events giving rise to the claim by Company Service Recipient; and

(G) Any claim or action by an Affected Employee or Affected Contractor arising before, on or after the Effective Date to the extent arising out of or in connection with a failure by a Company Indemnified Party to comply with ARD Law.

Section 25.3 Infringement. If any Supplier Provided Item becomes, or in Supplier's reasonable opinion is likely to become, the subject of an infringement, including misappropriation, claim or proceeding, Supplier shall, in addition to indemnifying Company as provided in this Article and to the other rights Company may have under this Agreement, (A) promptly at Supplier's expense secure the right to continue using the Supplier Provided Item, or (B) if this cannot be accomplished with commercially reasonable efforts, then at Supplier's expense, replace or modify the Supplier Provided Item to make it non-infringing, provided that any such replacement or modification shall not degrade the performance or quality of the Supplier Provided Item or any affected component of the Services, or (C) if neither of the foregoing can be accomplished by Supplier with commercially reasonable efforts, and only in such event, then remove the Supplier Provided Item from the Services, in which case the Charges shall be equitably adjusted to reflect such removal.

Section 25.4 Indemnification Procedures. With respect to third-party claims for which a Party is seeking indemnification hereunder, the following procedures shall apply:

(A) Promptly after receipt by any entity entitled to indemnification under Section 25.1 and Section 25.2 of notice of the assertion or the commencement of any action, proceeding or other claim by a Third Party in respect of which the indemnitee shall seek indemnification pursuant to any such Section, the indemnitee shall notify the indemnitor of such claim in writing. No failure to so notify an indemnitor shall relieve it of its obligations under this Agreement except to the extent that it can demonstrate actual damages attributable to such failure. Within fifteen (15) days following receipt of written notice from the indemnitee relating to any claim, but no later than ten (10) days before the date on which any response to a complaint or summons is due, the indemnitor shall notify the indemnitee in writing if the indemnitor acknowledges its indemnification obligation and elects to assume control of the defense and settlement of that claim (a "**Notice of Election**").

(B) If the indemnitor delivers a Notice of Election relating to any claim within the required notice period, the indemnitor shall be entitled to have sole control over the defense and settlement of such claim; provided that (1) the indemnitee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim; and (2) the indemnitor shall obtain the prior written approval of the indemnitee before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnitor has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnitor shall not be liable to the indemnitee for any legal or other expenses incurred by the indemnitee in connection with the defense of that claim. In addition, the indemnitor shall not be required to

indemnify the indemnitee for any amount paid or payable by the indemnitee in the settlement of any claim for which the indemnitor has delivered a timely Notice of Election if such amount was agreed to without the written consent of the indemnitor. The indemnitee and the indemnitor shall [**].

(C) If the indemnitor does not deliver a Notice of Election relating to a claim, or otherwise fails to acknowledge its indemnification obligation or to assume the defense of a claim, within the required notice period, the indemnitee shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of the indemnitor, including payment of any judgment or award and the costs of settlement or compromise of the claim. The indemnitor shall promptly reimburse the indemnitee for all such costs and expenses, including payment of any judgment or award and the costs of settlement or compromise of the claim.

(D) [**].

Section 25.5 Subrogation. In the event that an indemnitor shall be obligated to indemnify an indemnitee pursuant to this Article, the indemnitor shall, upon fulfillment of its obligations with respect to indemnification, including payment in full of all amounts due pursuant to its indemnification obligations, be subrogated to the rights of the indemnitee with respect to the claims to which such indemnification relates.

ARTICLE 26
LIABILITY

Section 26.1 General Intent. Subject to the specific provisions of this Article, it is the intent of the Parties that each Party shall be liable to the other Party for any actual damages incurred by the non-breaching Party as a result of the breaching Party's failure to perform its obligations in the manner required by this Agreement.

Section 26.2 Liability Restrictions.

(A) SUBJECT TO SECTION 26.2(D) AND SECTION 26.2(E), IN NO EVENT, WHETHER IN CONTRACT OR IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT), SHALL A PARTY BE LIABLE FOR INDIRECT OR CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

(B) Subject to Section 26.2(C), each Party's total liability to the other for Direct Damages, whether in contract or in tort (including breach of warranty, negligence and strict liability in tort) shall be limited in the aggregate for all claims and causes of action to an amount equal to the total Charges payable to Supplier pursuant to this Agreement for proper performance of the Services for the [**] prior to the month in which the most recent event giving rise to liability occurred; provided that if such event giving rise to liability occurs during the first [**] after the Effective Date, liability shall be the limited to an amount equal to the greater of (i) the total Charges that would be payable to Supplier pursuant to this Agreement for proper performance for the Services during such [**] period, and (ii) the total Charges payable to Supplier pursuant to this Agreement for proper performance of the Services since the Effective Date. The following do not count against and do not reduce the amounts available under the foregoing limitations: (i) Service Level Credits; (ii) payments of taxes; and (iii) [**].

(C) The limitations set forth in Section 26.2(B) shall not apply with respect to:

(1) Company's payment obligations under this Agreement;

(2) the failure of Supplier to issue credits or otherwise make payments due to Company under this Agreement;

(3) claims based on the acts or omissions of Company or its Personnel resulting in any death, bodily injury or damage to real or tangible personal property to the extent arising out of or related to Company's or its Personnel's breach of this Agreement, negligence, or willful misconduct;

(4) claims based on the acts or omissions of Supplier resulting in any death, bodily injury or damage to real or tangible personal property to the extent arising out of or related to Supplier's breach of this Agreement, negligence, or willful misconduct;

(5) misappropriation by Supplier of Company's Confidential Information;

(6) misappropriation by Company of Supplier's Confidential Information;

(7) breach of Supplier's obligations under this Agreement that results in a [**];

(8) damages occasioned by the [**] of a Party;

(9) damages occasioned by the [**] of a Party, for which each Party's total liability to the other for Direct Damages shall be limited in the aggregate to an amount equal to the total Charges payable to Supplier pursuant to this Agreement for proper performance of the Services for the [**] prior to the month in which the most recent event giving rise to liability occurred; provided that if such event giving rise to liability occurs during the first [**] after the Effective Date, liability shall be the limited to an amount equal to the greater of (i) the total Charges that would be payable to Supplier pursuant to this Agreement for proper performance for the Services during [**] period, and (ii) the total Charges payable to Supplier pursuant to this Agreement for proper performance of the Services [**];

(10) for clarity, Losses that are the subject of indemnification hereunder; and

(11) [**].

(D) The limitations set forth in Section 26.2(A) shall not apply with respect to:

(1) Company's payment obligations under this Agreement;

(2) the failure of Supplier to issue credits or otherwise make payments due to Company under this Agreement;

(3) misappropriation by Supplier of Company's Confidential Information;

(4) misappropriation by Company of Supplier's Confidential Information; and

(5) Losses that are the subject of indemnification hereunder, subject to any limitations contained therein and in Section 26.2(E)(3) and Section 26.2(E)(4).

(E) The limitations set forth in Section 26.2(A) shall not apply with respect to the following, provided that Supplier's and, as the case may be, Company's liability for indirect, consequential, exemplary, punitive or special damages for the items listed in this Section 26.2(E) shall not exceed the following amounts:

(1) [**], for breach of Supplier's obligations under this Agreement that results in [*] a total liability limited in the aggregate to an amount equal to [*]; provided, however, to the extent that [**];

(2) provided that Company has met its payment obligations under this Agreement, for damages occasioned by [**], in each case, that [**], Supplier's total liability shall be limited in the aggregate to an amount equal to [*];

(3) for damages occasioned by the [**], (i) a total liability limited in the aggregate to an amount equal to [*]; (ii) except, [**]; and

(4) for damages occasioned by the [*], (i) a total liability limited in the aggregate to an amount equal to [*]; (ii) except, [*].

(F) Each Party shall have a duty to mitigate damages for which the other Party is responsible.

(G) Recovery of amounts under Section 26.2(C)(9) (Direct Damages occasioned by [**]) and amounts under Section 26.2(E)(3) (indirect or consequential, exemplary, punitive or special damages occasioned by [**]) that are in excess of [**], the Direct Damages liability cap in Section 26.2(B).

ARTICLE 27
CONTINUED PROVISION OF SERVICES

Section 27.1 Force Majeure.

(A) No Party shall be liable for any default or delay in the performance of its obligations under this Agreement (1) if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, or any other cause beyond the reasonable control of such Party, (2) provided the non-performing Party is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and could not reasonably be circumvented by the non-performing Party through the use of alternate sources, workaround plans or other means (including with respect to Supplier by Supplier meeting its obligations for performing disaster recovery services as described in this Agreement) (a "**Force Majeure Event**"). In the event of the occurrence of an event covered by the DRP, the terms of the DRP shall prevail, and this Section 27.1 shall be of no effect as to the performance of Services covered by the DRP.

(B) In the case of a Force Majeure Event, the non-performing Party shall be excused from further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. Any Party so delayed in its performance shall immediately notify the Party to whom performance is due by telephone (to be confirmed in writing within two (2) days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

(C) If any event under Section 27.1(A) substantially prevents, hinders or delays performance of (1) the Services necessary for the performance of functions reasonably identified by Company as critical for the lesser of (i) the applicable RTO set forth in the DRP or (ii) seventy two (72) consecutive hours, or (2) any other Services for more than the lesser of the applicable RTO or ten (10) consecutive days, then at Company's option:

(1) Company may procure such Services from an alternate source, and Supplier shall be liable for payment of the reasonable fees for such Services from the alternate source for the lesser of (i) so long as the delay in performance shall continue, or (ii) one hundred eighty (180) days;

(2) Company may, thirty (30) calendar days after [*****]; or

(3) Company may, thirty (30) calendar days after [*****].

(D) Supplier shall not have the right to any additional payments from Company for costs or expenses incurred by Supplier as a result of any Force Majeure Event.

Section 27.2 Disaster Recovery.

(A) Disaster Recovery Plan. Supplier shall, in accordance with the schedule set forth in the Transition Plan:

(1) develop, submit to Company for Company's review, and implement a disaster recovery plan ("**DRP**") Accepted by Company, which DRP shall contain recovery time objectives ("**RTOs**") after the occurrence of any disaster during which the Services shall be fully restored in accordance with the Service Levels which RTOs shall be in accordance with the Service Levels and other requirements set forth in this Agreement, consistent with industry best practices for Company's industry and the Services, and no longer in duration or less protective of Company than those established by Company as of the Effective Date;

(2) update and test (with Company's cooperation, at Company's option, allow Company to participate in such updates and tests) every six (6) months the operability of the DRP to ensure that the DRP is fully operational;

(3) certify to Company at least once during every six (6) month period during the Term and the Termination/Expiration Assistance Period that the DRP is fully operational; and

(4) implement the DRP upon the occurrence of a disaster.

Prior to implementation of the DRP, Supplier shall implement Company's existing DRP.

(B) Disaster Recovery Testing. Supplier shall cooperate with Company in joint disaster recovery planning and testing activities, subject to the Parties' respective safety and security policies and procedures. Supplier shall provide to Company a copy of the results of all disaster recovery tests conducted by or for Supplier to the extent relevant to the Services.

(C) Disaster Occurrence. In the event of a disaster covered by the DRP, Supplier shall reinstate the Services within the applicable RTOs. In the event the applicable Services are not reinstated within the applicable RTOs or the Services are not returned to their state of delivery prior to the subject disaster within the time specified in the DRP, then at its option:

(1) Unless Supplier has notified Company that Supplier has already done so, Company may procure the affected Services from an alternate source, and Supplier shall be liable for payment of the reasonable fees for such Services from the alternate source until the Services are restored;

(2) Company may, after [**]; or

(3) Company may, after [**].

Supplier shall not have the right to any additional payments from Company for costs or expenses incurred by Supplier as a result of a disaster covered by the DRP, and Supplier shall be liable for the actual Direct Damages of Company resulting from the failure of Supplier to meet the requirements of the DRP, including, but not limited to (i) engaging an alternate source of Services, and (ii) transitioning the Services to a new service provider or insourcing the Services.

(D) In the event of a disaster in which Supplier is required under this Agreement, including but not limited to the DRP, to implement an interim workaround to restore the Services to the Service Levels, Supplier shall implement the interim workaround to the extent it satisfies the requirements set forth in the DRP and shall eliminate the interim workaround and return the Services to their state of delivery prior to the subject disaster within (i) the applicable RTO for such restoration, if any, or (ii) if no such RTO exists, within thirty (30) days of restoration of the Services to within the Service Levels.

ARTICLE 28
DISPUTE RESOLUTION

Any dispute between the Parties arising out of or relating to this Agreement, including with respect to the interpretation of any provision of this Agreement and with respect to the performance by Supplier or Company, shall be resolved as provided in this Article.

Section 28.1 Informal Dispute Resolution. Subject to Section 28.4, the Parties initially shall attempt to resolve their dispute informally, in accordance with the following:

(A) Upon the written request by a Party ("**Dispute Notice**"), each Party shall appoint a designated representative who does not devote substantially all of his or her time to performance under this Agreement, whose task it shall be to meet for the purpose of endeavoring to resolve such dispute.

(B) The designated representatives shall meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and attempt to resolve the dispute without the necessity of any formal proceeding.

(C) The specific format for the discussions shall be left to the discretion of the designated representatives.

Section 28.2 Litigation. Litigation of a dispute may be commenced by either Party upon the earliest to occur of any of the following:

(A) the designated representatives conclude in good faith that amicable resolution through continued negotiation of the matter does not appear likely;

(B) thirty-five (35) days have elapsed from the date of the Dispute Notice (this period shall be deemed to run notwithstanding any claim that the process described in this Section was not followed or completed); or

(C) commencement of litigation is appropriate to avoid the expiration of an applicable limitations period or to preserve a superior position with respect to other creditors, or a Party makes a good faith determination, including as provided in Section 28.4 with respect to Company, that a breach of this Agreement by the other Party is such that a temporary restraining order or other injunctive relief is necessary.

Section 28.3 Governing Law, Jurisdiction and Venue. This Agreement and performance under it shall be governed by and construed in accordance with the Laws of the State of California without regard to its choice of law principles. For all actions that may arise with respect to this Agreement, the Parties irrevocably and unconditionally submit (A) to the non-exclusive jurisdiction and venue (and waive any claim of forum non conveniens) of the United States District Court for the Central District of California or (B) if such court does not have jurisdiction, to the Superior Court of the State of California, Ventura County. The Parties further consent to the jurisdiction of any court located within a district which encompasses assets of a Party against which a judgment has been rendered for the enforcement of such judgment or award against the assets of such Party. NOTWITHSTANDING THE FOREGOING AND ONLY WITH RESPECT TO [**].

Section 28.4 Specific Performance. In the event a court determines that Supplier has or is reasonably likely to have (i) [**], or (ii) breached Supplier's obligations to [**].

Section 28.5 Continued Performance. Subject to Company continuing to comply with its obligations under Article 19 and Article 20 (including Section 20.8), each Party agrees to continue performing its obligations under this Agreement while a dispute is being resolved except to the extent the issue in dispute precludes performance (dispute over payment shall not be deemed to preclude performance) and without limiting either Party's right to terminate this Agreement as provided in Article 29.

ARTICLE 29
TERMINATION

Section 29.1 Termination for Cause.

(A) In the event that Supplier:

(1) commits a material breach of this Agreement, which breach is capable of being cured within thirty (30) days after notice of breach from Company to Supplier, but is not cured in such 30-day period;

(2) commits a material breach of this Agreement that is not capable of being cured within thirty (30) days but is capable of being cured within sixty (60) days and fails to (a) proceed promptly and diligently to correct the breach, (b) develop within thirty (30) days following written notice of breach from Company a complete plan for curing the breach, and (c) cure the breach within sixty (60) days of notice thereof;

(3) commits a material breach of this Agreement that is not subject to cure with due diligence within sixty (60) days of written notice thereof; or

(4) commits numerous breaches of its duties or obligations which collectively constitute a material breach of this Agreement;

then Company may, by giving written notice to Supplier, terminate this Agreement, in whole or in part, as of a date specified in the notice of termination. If Company chooses to terminate this Agreement in part, the Charges payable under this Agreement shall be equitably adjusted to reflect those services that are terminated. Termination under this section shall be without penalty and without the payment of any termination fees or Wind-down Expenses.

Without limiting the rights of Company to terminate this Agreement for cause based on other acts or omissions of Supplier hereunder, [**].

(B) [*]

Any notice required or permitted hereunder shall be in writing and shall be deemed given as of the date it is (i) delivered by hand; or (ii) received by registered or certified mail, postage prepaid, return receipt requested; or (iii) confirmed as received if by facsimile; or (iv) received by nationally recognized, overnight courier, and addressed to the party to receive such notice at the address set forth below, and such other address as is identified in Section 30.3 in writing:

Vice President, Information Systems Infrastructure
Amgen Inc.
Mailstop: 81-1-B
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [*]

And

Executive Director, Information Systems Infrastructure, Sourcing Management and Governance
Amgen Inc.
Mailstop: 35-2-A
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [*]

Section 29.2 Termination for Convenience. Company may terminate this Agreement for convenience and without cause at any time after the first anniversary of Effective Date by giving Supplier at least six (6) months prior written notice designating the termination date [**]. In the event that a purported termination for cause by Company under Section 29.1(A) is determined by a competent authority not to be properly a termination for cause, then such termination by Company shall be deemed to be a termination for convenience under this Section.

Section 29.3 [**].

Section 29.4 Termination Upon Change of Control. Subject to the following sentence, in the event (A) another entity, directly or indirectly, in a single transaction or series of related transactions, acquires either Control of Supplier or all or substantially all of the assets of Supplier, or (B) Supplier is merged with or into another entity to form a new entity, Company shall have the right to terminate this Agreement on written notice to Supplier and payment of the applicable termination fee set forth in Exhibit 4 (Pricing). [**].

Section 29.5 [**].

Section 29.6 Extension of Termination/Expiration Effective Date. Company may extend the effective date of the termination or expiration of this Agreement one or more times as it elects, at its discretion, by notice to Supplier at least sixty (60) days prior to the then-current effective date of termination or expiration, provided that the total of all such extensions shall not exceed one hundred and eighty (180) days following the original effective date of termination or expiration.

Section 29.7 Termination/Expiration Assistance.

(A) Commencing six (6) months prior to expiration of this Agreement or on such earlier date as Company may reasonably request, or commencing upon a notice of termination (including notice based upon default by Company) or of non-renewal of this Agreement, and continuing for a period of twelve (12) months following the effective date of termination or expiration of this Agreement (the "**Termination/Expiration Assistance Period**") (as such effective date may be extended pursuant to Section 29.5), Supplier shall continue to provide to Company, or at Company's request to one or more Company designees, the Services that were provided prior thereto and any reasonable cooperation requested by Company that may be required from Supplier to facilitate the transfer of the affected Services to Company or a third-party service Supplier, as applicable, or Company's designee ("**Termination/Expiration Assistance**"). The quality and level of performance during the Termination/Expiration Assistance Period shall not be degraded. After the expiration of the Termination/Expiration Assistance Period, Supplier shall (1) use commercially reasonable efforts to answer questions from Company regarding the Services on an "as needed" basis on a time-and-materials basis and (2) deliver to Company any remaining Company-owned reports and documentation still in Supplier's possession.

Charges for Termination/Expiration Assistance by Supplier shall be at the rates specified in Exhibit 4 (Pricing). Without limiting the foregoing, Supplier agrees there shall be no additional charges for Termination/Expiration Assistance to the extent that Supplier can perform Termination/Expiration Assistance using its then-existing resources dedicated to providing the Services under this Agreement. If Termination/Expiration Assistance will require the use of different or additional services or resources beyond that which Supplier is then using to provide the Services in accordance with Exhibit 4-D (Resource Units) and Service Levels, then such request for Termination/Expiration Assistance shall be considered a New Service and shall be subject to the Change Control Procedure. If Supplier terminates this Agreement for Company's material breach, Supplier may require that Company pays for such Termination/Expiration Assistance in advance.

(B) "**Termination/Expiration Assistance**" shall include the obligation to continue to provide the Services, the assistance described in Exhibit 26 (Termination/Expiration Assistance) and the following:

(1) Company or its designee shall be permitted to undertake, without interference from Supplier, to hire any Supplier Personnel primarily performing the Services as of the date Supplier receives notice of termination, or, in the case of expiration, within the six (6) month period (or longer period requested by Company) prior to expiration. Supplier shall waive, and shall use commercially reasonable efforts to cause its Supplier Personnel to waive, their rights, if any, under contracts with such Personnel restricting the ability of such Personnel to be recruited or hired by Company or its designee. Company or its designees shall have reasonable access to such Personnel for interviews and recruitment. Unless otherwise agreed, the hire date for any such Supplier Personnel hired by Company or Company's designee under this Section shall be after the expiration of the Termination/Expiration Assistance.

(2) If Company is entitled pursuant to this Agreement to a sublicense or other right to Use any Software owned or licensed by Supplier, Supplier shall provide such sublicense or other right.

(3) At Company's request and expense for any related consent or assignment fees, Supplier shall (a) obtain any Required Consents from third parties and thereafter assign to Company or its designees leases for some or all of the Equipment that

was necessary as of the date of termination/expiration of this Agreement primarily for providing the Services, and Company shall assume the obligations under such leases that relate to periods after such date; and (b) sell to Company or its designees Supplier's then-current net book value (using straight-line depreciation method), some or all of the Equipment owned by Supplier that was necessary as of the date of termination/expiration of this Agreement primarily for providing the Services. Supplier shall also provide all user's manuals and other documentation relevant to such Equipment that is in Supplier's possession. Upon Company's review and approval of any maintenance agreements for such Equipment, Company shall assume responsibility under any such maintenance agreements to the extent such responsibilities relate to periods after the date of termination/expiration of this Agreement.

(4) Supplier shall use commercially reasonable efforts to obtain any necessary rights and thereafter make available to Company or its designee, pursuant to reasonable terms and conditions, any third-party services then being utilized by Supplier primarily in the performance of the Services including services being provided through third-party service or maintenance contracts on Equipment and Software. Supplier shall be entitled to retain the right to utilize any such third-party services in connection with the performance of services for any other Supplier customer.

(5) Supplier shall provide reasonable training to Company's or its designee's personnel for the purpose of transferring Supplier's know-how used to perform the Services. Such knowledge transfer shall be sufficient to enable Company or its designee to perform the services using qualified Personnel following the effective date of termination of this Agreement.

(6) To the extent that Supplier has incorporated Company's network into a Supplier-proprietary network, Supplier shall provide up to two years of continued network services at the then-current contract rates for such service, in order to permit Company to establish its own network in an orderly manner.

(C) During the Termination/Expiration Assistance Period Supplier shall continue to provide, at Company's request, Termination/Expiration Assistance. Actions by Supplier under this Section shall be subject to the other provisions of this Agreement.

(D) In the process of evaluating whether to undertake or allow termination, expiration or renewal of this Agreement, Company may consider obtaining, or determine to obtain, offers for performance of services similar to the Services following termination or expiration of this Agreement. As and when reasonably requested by Company for use in this process, Supplier shall provide to Company such information and other cooperation regarding performance of the Services as would be reasonably necessary for a Third Party to prepare an informed, non-qualified offer for such services, and for a Third Party not to be unreasonably disadvantaged compared to Supplier if Supplier were to be invited by Company to submit a proposal. The types of information and level of cooperation to be provided by Supplier pursuant to this Section shall be no less than those initially provided by Company to Supplier prior to commencement of this Agreement. Supplier's support in this respect shall include providing information regarding Equipment, Software, staffing and other matters described in Exhibit 26 (Termination/Expiration Assistance) as applicable to this Section. In no event shall Supplier be required to provide information relating to its costs or other customers.

(E) Supplier acknowledges that, in the event it breaches (or attempts or threatens to breach) its obligations provided in this Section 29.7, Company may be irreparably harmed. In such a circumstance, Company may proceed directly to court. If a court of competent

jurisdiction should find that Supplier has breached any such obligations, Supplier agrees that, without any additional findings of irreparable injury or other conditions to injunctive relief, it shall not oppose the entry of an order compelling specific performance by Supplier and restraining it from any further breaches.

Section 29.8 Immediate Obligations of Supplier Upon Termination. Upon receipt of Company's notice of termination, Supplier shall (1) immediately discontinue the Services on the date and to the extent specified in the notice; (2) incur no further obligations, including placement of orders for material, services or facilities, with respect to the terminated Services; (3) protect and maintain any materials and supplies utilized in providing the Services and any work completed or in progress; (4) mitigate costs associated with such termination; and (5) take such other actions as Company may direct.

Section 29.9 Suspension by Company. Company may, at any time, by notice to Supplier, suspend all or any portion of the Services. Within thirty (30) days of any such suspension designated representatives of Company and Supplier shall meet to discuss the suspension and an equitable adjustment to the schedule of Services and the associated Charges as necessary. Unless otherwise agreed, during such discussions the then-current Charges for the Services proposed to be suspended shall remain in effect.

Section 29.10 Notice of Deteriorating Financial Condition. In the event of the occurrence of an Event of Deteriorating Supplier Condition, Supplier shall immediately provide notification of such event to Company and Supplier shall use its commercially reasonable efforts to (i) at the expense of Company, cooperate with Company and any third-party service providers selected by Company, to establish a contingency plan to avoid disruption of Services in the event that Supplier is unable to meet its obligations under this Agreement, which contingency plan may provide for securing from all relevant third parties, including equipment providers and service providers, all rights reasonably required for Company to continue to receive the Services, and (ii) in the event Company has a good faith belief that the delivery of Services may be impacted by the Event of Deteriorating Supplier Condition, implement such contingency plan. In the event that Company becomes aware of an Event of Deteriorating Supplier Condition for which Supplier has not provided such notification to Company, Company shall have the immediate right, subject to the terms of this Agreement, to take all reasonable actions to ensure continued availability of the Services, either by Supplier, Company or its third-party designee. Supplier acknowledges that (a) interruption of the Services will have a material adverse impact on the operation of the business of Company, and (b) implementation of the contingency plan may result in reduction of performance of Services by Supplier and duplicative charges to Company. Supplier shall fully cooperate with Company in minimizing the impact of an Event of Deteriorating Supplier Condition on the business Company and in mitigating applicable Charges associated with implementing the contingency plan.

Section 29.11 Upon Termination. Subject to any rights hereunder to withhold payment, upon expiration or termination of this Agreement, Company shall remain obligated to pay Supplier amounts due and owing hereunder for Supplier's performance of Services pursuant to the terms of this Agreement prior to the date of expiration or the effective date of termination, including for Services under Section 29.7.

ARTICLE 30
GENERAL

Section 30.1 Binding Nature and Assignment. This Agreement shall be binding on the Parties hereto and their respective successors and assigns. Company has specifically contracted with Supplier because of its unique experience, expertise and qualifications; and, therefore, Supplier may not assign or delegate Supplier's obligations under this Agreement, either in whole or in part, without the prior written consent of Company. Any attempt by Supplier to assign or delegate this Agreement, in whole or in part, and any assignment of Supplier's obligations under this Agreement by operation of law, order of any court, or pursuant to any plan of merger, spin-off, consolidation or liquidation, in either case without Company's prior written consent, shall be deemed a default under this Agreement and such assignment or delegation shall be void. Company may assign this Agreement at any time without the consent of Supplier.

Section 30.2 Entire Agreement; Amendment. This Agreement, including any Exhibits referred to herein and attached hereto, each of which is incorporated herein for all purposes, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to the subject matter contained in this Agreement. No change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of the Party against which such change, waiver or discharge is sought to be enforced.

Section 30.3 Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed given as of the date it is (i) delivered by hand; or (ii) received by registered or certified mail, postage prepaid, return receipt requested; or (iii) confirmed as received if by facsimile; or (iv) received by nationally recognized, overnight courier, and addressed to the party to receive such notice at the address set forth below, or such other address as is subsequently specified in writing:

If to Company:

Vice President, Global Strategic Sourcing
Amgen Inc.
Mailstop: 91-2-C
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [*]

If to Supplier:

International Business Machines Corporation
Attention: Vice President, Healthcare and Life Sciences Industry
MD4202, Route 100
Somers, NY 10589

With a copy to:

General Counsel
Attn: Operations Group
Amgen Inc.
Mailstop: 28-1-A
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [*]

With a copy to:

International Business Machines Corporation
Office of Associate General Counsel
MD4202, Route 100
Somers, NY 10589

Section 30.4 Counterparts. This Agreement may be executed in several counterparts, all of which taken together shall constitute one single agreement between the Parties.

Section 30.5 Relationship of Parties. Supplier is engaged in an independent business and not as an agent, employee, partner or joint employer of Company. Supplier represents and warrants that it is an employer subject to, and shall comply with, all Supplier Laws, including without limitation applicable wage and hour statutes, unemployment compensation statutes and occupational safety and health statutes, and shall be responsible for withholding and payment of any and all payroll taxes and contributions, including without limitation federal, state, provincial, commonwealth and local income taxes; Federal Insurance Contributions Act, Federal Unemployment Tax Act and state unemployment contributions; and workers' compensation and disability insurance payments. Each Party shall be responsible for the acts, errors, omissions and conduct of any of its Personnel. Supplier acknowledges and agrees that Company shall have no responsibility or liability for treating Supplier Personnel as employees of Company for any purpose. Neither Supplier nor any Supplier Personnel shall be eligible for coverage or to receive any benefit under any Company-provided workers' compensation, employee plans or programs or employee compensation arrangement, including without limitation any and all medical and dental plans, bonus or incentive plans, retirement benefit plans, stock plans, disability benefit plans, life insurance and any and all other such plans or benefits. Supplier shall have no authority to contract for or to bind Company in any manner and shall not represent itself as an agent of Company or as otherwise authorized to act for or on behalf of Company, except as expressly authorized in this Agreement.

Section 30.6 Severability. In the event that any provision of this Agreement conflicts with the Law under which this Agreement is to be construed or if any such provision is held invalid by a competent authority, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with Laws. The remainder of this Agreement shall remain in full force and effect.

Section 30.7 Consents and Approval. Except where expressly provided as being in the discretion of a Party, where agreement, approval, consent, or similar action by either Party is required under this Agreement, such action shall not be unreasonably delayed or withheld. An approval or consent given by a Party under this Agreement shall not relieve the other Party from responsibility for complying with the requirements of this Agreement, nor shall it be construed as a waiver of any rights under this Agreement, except as and to the extent otherwise expressly provided in such approval or consent. Each Party shall, at the request of the other Party, perform those actions, including executing additional documents and instruments, reasonably necessary to give full effect to the terms of this Agreement.

Section 30.8 Waiver of Default; Cumulative Remedies.

(A) A delay or omission by either Party to exercise any right or power under this Agreement shall not be construed to be a waiver thereof. A waiver by either of the Parties of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant herein contained.

(B) Except as otherwise expressly provided herein, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law or in equity. Without limiting the generality of the foregoing, upon the occurrence of an event or series of events giving rise to (i) termination hereunder under more than one provision hereof, (ii) a right of indemnification under more than one provision hereof, or (iii) one or more rights to seek greater liability for Direct Damages, indirect or consequential, exemplary, punitive or special damages, the affected Party shall have the right to termination, indemnification, or to seek greater liability, as the case may be, under any or all such provisions.

Section 30.9 Survival. The provisions of this Agreement that by their very nature survive termination or expiration of this Agreement shall so survive. Without limiting the generality of the foregoing sentence, Section 2.3, Section 3.5, Section 5.6, Section 8.5, Section 9.6, Section 11.5(D), Section 12.2 (last sentence), Section 13.6, Section 14.1, Section 14.2(C)(2), Section 14.3 through Section 14.6, Section 14.7(A) (first two sentences), Section 17.7(D), Section 19.4, and Section 29.1 through Section 29.8, and Article 18, Article 20, Article 21, Article 22, Article 25, Article 26, Article 27, Article 28 and Article 30 shall also survive termination of this Agreement.

Section 30.10 Public Disclosures. All media releases, public announcements and public disclosures by either Party relating to this Agreement or the subject matter of this Agreement, including promotional or marketing material, but not including announcements intended solely for internal distribution or disclosures to the extent required to meet legal or regulatory requirements beyond the reasonable control of the disclosing Party, shall be coordinated with and approved by the other Party prior to release.

Section 30.11 Trademarks. Supplier agrees that, except for the purposes of performance under this Agreement, it shall not use or allow Supplier Personnel to use, without Company's prior written consent, Company's name (or the names of Company's subsidiaries or parent (if any), or any derivatives thereof), or any service marks or trademarks of Company. This prohibition of use shall include use in any publicity or advertising, including media releases, public announcements, or public disclosures. Supplier shall immediately provide notice to Company in the event it becomes aware of any violation of this prohibition and, at Supplier's sole expense, take such steps necessary to cease and cure such violation to Company's satisfaction.

Section 30.12 Third Party Beneficiaries.

(A) This Agreement is entered into solely between, and except as provided below, may be enforced only by, Company and Supplier. The Parties do not intend to create any third party beneficiary rights for any person or entity other than each member of Company Group, each of which shall be a third party beneficiary under this Agreement for all purposes.

(B) [**]

Section 30.13 Non-Solicitation of Employees. Subject to Section 11.5 and Section 29.7(B)(1), from the Effective Date until [**] a Party shall not directly or indirectly solicit or seek to procure (other than by general advertising), without the prior written consent of the other Party, the employment of (A) [**]

Section 30.14 Covenant of Good Faith. Each Party agrees that, in its respective dealings with the other Party under or in connection with this Agreement, it shall act in good faith.

Section 30.15 Freedom of Action. Supplier may enter into similar agreements with others and develop and provide hardware, software, or services that are similar to or competitive with the hardware, software, and Services provided under this Agreement, except to the extent that such hardware, software, or services infringe Company's patent rights or copyrights under Applicable Laws.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Agreement.

AMGEN INC.

/s/ Tom Flanagan
(signature)

By: Tom Flanagan
Title: Senior Vice President and Chief Information Officer

INTERNATIONAL BUSINESS MACHINES CORPORATION

/s/ Chris Nicoletti
(signature)

By: Chris Nicoletti
Title: Vice President, Healthcare and Life Sciences Industry

INTEGRATED FACILITIES MANAGEMENT SERVICES AGREEMENT

This Integrated Facilities Management Services Agreement (this "**Agreement**" as such term is defined in Article 33), is made and entered into as of February 4, 2009 (the "**Effective Date**"), by and between Amgen Inc., a Delaware corporation having a place of business at One Amgen Center Drive, Thousand Oaks, California 91320 ("**Company**"), and Jones Lang LaSalle Americas, Inc., a Maryland corporation having a place of business at 200 E. Randolph Drive, Chicago, IL 60601 ("**Provider**") (each a "**Party**", and collectively, the "**Parties**").

RECITALS

WHEREAS, Company is engaged in the business of the research, development and commercialization of human therapeutics;

WHEREAS, Provider is in the business of, among other things, performing integrated facilities services with respect to facilities' operations and maintenance and general services; and

WHEREAS, pursuant to the terms of this Agreement, Company wishes to engage Provider to provide services to Company, and Provider wishes to provide services to Company.

NOW THEREFORE, in consideration of the promises and mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINED TERMS

1.1 Definitions for Certain Defined Terms. The definitions of certain defined terms used in this Agreement are set forth in Article 33.

1.2 Defined Terms Defined in Agreement. An index of certain defined terms defined in the body of this Agreement or the exhibits to this Agreement also is set forth in Article 33.

2. SERVICES

2.1 General. Commencing on the Effective Date and continuing throughout the Term and Termination Assistance Period, Provider shall provide to Company pursuant to the terms of this Agreement the following services, functions and responsibilities, as they may evolve or be supplemented, amended, enhanced, improved, modified or replaced in accordance with this Agreement (collectively, the "**Services**"):

(i) the services, functions and responsibilities described in this Agreement, including (a) the services, functions, responsibilities and Deliverables described in Exhibit A (Description of Services), (b) the services, functions and responsibilities relating to the Transition, including Transition Deliverables, and (c) the Termination Assistance Services;

(ii) any services, functions, tasks or responsibilities not specifically described in the Agreement but that are necessary or required for the proper function or provision of the foregoing consistent with the purposes hereunder;

(iii) the services, functions and responsibilities described in any Order approved in writing by Company;

(iv) the services, functions and responsibilities described in any Changes approved in writing by Company pursuant to the Change Control Process; and

(v) the facilities-related services, functions and responsibilities performed in the ordinary course during the twelve (12) month period preceding the Effective Date by Affected Personnel (i) that are suppliers under Assigned Contracts that were transitioned to Provider or displaced, or (ii) whose functions were displaced or replaced, in each case as a result of this Agreement, even if such services, functions and responsibilities are not specifically described in this Agreement.

2.2 Evolution and Improvement of Services. It is anticipated that the Services will evolve and be supplemented, modified, improved, enhanced or replaced by Provider over time to keep pace with advancements and improvements in the means and methods of delivering Services. These changes will modify the Services and will not require an Order except to the extent that a change results in Services that are materially different from and materially in addition to those then being provided by Provider. Without limiting the foregoing:

(i) Provider shall offer Company a first priority right to participate in any Provider pilot programs for any new processes, best practices or technology; and

(ii) Provider shall identify and propose the implementation of any technology or process related to the Services that is likely to:

(1) improve the efficiency and effectiveness of the Services (including cost savings);

(2) result in cost savings or revenue increases to Company in areas of its business outside of the Services;

(3) enhance Company's ability to conduct its business or serve its customers; or

(4) achieve Company's objectives set out in this Agreement faster or more efficiently than the then current strategies.

2.3 New Service Request. The Parties acknowledge and agree that this Agreement is intended to provide the framework for a global relationship for the Services to be provided by Provider and its Affiliates pursuant to this Agreement. During the Term of this Agreement, Company or an Affiliate of Company may from time-to-time initiate a request for Provider or an Affiliate of Provider to perform new services on its behalf, including new categories of services or services at new buildings or Company sites ("**New Services**") to the extent the New Services are similar to the Services or services provided by Provider to other customers or consistent with Provider's integrated facilities management services business generally. In engaging Provider to perform New Services, Company or its Affiliate shall enter into one or more written Orders (each an "**Order**") pursuant to which such New Services shall be performed. A template form of Order is attached hereto as Exhibit K (Example Form of Order). Upon execution thereof by each Party, each Order will incorporate the terms of this Agreement and will form a distinct contract between the Parties (or Affiliates of the Parties, as specified in the Order) in relation to the relevant Services being provided under that Order; provided, however, any Order where an Affiliate of Provider is proposed to be the "Provider" with respect to such New Services also shall be executed by Provider as shown on the example form of Order attached hereto as Exhibit K (Example Form of Order). Any Services performed pursuant to an Order shall be governed by the terms and conditions of this Agreement; provided, however, that (i) if an Affiliate of Provider is the "Provider" under the Order, such Provider and such Affiliate shall be deemed jointly and severally to be the Provider under the terms and provisions of this Agreement with respect to the New Services under such Order and (ii) if any of the provisions of this Agreement would conflict with or otherwise violate any Applicable Laws of the jurisdiction where the Services under such Order will be performed or Company's facilities governed by such Order are located, then such Order may modify the provisions of this Agreement to the extent of such conflict or violation if both Company and Provider each have consented to such modifications in writing. If an Order is to be executed with an Affiliate of Company, Provider shall have the right to approve such Affiliate, which approval shall not be unreasonably withheld or delayed.

2.4 Scope. Provider shall furnish and be responsible for all materials, equipment and activities that are necessary or required for its performance of the Services, including without limitation all supervision, administration, coordination, labor, inspection, testing and other services, equipment, supplies and other goods, means, methods, techniques, sequences, licenses, permits, approvals and documents.

2.5 Non-Exclusivity of Services.

(i) Nothing in this Agreement requires Company to acquire from Provider the Services. Company may, in its sole discretion, acquire additional services similar to the Services from any Third Party Suppliers or perform such services internally.

(ii) During the Term and the Termination Assistance Period, Company may increase or decrease the volume of the Services as a result of Company electing to provide such volumes internally or obtain such volumes from a Third Party Supplier.

(iii) Company shall not be obligated to acquire any of the Services from Provider with respect to any additional business unit, site or entity including pursuant to an acquisition. However, subject to Section 2.3 above, Company will have the option pursuant to an Order for New Services to direct Provider to provide Services under and in accordance with the terms of this Agreement to service any additional entity or business unit, and, if such additional entity or business unit has an agreement with Provider for facilities management related services at the time of such acquisition, Provider will not impose any termination fees on Company or such entity or business unit in connection with termination of such agreement and replacement with such agreement with the new Order hereunder[*].

(iv) After giving notice to Provider, as provided in the following sentence, Company may insource or obtain from a third party any portion of the Services. Before insourcing or obtaining from a third party any portion of the Services, Company shall (i) give prior written notice to Provider that Company is contemplating such insourcing or alternative sourcing, including a description of the affected Services and allow the Provider at least fifteen (15) days to discuss such proposed changes prior to Company making any proposed commitments with respect to such insourcing or third party engagement and (ii) not terminate the Services proposed to be insourced or serviced by an alternative provider prior to the date thirty (30) days after such fifteen-day discussion period. In the event Company insources or obtains from a third party a portion of the Services, but not the entire scope of Service, Provider shall notify Company during the fifteen-day discussion period whether there are any [**] that Provider will incur pursuant to any Subcontracts and Supply Contracts related to the Services proposed to be terminated, and Company will have the option of assuming the applicable Subcontracts and Supply Contracts [**]. Any termination of Services pursuant to this Section 2.5 shall be evidenced by a Change in accordance with the Change Control Process. [**]

2.6 Standard of Care. Provider shall meet the Standard of Care in the performance of its obligations hereunder.

2.7 Interpretation of Documents. In the event of a conflict or inconsistency between the terms of the main body of this Agreement and the Orders (if any), Exhibits, Schedules, Attachments or Appendices, the terms of this Agreement shall prevail. However, (i) a term or terms of an Order shall control to the extent the Order expressly provides that such term(s) supersede and control over the terms of the Agreement and, (ii) to the extent that a conflict is with respect to the quality of the Services, the Exhibit A (Description of Services) and Exhibit C (Key Performance Indicators/Service Level Agreements) shall prevail. No other terms, including without limitation any terms or conditions set forth in any document issued by Provider, are effective unless accepted by Company in writing.

Note: Redacted portions have been marked with [*]. The redacted portions are subject to a request for confidential treatment that has been submitted to the Securities and Exchange Commission.

2.8 Affiliates. When an Order is entered into by one or more Affiliates of Provider, both the applicable Affiliate and Provider shall be jointly and severally liable and responsible to Company and its Affiliates for all obligations to be undertaken by such Affiliate(s) of Provider under the Order. In the event that any of Provider's Affiliates fail to perform any of their obligations under any Order issued hereunder, Provider shall cause such obligations to be discharged in accordance with the requirements of this Agreement and the applicable Order. Provider acknowledges and agrees that Company may seek recourse directly against Provider for the failure of any of Provider's Affiliates to perform any obligations under any Order without seeking or exhausting remedies against such Provider Affiliates. Provider's liability to Company under this Section 2.8 shall not be reduced or otherwise modified by any full or partial discharge or reduction of a Provider Affiliate's liability to Company under any bankruptcy, insolvency or other proceeding. If an Order is executed by an Affiliate of Company (subject to Provider's approval right pursuant to Section 2.3 above), the obligations of the Affiliate under the Order shall be independent obligations of such Affiliate and Company shall not have joint and several liability with respect to the Order unless otherwise expressly agreed by Company in writing.

2.9 Non-Solicitation of Employees. Except as provided in Section 12.8 or Section 18.8, during the Term and Termination Assistance Period and for a period of [*] months thereafter, neither Party shall directly or indirectly solicit for hire any personnel or employees of the other Party [**] unless such Party has consulted with the other Party and obtained permission to solicit such employee of the other Party for employment. This Section 2.9 shall not apply in the event that any employee of a Party seeks employment with the other Party in response to a general advertisement or recruiting effort not directed at such employee or Party, or any employee of either Party who is terminated or otherwise released from employment by Party or its Affiliates.

3. SERVICE LEVELS AND CUSTOMER SATISFACTION

3.1 General. Provider shall perform the Services at least (i) at the level of the Service Levels (including applicable SLA Targets and KPI Targets) set forth in Exhibit C (Key Performance Indicators/Service Level Agreements) or in the applicable Order and (ii) where no KPI Target or SLA Target is set forth in Exhibit C (Key Performance Indicators/Service Level Agreements) or the applicable Order, at the same level and with at least the same degree of accuracy, quality, completeness, timeliness, responsiveness, security and efficiency as was provided prior to the Effective Date by or for Company. At all times Provider's level of performance shall be at least equal to the Service Levels or, in cases where Service Levels do not exist, to accepted industry standards of first tier providers of services similar to the Services.

3.2 Service Level Failure. Provider shall inform Company immediately if Provider is unable, or is reasonably likely to be unable, to provide the Services in accordance with the Service Levels (including applicable SLA Targets and KPI Targets) or this Agreement or if any organizational, security-related or other changes will materially affect, or are reasonably likely to materially affect, the provision of the Services. Without limiting the remedies available to Company hereunder, upon Provider's failure to provide any of the Services in accordance with the Service Levels required with respect thereto, whether or not the cause of such failure is immediately identified and cured by Provider, Provider shall immediately: (i) perform an analysis to identify the root cause of such failure; (ii) identify the procedures necessary for correcting the failure and implementing such procedures to effectuate such correction; (iii) provide Company with a report detailing the findings and procedures identified and implemented under (i) and (ii) above; and (iv) take appropriate preventive measures so that the problem does not recur.

3.3 Cooperation with Third Parties. In order for Provider to provide the Services in accordance with the Service Levels, Provider may be required to coordinate its efforts with Third Party Suppliers. With respect to Service Level failures caused by Third Party Suppliers, except as set forth in Section 3.4, Provider's failure to meet such Service Levels shall not be excused and Provider shall remain responsible for the performance of the Services in accordance with the Service Levels.

3.4 Excused Service Level Failure. To the extent Provider demonstrates to Company's reasonable satisfaction that any SLA Failure or KPI Failure is directly attributable to: (A) a breach of this Agreement by Company that prevents Provider from meeting the applicable SLA Target or KPI Target; or (B) acts or omissions of Company or a Third Party Supplier, provided that (1) Provider was unable to notify Company in writing of the consequences of such acts or omissions or Company disregarded any notice made by Provider as to the consequences of such acts or omissions, (2) Provider complied with the requirements of any applicable BC Plan, and (3) Provider was unable to take other reasonable steps to avert such consequences, then the measurement of such SLA Target or KPI Target shall be adjusted to account for the abovementioned factors during the period that such factors were in effect.

3.5 Periodic Reviews. At least annually or more often as set forth in each Order or the service metrics specified in this Agreement, Company and Provider shall review the Service Levels and make adjustments to them as appropriate to reflect improved performance capabilities associated with advances in the technology and methods used to perform the Services. The Parties expect and understand that the Service Levels shall be optimized over time.

3.6 Measurement and Monitoring Tools. Provider shall, with respect to each Service Level, prior to the date that such Service Level takes effect, implement and/or test measurement and monitoring tools and procedures acceptable to Company to measure and report Provider's performance of the Services against the applicable Service Levels. Such measurement and monitoring tools and procedures shall permit reporting at a level of detail sufficient to verify Provider's compliance with the Service Levels. Without limiting Provider's responsibility to develop and maintain such measurement and monitoring tools and procedures, if at any time such measurement and monitoring tools are temporarily inoperable or unavailable, Provider may manually prepare the applicable studies and reports. Provider shall also provide Company with on-line access to the most current data used by Provider to calculate its performance against the Service Levels and the measurement and monitoring tools and procedures utilized by Provider to generate such data. Given the nature of Company's multi-vendor environment, any such data may be shared by Company with third party providers, provided that such third party providers have executed appropriate non-disclosure agreements or are otherwise bound by confidentiality obligations. Notwithstanding the foregoing, Company shall not disclose any KPI Scorecard and SLA Scorecard to any Provider Competitors. The use of any such data by the third party providers shall be limited to managing the provision and delivery of services, products and resources to Company and resolving any issues or problems relating to the provision and delivery of any such services, products or resources. Company shall not be required to pay any amount in addition to the Services Costs for (i) such measurement and monitoring tools or (ii) any resources utilized in connection with such measurement and monitoring tools.

3.7 Third Party Provider Performance Data. Provider acknowledges and agrees that it may receive performance data from third party providers and such performance data shall be Confidential Information of Company. Provider further agrees that it shall use such performance data only for managing the provision and delivery of services, products and resources and resolving any problems or issues that relate to such services, products and resources. Provider shall not use any such performance data for any other purpose, except as otherwise agreed by Company.

3.8 Service Level Reporting. No later than the first business day falling on or after the fifteenth (15th) day of each calendar month (or as otherwise specified in Exhibit C) during the Term and Termination Assistance Period, Provider shall provide Company with a monthly (or as otherwise specified in Exhibit C) performance report describing Provider's performance of the Services in the preceding month (or other time frame specified in Exhibit C), which report shall be made available to Company in an online, electronic form. Each such report shall:

(i) for each area of the Services, assess the degree to which Provider has attained or failed to attain the Service Levels;

(ii) explain any Service Level failures and include a plan for corrective action where appropriate;

(iii) identify any problems or issues of which Provider becomes aware that are being caused by the acts or omissions of any Third Party Suppliers and agree with the proposed steps necessary to resolve any such problems or issues;

(iv) include such documentation and other information as Company may reasonably request to verify compliance with the Service Levels; and

(v) include a quarter-to-date and year-to-date analysis and report identifying service trends in Provider's performance of the Services. Such analysis and report shall provide observations and suggestions for the continuous improvement and enhancement of the Services in accordance with Section 2.2.

The foregoing information shall be updated on a monthly basis unless a different reporting period is set forth in Exhibit C (Key Performance Indicators/Service Level Agreements). Any failure by Provider to report on Provider's success or failure to meet any Service Level, including if such failure results from Provider's failure to implement, or delay in implementing, appropriate measurement and monitoring tools pursuant to Section 3.6, shall be deemed to be a Service Level failure with respect to the applicable Service Level for the applicable Measurement Period[**]**.

3.9 Customer Satisfaction Surveys.

(i) As set forth in Exhibit N (Customer Satisfaction), Provider shall, on a periodic basis throughout the Term and Termination Assistance Period, survey a representative sample of users of the Services to ascertain their level of satisfaction with Provider's management and provision of the Services. The representative sample, survey format and questions shall be as described in Exhibit N (Customer Satisfaction) and shall be subject to Company's review and approval.

(ii) Provider shall continuously monitor customer satisfaction surveys. If such surveys show any material or recurring dissatisfaction, Provider shall, within thirty (30) days of the completion of the applicable customer satisfaction survey, (a) conduct a root cause analysis as to the cause of such dissatisfaction; (b) develop an action plan to address and improve the level of satisfaction; (c) present such plan to Company for its review, comment and approval; and (d) take action in accordance with the approved plan and as necessary to improve the level of satisfaction. Provider's action plan developed hereunder shall set forth the specific measures to be taken by Provider and the dates by which each such measure shall be completed. Following implementation of such action plan, Provider shall conduct a follow-up survey with the affected management to confirm that the cause of any dissatisfaction has been addressed and that the level of satisfaction has improved.

4. COVENANTS OF PROVIDER

4.1 Maintenance. Provider shall maintain all Company Provided Equipment and Provider Equipment so that they operate in accordance with their specifications, including (A) maintaining such Equipment in good operating condition, subject to normal wear and tear; and (B) undertaking repairs and preventive maintenance on such Equipment in accordance with the applicable Equipment manufacturer's recommendations.

4.2 Completion of Milestones and Deliverables. Provider shall complete each milestone and Deliverable on the Schedule set forth in each Order. Provider shall promptly notify Company upon completion of each milestone or Deliverable and promptly deliver all relevant Work Product to Company.

4.3 Facilities and Space. Provider shall provide the initial Services under this Agreement from the Agreed Service Locations and New Services from the locations specified in the applicable Order.

Provider shall ensure that the relevant Provider Personnel comply with the security requirements of Company in relation to their access to their dedicated area and that each Provider Personnel will operate a “clean desk” policy.

4.4 Dedicated Personnel. If specified in Exhibit A (Description of Services) or an applicable Order, certain Provider Personnel assigned to perform Services shall be dedicated to performance of the Services. Provider shall ensure that all Personnel so identified are dedicated solely to performance of such Services and shall not assign such Personnel to any other project unless otherwise agreed in writing by the Parties.

4.5 Quality Assurance. Provider shall establish, implement and enforce quality assurance programs and procedures commensurate with the Services to be provided hereunder. Provider shall identify those Provider Personnel responsible for and authorized to act as Provider’s designated representative(s) with respect to such quality assurance programs and procedures and such Provider Personnel shall be considered Key Provider Personnel hereunder. Company shall have the right to review and audit Provider’s quality assurance programs and procedures.

4.6 Compliance. Provider shall (i) comply with all Company Policies that apply to the Services or Provider’s obligations hereunder of which Provider is aware or Company has notified Provider, (ii) assist Company to ensure that such Services are in compliance with Company’s legal, regulatory and compliance obligations, and (iii) ensure that the provision of the Services will be in compliance with Applicable Law. Unless otherwise agreed in Exhibit A (Description of Services) or an applicable Order, Provider shall obtain and maintain all necessary governmental or regulatory licenses, authorizations, permits or consents required to provide the Services. Company shall have the right to modify the Company Policies from time to time with notice to Provider. Provider shall comply with all such revised Company Policies. In the event Provider is required to implement revised Company Policies as a result of changes in law or changes otherwise generally affecting Provider or other customers of Provider, Provider shall not be entitled to any additional Management Fees as a result thereof, but Reimbursable Costs may be modified in accordance with the Change Control Process. In the event Provider is required to implement changes solely because of changes to Company Policies, Provider shall be entitled to recover reasonable incremental Service Costs associated therewith in accordance with the Change Control Process.

4.7 Conflicts. Provider shall not enter into any agreement, whether written or oral, that would materially adversely affect Provider’s ability to fulfill its obligations or that would constitute a default hereunder.

4.8 Use of Third Party Intellectual Property. Company understands that Provider will use software that is Third Party Intellectual Property to provide the Services. Upon the request of Company, Provider shall provide Company with an updated list of the foregoing being used in connection with the Services, and upon request from Company shall provide a copy of the license for such Third Party Intellectual Property. Upon reasonable prior notice, Company may conduct supervised reviews within Provider’s offices of any aspects of Provider’s software and discuss any issues with Provider. During any such reviews Company shall not have access to any software or software customizations constituting Provider Intellectual Property Rights and made for or exclusively used by other clients and not used to provide the Services. In addition to the foregoing prior to Provider using or entering into any agreements to license or use any Third Party Intellectual Property that will be used to provide the Services or create any Work Product, Provider shall provide a copy of such agreement to Company. Provider shall not use any such Intellectual Property, including computer software, to provide the Services unless Company has approved in advance in writing the applicable agreement to license or use such software. Without limiting the foregoing, unless otherwise approved by Company in writing, any such license for Third Party Intellectual Property shall expressly permit the license to be assigned or sub-licensed to Company without further approval of the licensor.

4.9 Evidence of Compliance. Upon Company’s written request, Provider shall furnish any evidence Company reasonably requests relating to Provider’s obligations hereunder and its ability to fulfill such

obligations or substantiate its representations hereunder at any time during the Term and Termination Assistance Period, and to the extent related to obligations that survive the termination or expiration of this Agreement, the period of such survival. The substance, form and timing of such evidence shall be subject to Company's reasonable satisfaction.

4.10 Competitors. Provider shall not provide any Services to Company from a site or facility of any Competitor without Company's prior written consent. If Provider is to provide Company with Services from a shared environment where such Services either are provided from a Provider site that is shared with a Competitor or such Services are provided to a Competitor from the same site or location, Provider shall develop a process, subject to Company's approval, to restrict access in any such shared environment so that such Competitor, and any other third party, shall have no access to Company's Work Product or Confidential Information.

5. ESTABLISHING ORDERS AND CHANGE CONTROL

5.1 Requests for Change or New Services. Commencing on the Effective Date and from time-to-time during the Term and Termination Assistance Period, Company may (i) request in writing (each, a "**Change Request**") that Provider terminate, remove, replace or change a Service or Service Level (a "**Change**") or (ii) request that Provider perform a New Service pursuant to an Order as provided in Section 2.3 above. Without limiting the generality of the foregoing, a Change requested by Company may involve (a) the deletion of buildings or facilities from the scope of Services under this Agreement; (b) the augmentation of work and Services to be performed by Provider with respect to one or more Company buildings or facilities; and/or (c) the elimination or modification of one or more Services Categories, Service Levels or scopes of Service. Change Requests and Orders for New Services shall be addressed and implemented in accordance with the provisions of this Article 5, the Change Control Process and, where applicable, Company's change management requirements. Any actions taken or not taken by Provider in anticipation of execution of this Agreement, any modification, any Order or any Change Request are taken at its sole risk and expense. Any estimate or forecast by Company of services that may be furnished by Provider before or during the Term or Termination Assistance Period does not constitute a commitment of any kind.

5.2 Order Placement for New Services and Acceptance. In the event Company notifies Provider that it intends to proceed with Provider on the basis of a project proposal, Company and Provider shall diligently negotiate in good faith to mutually agree upon an Order. Unless and until the Parties have executed an Order, neither Party shall have any obligations with respect to the services proposed in a project proposal. Provider shall perform Services pursuant to each executed Order issued during the Term and Termination Assistance Period. Each Order shall define the specific scope of Services that Provider shall undertake, as well as any special terms and conditions associated therewith. All Orders issued hereunder shall be subject to the terms and conditions of this Agreement. Provider shall promptly execute and return any Order issued by Company and approved by Provider hereunder to evidence Provider's acceptance of such Order and the terms set forth therein. Without limiting Company's remedies, Company may withdraw an Order or defer the commencement of performance under such Order and/or the payment of Services Costs thereunder unless and until Provider has executed and delivered a counterpart original of the Order to Company. Notwithstanding anything to the contrary, Provider's acknowledgment, receipt, or commencement of performance of any obligations under an Order is deemed an acceptance of that Order in accordance with the terms contained in that Order and this Agreement.

5.3 Response to Request for New Services. Upon receipt of a request to add a New Service, Provider shall, within ten (10) days or such other longer time as specified in the project request, provide Company with a written proposal for the performance of such additional Service, which proposal shall include: (i) a description of the services, functions and responsibilities to be performed in connection with such additional Service; (ii) a Schedule for commencing performance of such additional Service; (iii) Provider's prospective Services Costs for such additional Service; (iv) the impact of such additional Service on the calculation of Provider's Shared Savings and Management Fee at Risk under the applicable Order; and (v) such other information as may be reasonably requested by Company. On the

request of Company, Provider shall provide Company with any other information that Company may reasonably require to assess the project proposal. Provider shall not begin performing any such additional Service until Company has provided written authorization for such additional Service. In performing additional Services pursuant to a Change, Provider shall perform such Services in a manner that does not adversely impact Company's business operations.

5.4 Request for Change.

(i) If Company desires to propose a Change Request, it shall deliver a written notice to Provider describing the proposed Change and establishing a reasonable period for Provider to respond. For each proposed Change, Provider shall, within the period of time specified by Company, prepare a written response indicating: (i) the effect of the proposal, if any, on the amounts payable by Company under the relevant Order and this Agreement, and the manner in which such effect was calculated; (ii) the effect of the proposal, if any, on Provider's performance of the Services, including the effect on Service Levels; (iii) the anticipated time schedule for implementing the Change; and (iv) any other information reasonably necessary for, or requested by, Company to make an informed decision regarding the proposed change.

(ii) If Provider desires to propose a Change, including any Change proposed by Provider by right pursuant to other provisions of this Agreement, it shall deliver a written notice to Company setting forth the information described in the previous sentence. In the event that a Change will result in a Material Change in Provider's recurring costs in connection with its performance hereunder, Provider and Company shall negotiate in good faith to modify the Service Costs payable hereunder or under the applicable Order to reflect such changed costs.

5.5 Costs. Provider may use Direct Provider Labor to prepare proposals, responses and documentation in connection with proposed Orders and Changes. Each Party shall otherwise bear its own costs in connection with proposals, responses and documentation in connection with any proposed Orders and Changes.

5.6 Effect of Acceptance. No Change shall become effective without the written approval of Company and Provider. If approved by Company and Provider, any such Change shall thereafter be deemed part of Provider's obligations under this Agreement and the relevant Order. Under no circumstances shall Provider be entitled to payment for any Change in Services that has not been approved by Company in accordance with this Article 5.

5.7 No Obligation. Provider acknowledges that Provider is expected to accomplish the Services on the terms and conditions specified in this Agreement, including the Service Costs agreed to by Provider, and that Company is under no obligation to agree to any Changes requested by Provider except as expressly provided in this Agreement.

5.8 Effect on Service Levels and Key Performance Indicators. In the event that (i) either Party proposes a Change that will affect any Service Level for the Services affected by such Change, (ii) such Change constitutes a Material Change; (iii) Provider identifies the effect of such Change on any applicable Service Level pursuant to Section 5.4, and (iv) Company accepts such Change in writing, then, upon implementation of such Change by Provider, the affected Service Level shall be reduced solely to the extent of the effect of such Change identified by Provider; provided that, (a) the implemented Change shall have no effect on any other Service Levels, and (b) Provider and Company shall cooperate to attempt to restore such affected Service Level through future Changes. Except as provided in the previous sentence, no Change shall have any effect on Provider's obligation to perform the Services at the Service Levels. Notwithstanding anything in this Agreement to the contrary, Provider acknowledges and agrees that, unless a Change Request constitutes a Material Change, there shall be no adjustment or modification to any Services Costs (other than Reimbursable Costs), [*****] Provider's Shared Savings metrics, "not to exceed" amount or other incentives under the applicable Order.

5.9 Effect on Services Costs. To the extent that a proposed Change can be accommodated within the existing level of resources then being used by Provider in performing the Services hereunder and those resources are appropriate for the proposed New Service or changed Service without degradation to Provider's compliance with all applicable performance requirements under this Agreement, the Services Costs payable by Company under this Agreement and the Cost Baseline shall not be increased as a result of such Change.

5.10 Emergency Changes. In the event of an Emergency, Provider shall be permitted to suspend, remove, replace or change a Service (a "**Provider Emergency Change**") without Company's prior written approval to the extent reasonably necessary to deal with such Emergency, provided that (i) Provider exercises reasonable efforts to secure Company's prior approval of such Provider Emergency Change, (ii) such Provider Emergency Change is necessary to respond to such Emergency, and (iii) Provider gives Company notice of such Provider Emergency Change immediately upon implementing such Provider Emergency Change. Any expenditures proposed to be made by Provider in connection with such Emergency shall be subject to the provisions of Exhibit D (Pricing). Company may, without first complying with the foregoing provisions of this Article 5, require that Provider terminate, remove, replace or change a Service or perform a New Service in the event of any Emergency (a "**Company Emergency Change**," and a Provider Emergency Change and a Company Emergency Change may be referred to herein as an "**Emergency Change**"), and Provider shall implement such Company Emergency Change promptly following Company's request to Provider. As soon as possible following any Emergency Change, but in any event no later than fourteen (14) days following such Emergency Change, the Parties shall negotiate in good faith any modifications to Services Costs, Provider's Shared Savings and/or the [*****] which are necessitated by such Emergency Change. Provider shall meet the Standard of Care in implementing any Emergency Change, and except as specifically necessary to deal with the Emergency Change nothing contained in this Section 5.10 shall operate or be construed to relieve Provider of its obligations to perform, or limit Provider's liability for the performance of, the Services in accordance with this Agreement.

6. TRANSITION

6.1 Transition Plan. Commencing on the Effective Date, Provider shall plan, prepare for and conduct activities to transition the applicable Services to Provider (the "**Transition**"). The Transition shall be conducted in accordance with a written plan (the "**Transition Plan**") which, at a minimum, shall include:

(i) a detailed description of the Services being transitioned to Provider;

(ii) a detailed description of the Transition activities and responsibilities to be performed by Provider in order for Provider to properly complete the Transition, including a detailed description of each Transition milestone and timeline, operational reviews, strategic planning, and training;

(iii) a detailed description of the Deliverables to be completed by Provider ("**Transition Deliverables**");

(iv) a detailed description of any tasks that Company is required to complete or information the Company is required to provide in connection with the Transition;

(v) a proposed plan for transitioning all Assigned Contracts to Provider;

(vi) a plan for dealing with systems and security access;

(vii) a detailed description of the technology, methods, procedures, Personnel and organization that Provider shall use to perform the Transition, and a process to address labor transition and any labor-related issues;

(viii) a detailed schedule and workplan of all Transition activities to be completed in connection with the Transition, including the dates on which each such activity and any Transition milestone shall be completed;

(ix) a schedule of Transition milestones (each a "**Transition Milestone**"), together with an allocation of the Transition Cost installments to be paid upon satisfaction of such Transition Milestone [*****];

(x) a detailed description of the potential risks associated with the Transition and the risk mitigation strategies that shall be employed by Provider to eliminate or minimize such risks;

(xi) a process and set of standards and completion criteria acceptable to Company to which Provider shall adhere in the performance of the Transition and that shall enable Company to determine whether Provider has successfully completed the Transition activities and Transition Deliverables associated with each Transition milestone; and

(xii) any other information and planning necessary to ensure that the Transition takes place on schedule and without disruption to Company's business or operations.

6.2 Final Transition Plan. A preliminary Transition Plan is set forth in Schedule 4 of Exhibit A (Transition). Within thirty (30) days after the Effective Date, Provider shall prepare and deliver to Company a more detailed final Transition Plan, which shall be consistent with the preliminary Transition Plan and shall meet the requirements set forth in Section 6.1 above. The Transition Milestones and the payments and credits allocated to such Transition Milestones shall not be changed from the preliminary Transition Plan unless approved in writing by Company. The final Transition Plan and any subsequent changes to the Transition Plan shall be subject to written approval by Company, which approval shall not be unreasonably withheld, delayed or conditioned.

6.3 Transition Costs. The Transition Costs are payable by Company to Provider up to the amount shown in Attachment D.4 of Exhibit D and will be paid in installments upon achievement of Transition Milestones as set forth in the Transition Plan. Transition Milestones will be extended on a day-for-day basis for any critical path delays in achieving such Transition Milestones due to any Force Majeure Events or Excused Company-Related Delays.

6.4 Implementation. Provider shall perform the Transition in accordance with the Transition Plan and in such a manner so as to minimize any disruption to Company's business or operations (except to the extent that Provider has provided Company with reasonable advance written notice of such disruption and Company has agreed in writing that such disruption is acceptable). Provider shall provide all cooperation and assistance reasonably required and requested by Company in connection with Company's evaluation and testing of the Transition Deliverables.

6.5 Transition Manager. Each Party shall designate an individual to manage the Transition (each a "**Transition Manager**") during the Transition Period. The Provider Transition Manager shall manage the Transition on a dedicated, full-time basis during the Transition period. The Provider Transition Manager shall (i) report to the Provider Program Manager, (ii) serve as the single point of accountability for Provider for the Transition and (iii) have day-to-day authority for ensuring that the Transition is completed in accordance with the Transition Plan. The Provider Transition Manager shall be one of Provider's Key Provider Personnel.

6.6 Meeting and Reporting Requirements. The Provider Transition Manager shall meet at least once each week with the Company Transition Manager to report on Provider's progress in performing the Transition and meeting the requirements of the Transition Plan. As part of each weekly meeting, Provider shall provide Company with a written status report that shall include (i) an updated status chart detailing the then-current status of all Transition activities, including the Transition Deliverables, against the

Transition Plan, and (ii) any issues or problems that Provider is experiencing in connection with the Transition and any efforts or remedial actions that Provider is undertaking to resolve such issues or problems. The meetings described in this Section 6.6 shall take place at the time and place reasonably designated by Company, and with agendas specified by Company.

6.7 Company's Right to Participate in the Transition. Company reserves the right to monitor, test and otherwise participate in the Transition. Provider shall immediately notify Company if such monitoring, testing or participation has caused (or in Provider's reasonable opinion may cause) a problem or delay in the Transition and work with Company to prevent or circumvent such problem or delay.

6.8 Completion of Transition. The Transition shall not be considered to be complete until all Transition Deliverables have been accepted by Company. [*****]

6.9 Termination by Company. In the event that (i) Provider fails to achieve acceptance of a Transition deliverable within thirty (30) days of the applicable Transition Milestone (provided that for purposes of this Section 6.9, such milestone deadline will be extended by the period of critical path delay caused by a Force Majeure Event or by the fault or negligence of Company, up to a maximum extension of sixty (60) days), or [*] Company may, upon notice to Provider, terminate this Agreement, in whole or in part, as of the termination date specified in the notice, without cost or penalty and without the payment of any termination charges.

7. STEP-IN RIGHTS

7.1 Step-In. If any Service Disruption occurs, Company may, at its option and without prejudice to any other rights or remedies under this Agreement or the relevant Order, undertake one or more of the following (each a "**Step-In**"):

(i) Where Company considers it necessary to do so, in its reasonable business judgment, suspend Provider's right and obligation to provide any or all of the Services; and/or

(ii) Itself provide, and/or engage a replacement service provider to provide any or all of the disrupted Services; and/or

(iii) Locate one or more Company Personnel in any Agreed Service Location to work with the relevant Provider Personnel and to oversee and manage the provision of all or any Services.

7.2 Obligations During Step-In. For the period in which the Step-In continues, Services Costs will not be payable in respect of those Services that are subject to the Step-In.

7.3 Resumption of Services. After a Step-In, unless Company has terminated the relevant Services pursuant to the terms of this Agreement or any Order, Company shall allow Provider to resume the provision of the Services that are the subject of the Step-In as soon as reasonably practicable after both of the following are satisfied:

(i) The relevant Service Disruption has ceased; and

(ii) Provider has demonstrated through the submission and execution of a corrective action plan to Company's reasonable satisfaction that it will be able to meet the relevant Service Levels (if applicable) and otherwise provide the relevant Services in accordance with the relevant Order and this Agreement if it resumes provision of those Services.

Provider shall use diligent, commercially reasonably efforts to resume Services subject to a Step-In as soon as reasonably possible.

7.4 Termination During Step-In. Without limiting any rights or remedies of Company hereunder, if the requirements for ending a Step-In set forth in Section 7.3 have not been met within thirty (30) days of commencement of the Step-In (provided that for purposes of this Section 7.4, such period will be extended by the period of critical path delay caused by any Force Majeure Event or by the fault or negligence of Company, up to a maximum extension of sixty (60) days), then Company may immediately terminate for cause all or any part of this Agreement. Upon such termination, Provider shall be entitled to Services Costs in accordance with the terms of this Agreement and the applicable Order up to the date of the last provision of the Services.

7.5 Upon Termination. If Company elects to terminate any Services pursuant to Section 7.4, it may, in its discretion, require Provider to complete any partially-completed Deliverables, provided that Provider may invoice Company for the relevant Services Costs for the work involved.

7.6 Rights and Remedies. For the avoidance of doubt, the rights and remedies of Company under this Article 7 are in addition to and not in substitution for any other rights or remedies available to Company under any other Section of this Agreement, under any Order, or at common law or in equity.

8. BUSINESS CONTINUITY AND DISASTER RECOVERY

8.1 BC Plan. Provider shall, as part of the Services, in accordance with Company's BC Policies, develop, maintain, test and implement a business continuity plan in respect of the Services that provides for the emergency response and management, recovery, restoration and ongoing performance of the Services following any Disaster or any other discontinuation of business that disrupts such performance ("**BC Plan**"). Provider and Company shall cooperate to jointly develop and mutually approve the initial BC Plan within sixty (60) days after the Effective Date. If, as the result of the occurrence of a Disaster and subsequent implementation of the BC Plan by Provider, the volume and/or scope of Services or the cost of providing the Services is materially increased, the Provider may, within thirty (30) days after the occurrence of the Disaster, submit a Change Request to Company with respect to Provider's implementation of the BC Plan, in which case Provider shall submit a proposal with respect to the proposed Change and the Change Request shall be resolved in accordance with the provisions of Section 5.5. Provider's failure to submit a Change Request prior to the expiration of such thirty-day period shall constitute a waiver of any right to seek a modification of the Services Costs and Provider's Shared Savings metrics under this Agreement in connection with implementation of the BC Plan or any schedule obligations under this Agreement and the applicable Order impacted by the implementation of such BC Plan.

8.2 BC Principles. The BC Plan shall be sufficient to ensure that Provider is able to continue providing the Services if there is a Disaster (i) affecting Company or (ii) affecting only Provider and not Company. Without detracting from the general principles set forth above, each BC Plan shall:

(i) Provide for the prompt and efficient handling of incidents, disruptions, interruptions or Disasters that impair Provider's ability to perform the obligations of Provider under this Agreement and the relevant Order;

(ii) Consider the following assumptions in the planning process: single building failure; wide-scale disruption; loss of data center and information systems; loss of critical staff; and the ability to access pre-staged supplies and equipment under most likely circumstances;

(iii) Comply with the BC Policies;

(iv) Provide and replenish supplies and equipment necessary for response and recovery; and

(v) Provide for notification procedures (24X7, 365), including home phone numbers to include key contact information for purposes that the Company can notify/activate Provider's response.

8.3 Content of BC Plan. The BC Plan shall be set forth in Exhibit P (Business Continuity Policies) or the relevant Order and Provider shall specifically include in such BC Plan the following:

(i) Procedures whereby Provider shall test the effectiveness of the BC Plan and Provider's ability to restore the Services, as documented in the BC Plan;

(ii) Procedures whereby Provider shall deliver to Company the appropriate periodic reports confirming Provider's ongoing compliance with the BC Policies and other Company Policies; and

(iii) Identification of a person or persons to be responsible for the BC Plan to serve as a liaison point between Company and Provider.

8.4 Modification of BC Plan. Provider acknowledges that the BC Plan may require modification during the Term or Termination Assistance Period or the term of any relevant Order as a result of changes in law applicable to Company, and/or changes in the BC Policies. Provider shall cooperate with Company and promptly implement such changes in order to permit Company to comply with such changes. If any change is required to a BC Plan as a result of a change in any of the BC Policies, such change will be implemented by Provider through the Change Control Process.

8.5 Compliance and Maintenance of BC Plan. Once a BC Plan is deemed appropriate, Provider shall comply with the requirements set forth in such BC Plan as it relates to this Agreement or the relevant Order. Provider shall maintain the BC Plan throughout the Term or the term of the relevant Order and Termination Assistance Period and implement the relevant BC Plan in accordance with its terms as part of the Services in order to minimize the effect of a Disaster or other incident affecting the provision of the Services to Company.

8.6 Periodic Review. Provider shall periodically review (at least every twelve (12) months) each BC Plan and discuss with Company any such review so as to confirm that it meets Company's requirements from time to time. Company shall have the option at any time to have the BC Plan reviewed by an independent third party at Company's cost. The results of such review shall be discussed with Provider and, where appropriate, implemented by Provider.

8.7 Periodic Testing. Provider shall periodically test (at least every twelve (12) months) all recovery strategies and critical systems and infrastructure as identified in the BC Plan. Provider shall discuss and agree to such testing with Company and allow Company the opportunity to participate, observe and monitor the testing. After the testing has been concluded, Provider shall provide Company with a detailed summary of the results applicable to the Services and with an action plan to remedy any inadequacies highlighted by the testing. This may be required to be accomplished through participation in Company-directed exercises (including without limitation call tree, table top or full scale disaster walkthrough exercises).

8.8 Crisis Management Procedures. Provider shall maintain current documented crisis management procedures and shall inform Company immediately upon becoming aware that a Disaster has occurred or is likely to occur. Following the occurrence or knowledge of the likely occurrence of a Disaster, Provider shall immediately invoke its crisis management procedures implementing the BC Plan while fully communicating the status to Company throughout its implementation of the BC Plan.

9. ACQUISITION AND DIVESTMENT SUPPORT

9.1 Rights Upon Divestiture. In the event that Company divests an entity or business unit, Provider shall, at Company's request, continue to provide the Services to Company and such divested entity or business unit at the Services Costs and on the terms and conditions then in effect if appropriate to the scale of Services, provided that such divested entity will agree to comply with the terms and conditions of this Agreement. At Company's request, Provider shall separately invoice such divested entity. To the

extent applicable, Services and Deliverables for Company and its divested entity shall be combined for purposes of determining Services Costs. Provider shall not unreasonably withhold, delay or condition its consent to novation of this Agreement in parts as relates to the divested entity or business unit and the Services remaining to be provided to Company. In the event the Parties are not able to reach agreement regarding such a novation and Company elects to terminate some or all of the Services as they relate to the acquired or divested entity, Provider shall provide Termination Assistance Services as requested by Company or to the acquired or divested entity in accordance with the terms of this Agreement.

9.2 Ongoing Support. Subject to Section 9.4, Provider shall provide to Company, and Company shall pay the costs of, the following support in relation to any actual or potential divestments:

(i) Assist Company in planning, preparing and implementing any transition or changes related to the Services as a result of such divestment;

(ii) Perform infrastructure changes as a result of such divestment;

(iii) Perform increased data and physical security as a result of such divestment; and

(iv) Perform increased disaster recovery planning.

9.3 Potential Acquisitions. Subject to Section 9.4, in relation to potential business acquisitions by Company of a business or entity that may have requirements for Services, Provider shall provide Company, and Company shall pay the incremental costs, with the following support:

(i) Assist Company in planning, preparing and implementing any transition or changes related to the Services as a result of an acquisition;

(ii) As part of these activities, perform an analysis of the acquired business' (or to-be-acquired business') current facilities management and related services and the impacts to the acquired business and Company;

(iii) Taking into account economies of scale and other synergies between the acquired business and Company, use reasonable efforts to reduce Services Costs associated with the Services;

(iv) Perform infrastructure changes due to an acquisition;

(v) Perform increased data and physical security as required;

(vi) Provide temporary staffing as required ensuring uninterrupted Services; and

(vii) Perform increased disaster recovery planning, as may be required.

9.4 Support Fees. Provider shall provide acquisition and divestment support as described in this Article 9 as part of the Services to the extent that such acquisition support may appropriately be provided using Direct Provider Labor and applicable resources then primarily assigned to the performance of the Services without adversely impacting Service Levels or Provider's ability or costs to perform such Services. If acquisition or divestment support will require the use of different or additional resources beyond that which Provider is then using to provide the Services in accordance with the Service Levels, then Provider may request that Company execute an Order with respect to such acquisition or divestment support services and pay Provider's reasonable incremental costs in accordance with Article 5 above.

10. BENCHMARKING

10.1 Generally. Company shall have the right to conduct benchmarking exercises in accordance with this Article 10 to measure Provider's performance in relation to the Services and the Services Costs associated with the Services to determine if the Provider's performance matches, and the Services Costs, are in line with Best Practices. A benchmarking exercise may be initiated by the Company by giving not less than thirty (30) days notice to Provider. Company may elect to have benchmarking conducted in relation to any or all of the Services, including any particular Services Categories, Subcontracts and/or Supply Contracts (a "**Benchmark Category**"). The Benchmarker shall not be a Provider Competitor. Each Party shall provide cooperation and assistance to facilitate the benchmarking process, including making staff and all relevant information and materials available to the Benchmarker. Provider shall have the right to give input into the selection of the Benchmarker.

10.2 Process. Unless agreed otherwise by the Parties, the Benchmarker shall base its assessment on the data from the twelve (12) month period immediately proceeding initiation of the benchmarking process, provided that for Subcontracts and Supply Contracts, the Benchmarker also can take into account the then prevailing market terms and practices for similar types of contracts. The Parties shall ensure that benchmarking exercises are carried out in a way that causes no disturbance to the performance of the Services or to the Company's underlying business.

10.3 Tasks. For each Benchmark Category that is the subject of benchmarking, the Benchmarker shall perform at least the tasks described below. The Benchmarker may decide in its reasonable discretion how those tasks are to be carried out. The Benchmarker shall:

(i) Compare the price of Comparable Services with the then-current Services Costs for each Benchmark Category against which benchmarking is undertaken;

(ii) Form a view on whether Provider has reasonably availed itself of all cost effective productivity improvements available through technology advances or otherwise since the Effective Date (or Order Effective Date, as applicable) or the last preceding benchmarking exercise involving the relevant Benchmark Category, whichever is later;

(iii) Recommend appropriate practices for adoption by the Parties for the conduct of the Services;

(iv) Present a full report of its findings to Provider and the Company jointly; and

(v) Be required to comply with the reasonable confidentiality requirements of both Parties.

10.4 Fees. [*****] shall pay the Benchmarker's fees and other out of pocket expenses incurred by the Benchmarker in connection with the benchmarking process. Provider may utilize Direct Provider Labor in connection with its coordination and cooperation with the Benchmarker, and otherwise each Party shall bear its own internal costs and expenses associated with the benchmarking.

10.5 Findings. The Benchmarker shall issue its initial report to the Parties within one-hundred-and-twenty (120) days of commencement of the requested benchmarking exercise. In conducting the benchmarking, the Benchmarker shall normalize the data used to perform the benchmarking to accommodate, as appropriate, differences in volume of services, scope of services, service levels, financing or payment streams, and other pertinent factors. Each Party shall be provided a reasonable opportunity (but no more than thirty (30) days) to review, comment on and request changes in the Benchmarker's proposed findings. Within ten (10) days of receiving any comments from the Parties, the Benchmarker shall issue a final report of its findings and conclusions. The Parties shall promptly meet to discuss the Benchmarker's findings.

10.6 Adjustment of Services Costs. If the benchmarking shows that the Services Costs for the relevant Benchmark Category are higher than the prevailing general market rate of charges for Comparable Services, [**]. Provider shall not be entitled to any increase in Services Costs or any reduction in the Service Levels, scope or standards of the Services in connection with the benchmarking unless otherwise agreed in writing by Company.

10.7 Service Levels. If the benchmarking shows that Provider's performance of the Services is at a level below Best Practice and without prejudice to any other right or remedy of Company, Company shall reasonably assist Provider in determining the causes of the variance, and [**]. The action plan may include, where appropriate, providing additional staffing, increasing levels of training, upgrading equipment and software, introducing new and improved tools and improving processes, and rebidding and/or replacing Subcontracts or Supply Contracts (including, without limitation, any Subcontracts or Supply Contracts that are performed by an Affiliate of Provider). To the extent that the causes of the variance arise as a result of technology decisions reached jointly by the Parties and Provider is using such technology as intended by the Parties, Provider shall not be obliged to mitigate or reduce the variance.

10.8 Termination. If Provider fails to improve deficient Service Levels to meet Best Practices or reduce Services Costs to eliminate any above-market variance in accordance with this Article 10, and without prejudice to any other rights or remedy of Company, Company shall be entitled to terminate this Agreement or all or some of the Services with respect to the deficient or above-market Benchmark Category, and no termination fee or charge shall apply with respect to such termination.

10.9 Market Reviews. Independently from the benchmarking process set forth in this Article 10, Company may, from time to time, at its costs and expense, carry out market review exercises with the objective of assessing whether Company is obtaining the best value in respect of the Services Costs for some or all of the Services. Company, at its cost and expense, may appoint third parties to assist with such market reviews exercises on its behalf.

10.10 Access. Provider agrees that the relevant third parties shall have the right to access all materials and information that Company is entitled pursuant to this Agreement and any relevant Order solely for the purposes set forth in this Article 10 provided that such relevant third parties will agree in writing to be bound by confidentiality obligations substantially similar to those contained in Article 27 of this Agreement. Provider shall, on request, provide Company and such third parties with such assistance and information as they may reasonably require to facilitate the conduct of the benchmarking and/or market review exercise and the achievement of the market review objectives.

11. DELIVERABLES AND OWNERSHIP

11.1 Deliverables. Provider shall furnish to Company any Deliverables set forth in this Agreement and any Orders, and shall ensure that any such Deliverables meet the requirements and specifications set forth in this Agreement or the applicable Order. Unless otherwise set forth herein or in an Order, all Deliverables that use units of measurement shall use standard English units, and all Deliverables shall be written in the English language. Originals and copies of Deliverables shall be of the highest quality, legible, clear, full form and readable.

11.2 Ownership of Work Product. Company shall be the exclusive owner of all right, title, and interest in and to all Work Product and all Intellectual Property rights therein (excluding Provider Intellectual Property Rights), and Provider hereby assigns to Company all right, title, and interest therein. Provider shall, at request of Company, perform any acts that Company may reasonably deem necessary or desirable to evidence or confirm Company's ownership interest in the Work Product and Intellectual Property rights therein, including but not limited to making further written assignments in a form determined by Company.

11.3 Transfer of Work Product. Unless otherwise requested by Company, Provider shall transfer to Company all Work Product and any reproductions thereof immediately upon (i) completion of the

Services to be performed under each Order or earlier termination of such Order, (ii) termination of this Agreement, or (iii) five (5) business days after Company's written request. Provider shall not use Work Product for any purposes other than fulfilling Provider's obligations hereunder without Company's prior written consent.

11.4 Review of Deliverables. Concurrent with furnishing the Deliverables (in either draft or final form) to Company, Provider shall provide Company with such information as may be required or necessary and in such degree of detail to allow Company to review and approve such Deliverables on a fully informed basis. Such review and approval of Deliverables by Company shall not relieve Provider of any of its obligations or liabilities hereunder. No Deliverables, the final forms of which have been approved by Company, shall be changed or revised by the Provider without the written consent of Company.

11.5 Inspection and Testing. Unless expressly provided otherwise in an Order, the procedure provided under this Section 11.5 shall apply to the acceptance of all Deliverables (i) that include computer software or Equipment, or (ii) for which the applicable Order specifies inspection and testing. Company shall test all Deliverables against the acceptance criteria set forth herein or in the applicable Order. If, in Company's reasonable judgment, a Deliverable does not meet such criteria, Company shall notify Provider in writing of the deficiency in such Deliverable, and Provider shall promptly, at its expense and in no event more than twenty (20) days after receiving notice of such deficiency, cure any such deficiencies and provide a corrected Deliverable to Company, or in the event that no cure is possible within such twenty (20) day period, Provider shall provide to Company a plan and schedule for curing such deficiencies. Any corrected Deliverable shall be subject to the same acceptance criteria and be evaluated for acceptance by Company as if it were the original Deliverable, provided that Provider shall have no more than two (2) opportunities to correct the defects in any Deliverable. After such two (2) opportunities to correct the defects, Company shall have the option (i) of having Provider continue to correct such defect under the terms of this Section 11.5, or (ii) to finally reject such Deliverable, to receive its money back for such Deliverable, and to terminate, at its option, the applicable portion or the entire Agreement or the relevant Order related to the defective Deliverable, [*****]. The foregoing remedy is in addition to Company's other rights and remedies at law and under this Agreement.

11.6 Obligations of Provider Personnel. Provider shall ensure, at no cost to Company, that all of Provider Personnel who contribute to any Work Product have agreed in advance in writing that such contributions are assigned to Company or Provider. If any agreements with any of Provider Personnel provide such rights to Provider rather than to Company, Company shall acquire all ownership rights therein pursuant to Section 11.2.

11.7 Provider Intellectual Property Rights; License of Provider Intellectual Property Rights. Company acknowledges and agrees that Provider is the exclusive owner of all right, title and interest in and to all Provider Intellectual Property Rights, and except as otherwise provided herein, no rights in or to the Provider Intellectual Property Rights are granted, transferred or conveyed to Company on account of this Agreement. During the Term of this Agreement and thereafter as provided in Section 18.6, Provider hereby grants to Company an irrevocable, non-exclusive, worldwide (if applicable), royalty-free license under all Provider Intellectual Property Rights included in or necessary to utilize the Work Product, to prepare, compile, install, make, use, execute, access, reproduce, modify and/or adapt the Provider Intellectual Property Rights in order for Company to utilize the Work Product as contemplated by this Agreement. The license granted hereunder shall include the right of Company to grant to Company Affiliates, agents and representatives the right to do any of the foregoing, provided that such Affiliates, agents and representatives use the Provider Intellectual Property Rights solely in connection with the use of the Work Product as contemplated by this Agreement.

11.8 [Intentionally Omitted]

11.9 License Rights in Bankruptcy. All rights and licenses granted under this Section 11.9 by Provider to Company are, and shall otherwise be deemed to be, for purposes of Section 365(n) of the United States Bankruptcy Code ("**Code**"), licenses to rights to "intellectual property" as defined under the Code. The Parties agree that Company shall retain and may fully exercise all of its rights and elections under

the Code. The Parties further agree that, in the event of the commencement of bankruptcy proceedings by or against Provider under the Code, Company shall be entitled to retain all of its rights under this Section 11.9, including any licenses granted hereunder.

12. RELATIONSHIP BETWEEN COMPANY AND PROVIDER

12.1 Account Executives. Each Party shall designate an account executive (each an "**Account Executive**") who shall serve as the primary representative to the other Party with respect to performance of such Party under this Agreement and who shall be considered Key Provider Personnel hereunder. The Account Executive for each Party shall (i) have overall responsibility for managing and coordinating the performance of such Party's obligations under this Agreement, and (ii) be authorized to act for and on behalf of such Party with respect to all matters relating to this Agreement in coordination with such Party's other relevant Personnel. Before designating an employee as an Account Executive, Provider shall notify Company of the proposed assignment, shall introduce the individual to appropriate representatives of Company, and shall provide Company with a resume and such other information regarding the individual that may be reasonably requested by Company. Provider's appointment or replacement of any Account Executive shall be subject to Company's prior consent. The Account Executives of each Party and other Key Provider Personnel as of the Effective Date are as set forth in Schedule 7 (Key Provider Personnel) of Exhibit A (Description of Services) or in the applicable Order. [*****]

12.2 Program Managers. Each Party shall designate a project manager for the Services to be performed under this Agreement and each Order (each a "**Program Manager**"). Each Program Manager shall be deemed to have authority to issue, execute, grant or provide any approvals, requests, notices or other communications required hereunder or requested by the other Party in connection with the Services under this Agreement or such Order.

12.3 [Intentionally Omitted]

12.4 Policies and Procedures Guide. Provider shall develop within 90 days after the Effective Date and maintain a policies and procedures guide (the "**Policies and Procedures Guide**") that describes how Provider shall perform and deliver the Services under this Agreement and each Order, the Equipment and software being used, and the documentation (e.g., operations manuals, user guides, specifications) that provides further details of such activities. The Policies and Procedures Guide shall describe the activities Provider proposes to undertake in order to provide the Services, including the direction, supervision, monitoring, staffing, response times, controls, reporting, communications, planning and oversight activities normally undertaken to provide services of the type Provider is to provide under this Agreement. The Policies and Procedures Guide also shall include descriptions of the acceptance testing and quality assurance procedures approved by Company, Provider's problem management and escalation procedures, process for the delivery of all applicable Services, prioritization procedures and any specific reporting requirements for the particular Services, and the other standards and procedures of Provider pertinent to Company's interaction with Provider in obtaining the Services. The Policies and Procedures Guide shall be suitable for use by Company to understand the Services.

12.5 Development of Guide. Within sixty (60) days after the Effective Date and each Order Effective Date, Provider shall deliver an initial draft Policies and Procedures Guide to Company for Company's review, comment and approval. Company shall provide its approval or comments and suggestions within thirty (30) days of receipt of the draft Policies and Procedures Guide. Within thirty (30) days of receiving Company's comments or suggestions, Provider shall incorporate such comments or suggestions and re-submit the Policies and Procedures Guide for Company's approval. Throughout the Term and Termination Assistance Period, Provider shall be responsible for updating the Policies and Procedures Guide to ensure that it remains current and reflects any changes to the Services, operations and business processes, and any changes or updates to the Policies and Procedures Guide shall be provided to Company for review, comment and approval.

12.6 Conflicts. Provider shall perform the Services in accordance with the Policies and Procedures Guide, provided however that until such time as the Policies and Procedures Guide is developed,

Provider shall provide the Services in accordance with the policies and procedures being followed by Company immediately prior to the Effective Date and each applicable Order Effective Date. In the event of a conflict between the provisions of this Agreement and the Policies and Procedures Guide, the provisions of this Agreement shall control.

12.7 Knowledge Transfer. Upon the request of Company, Provider shall provide Company, at no additional cost, with training of its Personnel on Provider's premises for the purpose of transferring to Company the know-how of Provider used to perform the Services. Such knowledge transfer may be accomplished using Direct Provider Labor and available resources dedicated to the Services provided that the use of such persons and resources does not adversely affect the performance of the Services. The knowledge transfer shall be sufficient to enable Company to perform the Services in the event of a Step-In or other event resulting in transfer of the Services to Company. Any such transfer of knowledge shall not act as a transfer of any Provider Intellectual Property Rights except as described in Article 11 of this Agreement; provided that such transfer shall include all know-how for purposes of using the licenses granted pursuant to Article 11.

12.8 Transferred Employees. In the event the Transition Plan or an Order provides for the transfer of Company employees to Provider, Provider shall comply with the provisions thereof with respect to providing offers of employment to such Company employees that Provider intends to hire for the purposes of providing the Services after the Effective Date or the applicable Order Effective Date ("**Transferred Employees**"). Such Transferred Employees will be covered by the provisions of Section 13.11 of this Agreement. Accordingly, Provider shall treat the Transferred Employees as its employees for all purposes, including tax reporting and employee benefits, and that Provider will obtain from each Transferred Employee a signed statement in a form acceptable to Company [*****]. Furthermore, Provider agrees that it will supervise, pay, evaluate, and set the hours of work of the Transferred Employees pursuant to the terms hereof or of the Order, provide the Transferred Employees with all necessary tools, supplies, offices and equipment, and provide training to the Transferred Employees on how to perform their services.

12.9 [Intentionally Omitted]

12.10 Qualified Personnel. Provider shall hire, train, assign and retain an adequate number of Personnel, including without limitation supervisory and administrative staff, to perform its obligations under this Agreement and each Order at all times, including periods during which Personnel actively deployed in the provision of Services are unable to provide the Services due to sickness, holiday or any other such absence. All Provider Personnel shall be competent, qualified, trained, honest, trustworthy, reliable and non-violent, and shall not pose a risk of serious harm to others.

12.11 Designation of Key Provider Personnel. Company and Provider may designate certain employees of Provider as key employees ("**Key Provider Personnel**"), who shall be dedicated to Company's account (and stationed at locations approved by Company) as regards the Services to be performed under this Agreement and an applicable Order, which Key Provider Personnel shall be named in Schedule 7 (Key Provider Personnel) of Exhibit A (Description of Services) or the relevant Order, if known. Provider shall cause each of the Key Provider Personnel to devote substantially full time and effort to the provision of the Services for at least [*****] from the date that each such Key Provider Personnel assumes the respective responsibilities. Before designating an employee as, or replacing, a Key Provider Personnel, Provider shall notify Company of the proposed assignment within at least thirty (30) days prior to such planned designation, shall introduce the individual to appropriate representatives of Company, and shall provide Company with a résumé and other information regarding the individual that may be reasonably requested by Company. Provider's appointment of any Key Provider Personnel shall be subject to Company's prior written consent. If Company objects in good faith to the proposed designation of any Key Provider Personnel, the Parties shall attempt to resolve Company's concerns to the reasonable satisfaction of Company. If the Parties have not been able to resolve Company's concerns within five (5) business days, Provider shall (1) not assign the individual to that position and (2) propose to Company the assignment of another individual of suitable ability and qualifications.

12.12 Replacement or Reassignment of Key Provider Personnel. Except as a result of voluntary resignation or a termination For Cause (as used in this Agreement with respect to termination of Personnel **"For Cause"** shall mean theft, fraud, violence, harassment, discrimination, gross misconduct, or the like), Provider shall not, without obtaining a prior written approval from Company, reassign or replace any Key Provider Personnel for the shorter of (i) the duration of the Services to be performed under this Agreement or the relevant Order, or (ii) [*****] after designation as a Key Provider Personnel. Thereafter, Provider may only replace or reassign a Key Provider Personnel after [*****] notice to Company, except: (i) upon written consent of Company, not to be unreasonably withheld; (ii) upon a Key Provider Personnel's voluntary resignation from Provider; (iii) upon the dismissal of a Key Provider Personnel by Provider; or (iv) upon the inability of a Key Provider Personnel to work due to sickness or disability.

In the event that any Key Provider Personnel is reassigned or otherwise removed from performing certain Services before such Services are completed, Provider shall as soon as practicable, and subject to the approval of Company, assign an appropriate replacement who shall thereafter be designated as a Key Provider Personnel. In order to ensure a smooth transition between such Key Provider Personnel, Company and Provider shall jointly agree (such agreement not to be unreasonably withheld, conditioned or delayed by either Party) upon an appropriate overlap period during which both the Key Provider Personnel being reassigned or removed and the replacement Key Provider Personnel are assigned to support the provision of Services under this Agreement or the relevant Order(s). Unless otherwise agreed by the Parties, under no circumstances shall Provider transfer or remove more than ten percent (10%) of the Key Provider Personnel in any given six (6) month period other than terminations For Cause.

12.13 Special Replacement or Reassignment. In the event that Provider desires to replace or reassign a Key Provider Personnel for reasons other than those set forth in Section 12.12, Provider may make a written request to the Company Program Manager, who shall review such request on a case-by-case basis. In the event that the Company Program Manager reasonably declines Provider's request, Provider shall have the right to request that the issue be considered by representatives nominated by Company and Provider, who shall meet in good faith to discuss the request and resolve the matter, taking into account such factors as project impact, availability of alternate resources, and costs. In the event that such representatives are unable to resolve the matter, the determination of Company shall govern.

12.14 Staffing Issues. During the first twelve (12) months after the Effective Date, Provider shall give written notice to Company (a "**Staffing Notice**") within ten (10) days of the occurrence of either of the following: (i) more than ten percent (10%) of the employees (including all full-time and part-time employees) of Provider that have performed, or are scheduled to perform, Services either have (a) resigned their positions with Provider, (b) had their employment or engagement with Provider terminated by Provider, or (c) been assigned or proposed to be assigned by Provider to work for or on behalf of other clients of Provider; or (ii) Provider does not reasonably anticipate that it will have a sufficient number of qualified employees to complete the Services in a timely manner and consistent with the requirements of this Agreement. In the event such staffing issue occurs, Provider shall not be relieved from its obligations to provide the Services hereunder, and no later than ten (10) days after Provider provides such Staffing Notice, Provider shall develop and submit to Company for Company's approval an action plan (a "**Staffing Action Plan**") pursuant to which Provider shall retain a sufficient number of new employees, or otherwise assign employees from other divisions or Affiliates of Provider, to perform Services and to cause the Services to be completed in a timely manner and consistent with the requirements of this Agreement. Upon Company's approval of a Staffing Action Plan, Provider shall promptly and diligently implement such Company-approved Staffing Action Plan. Upon Company's request and otherwise on a monthly basis after Company's approval of a Staffing Action Plan, Provider shall provide Company with a written report describing any changes in Provider's staffing of the Services and any other facts and circumstances which may impact Provider's ability to provide adequate staffing to timely perform the Services in a manner consistent with the requirements of this Agreement.

12.15 Assignment to Company Competitors. Provider shall not assign an individual filling a Key Provider Personnel to the account of any Company Competitor without Company's prior written consent (1) while such individual is assigned to Company's account, and (2) for a period of [*****] following the date that such individual is removed from or ceases to provide services in connection with Company's account.

In the event an individual filling a Key Provider Personnel position voluntarily resigns from the employ of, or is involuntarily terminated by, Provider, Provider shall not be obligated to actively prevent such individual from becoming employed by a Company Competitor at any period of time thereafter. Should this Section 12.15 be declared unenforceable or invalid by a court with jurisdiction, on the basis that it exceeds statutorily required territorial or time limits on extensions of obligation not to compete, such a declaration will render this provision invalid only as it relates to the excess over what is allowed under Applicable Law. The provision will be deemed amended to comply with statutorily required limits.

12.16 Project Staff. Provider shall provide Company with notice prior to replacing any member of Provider Personnel assigned to perform the Services ("**Project Staff**"), and shall provide Company with immediate notice in the event any member of the Project Staff is replaced. Company reserves the right to review the qualifications of Project Staff. Provider shall use commercially reasonable efforts to maintain a stable Project Staff and shall replace Project Staff in a manner to prevent any material impact on the provision of Services. Provider acknowledges that all Personnel assigned to perform Services shall be required to execute all documents required under the Company Policies, including, but not limited to, the documents listed in Exhibit I (Company Standard Operating Procedures) and Exhibit J (Company Standard Policies). In addition, prior to performing Services, Provider shall cause its Provider Personnel to execute Company's Temporary Worker/Contractor Orientation Materials, including, but not limited to, the Assignment Guidelines, Non-Employee Information Security Agreement; Proprietary Information and Inventions Agreement for Non-Employees; List of Inventions and Works; Mutual Agreement to Arbitrate Claims; and Harassment/Discrimination Policy, set forth as Exhibit B (Company's Temporary Worker/Contractor Orientation Materials).

12.17 Company Request for Replacement. Company shall have the right to request in good faith that Provider remove any Key Provider Personnel or other Project Staff for any reason that does not violate Law. Such request shall be in writing, state Company's basis for requesting the removal of the Key Provider Personnel or other Project Staff, and be reviewed by Provider's Program Manager and Company's Program Manager to develop a mutually agreeable resolution. With respect to Key Provider Personnel, other Personnel or other Project Staff working on Company premises, (i) if requested by Company, Provider shall immediately remove such individual from Company premises pending resolution of the request and (ii) in the event that the parties are unable to develop a mutually agreeable resolution, Provider shall permanently remove such Key Provider Personnel or other Project Staff from the performance of the Services on Company premises in accordance with the Company's direction. Provider shall replace any Key Provider Personnel or Project Staff removed hereunder as soon as reasonably possible, with replacement Personnel approved by Company, which approval will not be unreasonably withheld or delayed. Nothing in this Section 12.17 shall operate or be construed to limit Provider's responsibility for the acts or omissions of Provider Personnel, or be construed as joint employment.

12.18 Review Meetings and Progress Reports. Upon the request of Company's Program Manager, each Party's Program Manager, as well as appropriate additional Personnel involved in the performance of Services, shall meet at a location designated by Company, or at Company's option, conduct a telephone conference call or web conference meeting, to discuss the Services. Unless otherwise agreed by Company, in order to facilitate proper management of Services under this Agreement and the applicable Order, Provider shall, at each such meeting (or if no meeting is solicited by Company, at least once each month during the Term and Termination Assistance Period), provide Company with a written status report in which Provider identifies any problem or circumstance encountered by Provider, or which Provider gained knowledge of during the period since the last such status report, that (i) may prevent or tend to prevent Provider from completing any of its obligations hereunder or under such Order, or (ii) may cause or tend to cause Provider to generate Services Costs in excess of those previously agreed by the Parties. If applicable, Provider shall identify the amount of excess Services Costs, if any, and the cause of any identified problem or circumstance and steps taken or proposed to be taken by Provider to remedy the problem or circumstance; provided, however, that Company shall not be billed or liable for any such excess Services Costs incurred by Provider without the prior written approval of Company in accordance with the Change Control Process.

12.19 Visits. Provider Personnel, including, but not limited to, Provider's Program Managers as requested by Company, shall, to the extent deemed necessary by Provider to provide direct support of the existing Services, at the expense of Company, visit any of Company's locations or the sites of third-party consultants or service providers of Company to discuss the Services. Company shall be obligated to reimburse travel expenses incurred in connection with such visits only to the extent such expenses are reimbursable under Provider's travel policies and Company's travel policies, and then only to the extent of the lesser of the aggregate amounts reimbursable under each policy. Company or its representative may at any time elect, at Company's expense and upon reasonable notice to Provider, to visit Provider's facilities at which Services are being performed. Provider shall make available specialists as designated by Company and Provider to discuss the Services.

12.20 Cooperation with Third Party Suppliers. Provider has been advised and acknowledges that, under separate agreements, Company may retain other providers or suppliers to perform certain services related to those Services to be performed hereunder by Provider (individually, a "**Third Party Supplier**" and collectively, "**Third Party Suppliers**"). Provider shall coordinate its performance hereunder with the services of Third Party Suppliers so as to facilitate successful completion of each project or performance of the Services, including without limitation providing cooperation and information to and attending meetings with such other suppliers to enable the successful implementation of their services. To the extent expressly included in Provider's obligations hereunder or under an Order or reasonably inferable therefrom, Provider shall (i) coordinate the Services with such other services as though such other services were performed by Provider, (ii) cooperate with Company and Third Party Suppliers so as to allow such Third Party Suppliers to provide any services (including services similar to the Services) or products in an integrated and seamless manner without disruption to Company's business or the Company Facilities, and (iii) to the extent included as part of the Services, manage the performance of Third Party Suppliers under the applicable agreements with Third Party Suppliers. Provider shall immediately notify Company when an act or omission of a Third Party Supplier may cause a problem or delay in Provider providing the Services and Provider shall cooperate with Company to prevent or circumvent such problem or delay.

12.21 Software and Hardware Verification. Unless otherwise set forth in an Order, (i) within thirty (30) days of the Effective Date or an Order Effective Date, or (ii) for new software or hardware used to provide Services, prior to implementing use of such new software or hardware, Provider shall verify that all software and hardware of Provider that will be used by Provider to provide the Services, and all interconnections to Company systems and networks, operate in accordance with their specifications and intended functions in a reliable manner. In the event that during such verification Provider finds any nonconformities, Provider shall provide to Company within the respective period specified in clause (i) or (ii) above, an action plan to eliminate such nonconformities within ninety (90) days. Prior to using any other software or hardware to provide the Services or creating new interconnections with Company systems and networks, Provider shall verify that such software, hardware or interconnection operates in accordance with its specifications and intended functions in a reliable manner. Prior to testing any such software, hardware or interconnections, Provider shall document the testing protocols to be used and submit such testing protocols to Company to obtain written approval thereof.

12.22 Continuous Improvement and Best Practices. Provider shall: (i) on a continuous basis, as part of its total quality management process, seek to improve the quality, pricing and technology available to Company in connection with the Services; (ii) seek to identify and apply proven techniques and tools from other installations within its operations that Provider and Company agree would benefit Company either operationally or financially; (iii) use commercially reasonable efforts to advise Company of any new developments relating to the Services; and (iv) upon Company's request, at a mutually agreeable price, assist in the evaluation and testing of such developments in connection with the performance of the Services. Without limiting the foregoing, on the request of Company, Provider shall (i) report to Company on any of the foregoing, and (ii) inform Company of any new products, processes, trends and directions of which Provider is aware, that may be relevant to Company's business.

12.23 Transitioned Personnel.

(i) Affected Employees.

Provider shall offer employment to those Affected Employees who Provider intends to hire and who are not in ARD Countries. The terms for such offers of employment and for employment of the Affected Employees shall be as set forth in Schedule 8 (Affected Personnel) to Exhibit A (Description of Services) or the applicable Order and shall comply with the requirements set forth in Exhibit F (Human Resources Provisions). Provider shall treat the Transferred Employees as its employees for all purposes, including tax reporting and employee benefits, and that Provider will obtain from each Transferred Employee a signed statement in a form acceptable to Company [*]. Provider shall supervise, pay, evaluate, discipline and set the hours of work of the Transitioned Employees, provide the Transitioned Employees with all necessary tools, supplies, offices and equipment, and provide training to the Transitioned Employees on how to perform their services.

(ii) Affected Contractors.

The Company contractor agreements identified in Schedule 10 (Assigned and Managed Contracts; Company Contractor Agreements) to Exhibit A (Description of Services) or the applicable Order (the "**Company Contractor Agreements**") shall be either assumed by Provider or terminated or allowed to expire as provided in the Transition Plan. Company shall be responsible for the costs, charges and fees associated with such actions. If requested by Company, Provider shall use commercially reasonable efforts to continue to use those Personnel of Affected Contractors identified in Schedule 8 (Affected Personnel) to Exhibit A (Description of Services) or the applicable Order as "Key Company Contractor Personnel" to perform the Services for the period specified therein.

(iii) Critical Affected Personnel/Key Transferred Employees.

Provider acknowledges that certain of the Affected Personnel are Affected Personnel who Company believes are critical to Provider in providing the Services ("**Critical Affected Personnel**"). The Critical Affected Personnel shall be identified by Company pursuant to the timing specified in Exhibit F (Human Resources Provisions) or, if applicable, for those Critical Affected Personnel identified in an Order, specified in that Order. Provider shall provide offers of employment to the Critical Affected Personnel and use good faith efforts to retain the Critical Affect Personnel in accordance with the terms and requirements of Exhibit F (Human Resources Provisions). During the first [*****] following the commencement of this Agreement or the applicable Order, Provider shall use the Critical Affected Personnel who become Transferred Employees (the "**Key Transferred Employees**"**)** to provide Services and shall not, without meeting the terms of this Section 12.23(iii), do the following: (A) terminate, except For Cause, the employment of any Critical Affected Personnel who become employees of Provider or (B) transfer, relocate or reassign any Key Transferred Employees unless such transfer, relocation or reassignment is initially requested by such Key Transferred Employee. In the event Provider intends to terminate, transfer, or reassign any Key Transferred Employees during the initial [*****] following the applicable employment effective date, Provider will (1) provide timely notice to Company of this termination, transfer, or reassignment, and (2) give due consideration to Company's concerns with respect to the impact of terminating, transferring, or reassigning unless such relocation, transfer or reassignment is initially requested by such Key Transferred Employee prior to so terminating, transferring, or reassigning any such person.

(iv) Acquired Rights Directive.

In accordance with its obligations under local legislation implementing ARD Laws, any relevant collective bargaining agreements and other Applicable Laws, Provider shall provide to Company in writing such information as is necessary so as to enable Company to carry out in good time its obligations to inform and consult under ARD Laws, and any other Applicable Laws. It is the Parties' intention that ARD Laws shall apply to each of the Affected Employees in ARD Countries ("**ARD Affected Employees**"), that the time of transfer under ARD Laws be the date of hire by Provider, and that the contract of employment between Company and each of the ARD Affected Employees shall have effect on and from the date of hire by Provider as if originally made between each such ARD Affected Employee and Provider. Provider shall comply with ARD Laws (and other Applicable Laws) with respect to the ARD Affected Employees before, on and after the date of hire by Provider. To the extent that any entitlement under a ARD Affected Employee's contract of employment or ancillary employment rights is not automatically transferred to Provider under ARD Laws (e.g., certain occupational pension rights in the United Kingdom), then [*****].

(v) Provider may not transfer the employment of the Transitioned Employees to any third party who is not performing any of the Services and shall during the Term remain the employer of the Transitioned Employees except only to the extent: (1) that ARD Laws shall apply to transfer the employment of any Transitioned Employees to any third party, Subcontractor or Supplier which, subject to the terms of this Agreement, Provider engages to perform any of the Services; or (2) that Provider shall terminate the employment of any Transitioned Employees for misconduct, incapability, or economic reasons.

(vi) If ARD Laws do not operate to transfer to Provider any ARD Affected Employee who is working in an ARD Country, Provider shall within fourteen (14) days of becoming aware that such ARD Affected Employee has not transferred make to the ARD Affected Employee an offer of employment on such terms that would have applied had the ARD Affected Employee transferred to Provider under ARD Laws, such offer to remain open for a period of twenty-eight (28) days. Provider shall reimburse Company for all costs of employing such ARD Affected Employee during the period up to and including the earlier of the date on which he or she commences employment with Provider and the date on which the offer of employment to be made by Provider expires.

(vii) The parties will set forth additional applicable provisions related to ARD Countries, ARD Laws, or ARD Affected Employees in an Order, including without limitation Service Costs and costs associated with the transfer or non-transfer of ARD Affected Employees.

13. SUBCONTRACTING AND RESPONSIBILITY FOR PERSONNEL

13.1 Subcontractors. Any subcontracting in connection with this Agreement shall be pursuant to an appropriate written agreement (a **"Subcontract"**) between Provider and such subcontractor (each, a **"Subcontractor"**) and shall include provisions that meet or exceed the requirements of this Agreement and that are relevant to the Services subject to such Subcontract. Provider shall not enter into any Major Subcontract except in compliance with Section 13.8 below. Additionally, Provider must obtain Company's prior written consent, not to be unreasonably withheld or delayed, if Provider plans to self-perform or have Provider's Affiliate perform any of the Services including without limitation Services that have previously been performed by Provider's Subcontractors or Third Party Suppliers. Each Subcontract shall identify Company as an intended third party beneficiary that may enforce any confidentiality, warranty and similar rights under such Subcontract. Each Subcontract shall require the Subcontractor, at no cost to Company, to correct such Subcontractor's performance not meeting the requirements of the Subcontract. All Subcontracts shall be for a term not to exceed the period for which Services are to be provided to Company and shall be terminable without cause at Provider's election upon no more than ninety (90)

days notice without termination penalty or charge. Company shall not be obligated to reimburse Provider for any termination penalty or charge incurred by Provider under a Subcontract except to the extent that, prior to entering into such Subcontract, Provider disclosed to and Company agreed in writing to reimburse therefor (any termination fees so agreed by Company, an **"Approved Subcontract Termination Fee"**). Company shall only be obligated to reimburse Provider for Approved Subcontract Termination Fees to the extent such are actually incurred and paid by Provider. Company shall have the right, at any time, to negotiate and contract directly with any subcontractor for any goods or services, including without limitation those to be provided hereunder, provided that any actual modification of the Services shall be made in accordance with the Change Control Process. If requested by Company, Provider shall promptly provide a copy of any Major Subcontracts or Subcontracts for amounts in excess of $20,000 to Company within ten (10) days after such request.

13.2 Certain Subcontractors. Company shall have the right to pre-approve Subcontractors for Major Subcontracts, and Company may reject such proposed Subcontractors in Company's good faith business judgment. The Subcontractors listed on Schedule 13 to Exhibit A (Approved Major Subcontracts) are approved for the initial Services indicated on such Schedule, provided that Company may modify such pre-approved list of Subcontractors from time to time with respect to future Subcontracts. Company shall have the right to specify the use by Provider of certain Subcontractors. Such specification by Company shall not (i) create any liability for Company to any Subcontractor or privity of contract between Company and any such Subcontractor, or (ii) relieve Provider of its obligations hereunder or constitute a representation or endorsement by Company that such Subcontractor is qualified or capable to perform. Provider shall not substitute or replace any Subcontractor approved or specified by Company if Company objects in good faith to such substitution or replacement. If (A) Provider determines that Company's specification of a Subcontractor materially increases the costs of the Services or (B) such Subcontractor does not agree to Subcontract terms and conditions required by this Agreement, then a Change shall be determined in accordance with the Change Control Process set forth in Article 5. Provider's failure to request a Change prior execution of the applicable Subcontract shall constitute a waiver of any right to seek a modification of the Services Costs or Provider's Shared Savings payable under this Agreement in connection with the applicable Subcontract.

13.3 Supply Contracts/Equipment Leases. Provider shall identify to Company Supply Contracts that are required to perform the Services in accordance with this Agreement or the applicable Order and the Service Levels. Such Supply Contracts shall be entered into by Company or Provider as determined by Company in its reasonable discretion. Company shall have the right to specify the use by Provider of certain Third Party Suppliers. Such specification by Company shall not (i) create any liability for Company to any Third Party Suppliers or privity of contract between Company and any such Supplier unless Company is a party to the applicable Supply Contract, or (ii) relieve Provider of its obligations hereunder or constitute a representation or endorsement by Company that such Supplier is qualified or capable to perform. Provider shall not substitute or replace any Supplier approved or specified by Company if Company objects in good faith to such substitution or replacement. If Provider determines that (i) Company's specification of a Supplier materially and adversely increases the costs of the Services or (ii) a designated Subcontractor does not agree to Subcontract terms and conditions required by this Agreement, then a Change shall be determined in accordance with the Change Control Process set forth in Article 5. Provider's failure to request a Change prior execution of the applicable Supply Contract shall constitute a waiver of any right to seek a modification of the Services Costs or Provider's Shared Savings payable under this Agreement in connection with the applicable Supply Contract. Company shall not be obligated to reimburse Provider for any termination penalty or charge incurred by Provider under a Supply Contract except to the extent that, prior to entering into such Supply Contract, Provider disclosed to and Company agreed in writing to reimburse such (any termination fees so agreed by Company, an **"Approved Supply Contract Termination Fee"**). Company shall only be obligated to reimburse Provider Approved Supply Contract Termination Fees to the extent such are actually incurred and paid by Provider. Provider shall provide a notice and, if requested by Company, copy of each Major Supply Contract and other Supply Contract in excess of $20,000 to Company within ten (10) days after execution of such Supply Contract. With respect to any Provider Equipment procured or leased by Provider as a Reimbursable Cost in connection with the Services, Provider's responsibilities shall include: (A) evaluating the Provider Equipment and the qualifications of the Provider Equipment vendor; (B)

negotiating commercially reasonable pricing and terms; (C) ordering, receiving, configuring, installing, testing, maintaining and distributing all new Provider Equipment; (D) performing tracking and asset management for all such Provider Equipment; and (E) tracking license counts, informing Company of any discrepancies with applicable license count restrictions, and assisting Company in restoring compliance with applicable license count restrictions. With respect to any new Provider Equipment leased by Provider that may be assumed by Company upon termination of this Agreement, (1) Supplier shall structure its leasing arrangements so that the applicable leases may be assigned to Company upon the termination or expiration of this Agreement and so that any ongoing payments under those leases payable by Company after such assignment are consistent with, and no greater than, the payments payable by Provider prior to such assignment, and (2) such leases shall be subject to prior review and approval by Company.

13.4 Supplier Diversity. Company desires to use small business entities that qualify as small (disadvantaged, veteran, service disabled veteran, women owned, and HUBZone) businesses (as defined by the United States Small Business Administration). In recognition thereof, Provider will work to develop additional suppliers, use reasonable efforts to employ qualified vendors and subcontractors where appropriate and feasible in providing the Services. Provider shall keep records of small business subcontracts and shall be able to produce a report, upon Company's request, of Provider's small business spend percentages along with any examples of good faith efforts to subcontract with small businesses. Those spend percentages and other requirements are listed in Attachment 2 to Exhibit J (Provider Diversity Plan).

13.5 Assignability. Provider shall structure its arrangements with Subcontractors and Third Party Suppliers that will be primarily dedicated to the performance of the Services so that the relevant contracts may be assigned to Company (or upon Company's request replaced with a novation of the Subcontract or Supply Agreement between Company and the applicable Subcontractor or Supplier) upon the termination of this Agreement as to the applicable Services covered by such Subcontract or Supply Agreement and so that there are no assignment or termination fees and the ongoing fees under those arrangements payable by Company after such assignment (or novation) are consistent with and no higher than the fees payable by Provider prior to such assignment (or novation). If Provider is not able to accomplish the foregoing after using commercially reasonable efforts, Provider shall notify Company and discuss with Company the consequences (including any impact on the Services and Service Levels) of Provider not being able to use the services from the provider who shall not allow the assignment sought by Company. If, following that discussion, Company directs Provider to not use such services, and Provider is not able to find a suitable work-around, Provider shall be relieved of its obligations under the Agreement to the extent its ability to perform is adversely impacted by the inability to use such third party services.

13.6 Control and Risk. Provider shall properly direct and control Subcontractors and Third Party Suppliers, and inspect Subcontractors' and Third Party Suppliers' performance for defects and deficiencies. No agreement between Provider and any Subcontractor or Supplier shall relieve Provider from any of its obligations or liabilities hereunder. Nothing in this Agreement or any Subcontract shall create any contractual relationship, with the exception of the above-mentioned third party beneficiary right, between Company and any Subcontractor including without limitation any obligation on Company's part to pay, or be responsible for the payment of, any sums to any Subcontractor.

13.7 Affiliates. Provider shall provide Company written notice regarding any Subcontractors or Third Party Suppliers that are Provider's Affiliates prior to entering into any agreement with an Affiliate in connection with the Services. Any such agreement shall be subject to Company's prior written consent. Any Subcontract or Supply Contract with an Affiliate that is considered a Reimbursable Cost shall not exceed market prices and shall not result in the payment of any profit to Provider or its Affiliate Subcontractor or Supplier. Company may elect, in its sole and absolute discretion, to cause any Subcontract or Supply Contract that is considered a Reimbursable Cost and that Provider proposes to award to an Affiliate to be competitively bid in accordance with Section 13.13 to bidders that are not Provider's Affiliates.

13.8 Payments to Subcontractors and Third Party Suppliers. Except to the extent Company has either withheld payment or not timely made a properly invoiced payment with respect to such Subcontractor or

Supplier, Provider shall promptly pay each Subcontractor and Supplier the amount to which such Subcontractor or Supplier is entitled no later than the due date for payment under the applicable Subcontract or Supply Contract unless (i) Provider has a good faith dispute regarding the charges of such Provider Personnel, (ii) the terms of the Subcontract or Supply Contract between Provider and Provider Personnel permit Provider to withhold payment in the event of a good faith dispute and (iii) Provider has not billed Company and been paid by Company for the contested amounts. Provider shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to its own approved sub-subcontractors in a similar manner. Upon request, Provider shall submit to Company copies of all checks and payments to Subcontractors. Should Provider neglect or refuse to cause to be paid promptly any bill or charge legitimately incurred by Provider in support of the Services, Company shall have the right, but not the obligation to, pay such bill or charge directly, and Provider shall immediately reimburse Company for the same. If Provider does not so reimburse Company, Company may offset the amount of such bill or charge pursuant to Section 21.4. With respect to any Subcontracts or Supply Contracts being paid for by Company as Reimbursable Costs or which costs otherwise directly affect the Services Costs, Provider shall exercise reasonable efforts to qualify for early payment, cash and trade discounts, refunds, rebates, credits, and concessions, and Company shall be credited with the full amount of any such discount, commission, or compensation obtained or received by Provider, directly or indirectly, in connection with any such contracts.

13.9 Notice of Breach. Provider shall provide Company with prompt written notice of all actual or potential disputes with Subcontractors and Third Party Suppliers, including, without limitation, breaches, defaults, insolvencies, defects in Subcontractor's and Supplier's services, and work stoppages. Such notice shall include the reasons and circumstances giving rise to such disputes in such detail so as to enable Company, in its sole discretion, to exercise any of its rights or remedies against such Subcontractor or Supplier, or to require Provider to obtain Company's prior written approval of any settlement. Notwithstanding the foregoing, neither the provisions of this Section 13.9 nor the exercise by Company of any of its rights or remedies shall relieve Provider of any of its obligations or liabilities under this Agreement.

13.10 Control of Subcontractors and Other Personnel. Provider shall be responsible for (i) [*] management and coordination of the performance of all such Personnel and Affiliates. [**]** Subject to Section 13.8 above, Provider shall be responsible for all payments to, and claims by, Provider Personnel and Provider's Affiliates relating to this Agreement and to the Services performed hereunder.

13.11 Not Company Employees. Provider acknowledges and agrees that Company shall have no responsibility or liability for treating Provider Personnel (including without limitation Transferred Employees and Key Transferred Employees) as employees of Company for any purpose. Neither Provider nor any of Provider Personnel shall be eligible for coverage or to receive any benefit under any Company provided worker's compensation plans, employee plans or programs or employee benefits arrangement, including without limitation any and all medical and dental plans, bonus or incentive plans, retirement benefit plans, stock plans, disability benefit plans, life insurance and any and all other such plans or benefits.

13.12 Co-Employment; Joint Employer; Common Law Employee. Provider acknowledges that some or all of its Personnel may be assigned or deployed to work within Company Facilities. Provider further acknowledges that some or all of its Personnel may be former Company employees. Finally, Provider acknowledges, with respect to the Personnel referenced in this Section 13.12, in particular, but inclusive of all of Provider's Personnel, there is a risk that such Personnel may attempt to assert claims predicated on the allegation (i) that Company and Provider are their joint employers; (ii) that Company and Provider are their co-employers; and/or (iii) that they are the common law employees of Company. Provider shall use its best efforts to provide its Personnel adequate supervision, evaluations and feedback, and shall, as appropriate, monitor and evaluate each of Provider's Personnel's functioning in the workplace while assigned to work at a Company Facility, and shall use its best efforts to ensure that none of Provider's Personnel are, either directly or indirectly, supervised by, directed by or controlled by Company Personnel. In the event that Provider or any of its Personnel determine that said Personnel are, either directly or indirectly, being supervised, directed or controlled by Company Personnel, Provider shall immediately notify Company of same and shall take all necessary steps, including, but not limited to, coordinating with Company management Personnel to terminate such supervision, direction or control.

13.13 Competitive Bidding. Unless otherwise permitted in this Section 13.13, all Major Subcontracts and Major Supply Contracts shall be awarded on the basis of competitive bidding, solicited in the following manner:

(i) A minimum of three (3) written bids shall be obtained from qualified vendors. Company shall have the right to pre-approve bidders for Major Subcontracts.

(ii) Company reserves the right to review and amend bid specifications prior to solicitation;

(iii) Provider shall disclose to Company any relationship Provider may have with any prospective bidder, including if such is an Affiliate.

(iv) All bids in excess of [*] are subject to the approval of Company. Company reserves the right to accept or reject any and all bids.

(v) Provider must obtain the prior written approval of Company prior to accepting any bid that (A) is not the lowest bid, or (B) is from an Affiliate.

(vi) If Provider recommends acceptance of any bid other than the lowest bid, Provider shall adequately support, in writing, its recommendation to Company. Company shall be free to accept or reject, in its sole discretion, any and all such bids.

(vii) Provider shall obtain proof of insurance from the selected vendor prior to commencement of services.

Subject to Company's prior written approval, certain Major Subcontracts and Major Supply Contracts may be entered into without competitive bidding, which may include Provider use of national or global contracts or sole-source direct negotiation. In this case Provider shall prove the economic or qualitative benefit of this approach to Company's reasonable satisfaction.

13.14 Labor Management. Provider shall meet the Standard of Care in its efforts to prevent and avoid labor-related disputes or other human resources issues which may disrupt or interfere with the performance of the Services or the activities of Company or Third Party Suppliers. To the extent that Company has requested or Provider has communicated to Company plans with respect to labor usage for a portion of the Services, Provider shall manage the award and performance of the affected Services consistent with such plan. Whenever Provider has knowledge of any actual or potential labor dispute or disruption involving Provider's Personnel that may materially affect the Services or operations of Company or Third Party Suppliers, Provider shall promptly notify Company of such and the Parties shall cooperate to minimize the effect of such dispute or disruption on the provision of Services, Company's operations and Third Party Suppliers' performance, whether or not such labor dispute or disruption occurs at a Company Facility. With respect to all labor disputes, jurisdictional or other shutdowns, slowdowns, strikes, or other work stoppages or actions affecting the Services or the operations of Company (collectively, "**Labor Disputes**") of which Provider or a union with which Provider has a collective bargaining agreement is a target, Provider shall promptly take all commercially reasonable necessary action toward elimination and/or settlement of such Labor Disputes; provided, however, that the cost of Labor Disputes of which Provider is a target shall be borne by Provider except to the extent any such Labor Dispute is the direct result of an act or omission of Company or arises directly out of the decision by Company to enter into this Agreement and reasonably near in time to the date of transition of the Transferred Employees to Provider. With respect to Labor Disputes in which Company, one of its Affiliates, or a union with which it or they have a CBA is a target, Provider shall exert its best efforts to continue providing Services. Notwithstanding the foregoing, neither the provisions of this Section 13.14 nor the exercise by Company of any of its rights and remedies hereunder shall relieve Provider of any of its obligations or liabilities hereunder.

14. ASSIGNED AND MANAGED CONTRACTS

14.1 Assigned Contracts. In accordance with the Transition Plan or the applicable Order, and subject to Provider having obtained any applicable Required Consents, Company shall assign to Provider, and Provider shall assume from Company, the Assigned Contracts set forth in Schedule 10 to Exhibit A (Assigned and Managed Contracts/Company Contractor Agreements) or the applicable Order. Provider shall pay directly, or reimburse Company if Company has paid, the charges and other amounts under the Assigned Contracts, where such charges are attributable to the periods on or after the Effective Date or the Order Effective Date, subject to reimbursement of such charges that are considered Reimbursable Costs. Provider shall comply with the duties imposed on Company under such contracts. Company shall pay any costs, expenses and fees (including license, re-licensing, transfer or upgrade fees or termination charges) as may be required to obtain the Parties' respective Required Consents.

14.2 Managed Contracts. In accordance with this Agreement and the applicable Order, and subject to Provider having obtained any applicable Required Consents, Provider shall manage, administer and maintain the Managed Contracts. Provider shall provide Company with no less than 90 days notice of any renewal, termination or cancellation dates and fees with respect to the Managed Contracts. Provider shall not renew, modify, terminate or cancel, or request or grant any consents or waivers under any Managed Contracts without the consent of Company. Any fees or charges or other liabilities or obligations imposed upon Company in connection with any such renewal, modification, termination or cancellation of, or consent or waiver under, the Managed Contracts that is obtained or given without Company's consent, which consent shall not be unreasonably withheld or delayed, shall be paid or discharged, as applicable, by Provider.

14.3 Managed Contract Invoices. Provider shall (i) receive all Managed Contract invoices, (ii) review and correct any errors in any such Managed Contract invoices in a timely manner, and (iii) submit to Company for payment.

14.4 Performance Under Managed Contracts. At all times Provider shall remain responsible for the management, administration and maintenance of the Managed Contracts. With respect to the performance of contractors under Managed Contracts, Provider shall promptly notify Company of any breach of, or misuse or fraud in connection with, any Managed Contracts of which Provider becomes aware or receives written notification, and shall cooperate with Company to prevent or stay any such breach, misuse or fraud. Provider shall not be liable for (i) any breach of, or misuse or fraud in connection with, by a contractor under any Managed Contract or (ii) for Provider's failure to provide the Services or to meet the Services Levels as a result of any breach, misuse, or fraud by a contractor under a Managed Contract except to the extent such breach, misuse or fraud resulted from Provider's failure to prudently manage, administer and maintain the Managed Contract.

14.5 Provider Required Consents. Provider, with the necessary cooperation of Company, shall obtain and maintain any consents, authorizations or approvals that are necessary for Provider to provide the Services (collectively, the "**Provider Required Consents**"), including those consents that are necessary to allow:

(i) Provider to assign to Company any of its interests in Work Product as described in Article 11;

(ii) Company to use any Provider Equipment during the Term and the Termination Assistance Period;

(iii) Company to take an assignment to any Provider Equipment leases pursuant to Article 31; and

(iv) Provider to take an assignment to any Assigned Contracts pursuant to this Article 14.

14.6 Company Required Consents. Company, with the cooperation of Provider, shall obtain and maintain all consents, authorizations or approvals that are necessary to allow Provider to use any of the Company Provided Equipment as permitted in the Agreement.

14.7 Compliance with Required Consents. Provider and Company shall comply with the requirements of each of the required consents.

14.8 [Intentionally Omitted]

14.9 Alternative Approaches. If either Party is unable to obtain a required consent, then, unless and until such required consent is obtained, Provider and Company shall determine and adopt such mutually agreeable alternative approaches as are necessary and sufficient to provide the Services without such required consent. If such alternative approaches are required for a period longer than sixty (60) days following the Effective Date or an Order Effective Date, the Parties shall equitably adjust the terms of the Agreement and reduce the Services Costs to reflect any additional costs and expenses being incurred by Company and any Services not being received by Company. In addition, if Provider fails to obtain a Provider Required Consent within sixty (60) days of the Effective Date or an Order Effective Date and such failure has a material adverse impact on Company's receipt of the Services, Company may, upon notice to Provider, terminate the Agreement, in whole or in part, as of the termination date specified in the notice, without cost or penalty and without the payment of any termination charges. The failure to obtain any Provider Required Consent shall not relieve Provider of its obligations under the Agreement and Provider shall not be entitled to any additional compensation or reimbursement of any amounts in connection with obtaining or failing to obtain any Provider Required Consent or implementing any alternative approach required by such failure.

15. AUDITS AND RECORDKEEPING

15.1 Fee Audits. All books and records relating to the performance of Provider's obligations hereunder, any amounts payable to Provider hereunder, all Services that are self-performed by Provider and all Subcontracts and Supply Contracts with Affiliates of Provider shall be maintained by Provider and made available to Company and Company's Personnel for copy, review, audit and other business purposes related to the performance of Provider's and the Services hereunder at such reasonable times, upon reasonable notice and during normal business hours at reasonable locations. Except for self-performed Services and Subcontracts and Supply Contracts with Affiliates of Provider, Company's audit rights shall not include the right to audit the makeup of fixed price costs or fixed rates agreed upon by Company. Should Provider fail to maintain such books and records as required hereunder and under Section 15.5 below, Provider shall provide its good faith assistance and reimburse Company for its reasonable costs in recreating such books and records. In the event that any audit by Company reveals any overpayment by Company (which overpayment may include without limitation Provider's inability to produce adequate supporting documentation for any Service Costs paid by Company), then Provider shall repay to Company the overpaid amount upon Company's written demand therefor and if such audit reveals underpayment by Company, then Company shall pay such underpaid amount upon written demand therefor and an invoice in accordance with Exhibit Q (Invoicing and Accounting Requirements). Company's performance of an audit and Provider's repayment of any overpaid amounts shall not limit any of Company's rights and remedies with respect to such overpaid amounts or Provider's performance of its obligations under this Agreement, all of which rights and remedies are reserved by Company. Provider shall cause the provisions of this Article 15 to be incorporated in the provisions of each Subcontractor agreement.

15.2 Records Retention. Provider shall maintain complete and correct books and records relating to the performance of all of its obligations hereunder and all costs, liabilities and obligations incurred hereunder, including without limitation those relating to the Services Costs and Provider's Shared Savings. All records and accounts relating to financial matters must be in a format consistent with Generally Accepted Accounting Practices ("**GAAP**"). Upon Company's request, Provider shall disclose to

and discuss with Company, Provider's accounting principles and practices. Any modification or addition to Provider's accounting practices during the Term or Termination Assistance Period (other than in accordance with GAAP) shall be disclosed to Company prior to its implementation. Further, such modification of Provider's accounting practice shall be subject to the prior written approval of Company. Such books and records shall be maintained for a period of no less than seven (7) years after the Term and Termination Assistance Period, if any.

15.3 Processing Audits. Upon reasonable advance notice from Company, and provided that such audits do not interfere with Provider's ability to perform the Services, Provider shall, at Company's expense, provide such auditors and inspectors as Company may designate with access during normal working hours to any site, facility, or performance documentation for the purpose of performing audits or inspections of security, internal and external compliance, legally required audits, audits in connection with government investigations, and audits required under Company's corporate policies, including normal IT and business audits.

15.4 Facilities. Provider shall provide to Company and such auditors and inspectors as Company may designate in writing, on Provider's premises (or if the audit is being performed of a Subcontractor, the Subcontractor's premises if necessary) office space, office furnishings, telephone and facsimile services, utilities and office-related equipment and duplicating services as Company or such auditors and inspectors may reasonably require to perform the audits described in this Article 15.

15.5 SAS 70 Type II Report. During the Term (and the Termination Assistance Period), on the request of Company from time-to-time in addition to the schedule Provider may itself establish, Provider shall obtain a SAS 70 Type II Report. Provider shall provide Company with a copy of the SAS 70 Type II Report within fifteen (15) days of Provider's receipt thereof from the Service Auditor. [*] If Provider obtains reports or conducts reviews that provide evaluations of Provider's control objectives and control activities, Provider shall notify Company of such and provide copies of such reports or reviews to Company at no cost to Company. If the reports or reviews in the preceding sentence contain any confidential third party data or information, Provider may redact such confidential data or information from the copies provided to Company.

15.6 Provider Personnel Reports. If any Services are provided by Subcontractors, and if such Services (or any controls or other aspects of such Services) would fall within the scope of the SAS 70 Type II Report had such Services been provided directly by Provider, then Provider shall cause each such Subcontractor to comply with the requirements of Section 15.5 and Section 15.7.

15.7 Certification. As requested by Company, Provider shall either (i) certify to Company in writing that during the applicable SAS 70 Gap Period no changes have been made to the Services, the manner in which the Services are provided or operated, applicable controls, or the Control Objectives that could reasonably be expected to have any impact on the contents of, or opinions set forth in, the applicable SAS 70 Type II Report; or (ii) provide Company with a written description of any such changes.

15.8 Disclosure. The SAS 70 Type II Report shall be Confidential Information of Provider (or the applicable Provider Personnel); provided, however, that notwithstanding the foregoing or the confidentiality provisions of this Agreement, Company (and Company's independent auditors) shall be permitted to disclose the SAS 70 Type II Report (or any of the content thereof) to any person, entity or Governmental Authority as necessary for Company to comply with the Sarbanes-Oxley Act of 2002 or any other Applicable Laws.

15.9 Control Objectives. Company may establish compliance and control objectives applicable to the Services by delivering such objectives in writing to Provider ("**Control Objectives**"). Company may update the Control Objectives at any time during the Term (or the Termination Assistance Period) provided that, subject to the Change Control Process, Company shall be responsible for any additional costs incurred by Provider in complying with the updated Control Objectives to the extent that such updated Control Objectives apply only to Company and not to any other customer of Provider. To the extent that such updated Control Objectives apply to other customers of Provider, then the costs associated with compliance with such updated Control Objectives shall be, subject to the Change Control Process, equitably allocated among Company and such customers.

15.10 Sarbanes-Oxley Requirements. Provider recognizes that Company is subject to the Sarbanes-Oxley Act of 2002. In addition to the Control Objectives, Provider shall provide whatever assistance is necessary to assist Company in complying with such requirements with respect to its outsourced functions. Provider shall comply with Company's financial reporting and control processes as set forth in the Policies and Procedures Guide (and as such processes are revised from time to time by Company) and provide Company with copies of all related records, reports and data as necessary for Company to satisfy the Sarbanes-Oxley Act of 2002. Provider shall recommend and, subject to Company approval, implement compliance measures to satisfy the Sarbanes-Oxley Act of 2002 with respect to the Services. Provider may use Direct Provider Labor in complying with the requirements of this Section 15.10.

16. TIMELINES FOR PERFORMANCE

16.1 Time of the Essence. Time is of the essence with respect to this Agreement. Execution of this Agreement and any Order shall constitute Provider's representation and warranty that Provider is fully capable of performing, and will perform the applicable obligations in accordance with the Schedule set forth herein or in each Order. In the event Provider fails to so perform, Company may seek to recover damages, costs and expenses from Provider by reason of such failure of performance.

16.2 Schedule. If applicable to the Services set forth in an Order, Provider shall develop and submit to Company within ten (10) days of each Order Effective Date a detailed schedule for that Order based on Company's requirements and Provider's obligations thereunder (a "**Schedule**"). The Schedule shall indicate the timing of the performance of such obligations, including without limitation commencement, submission of Deliverables, milestones, meeting dates and completion. The Schedule shall include without limitation time for necessary bidding (if any), reviews, revisions, applications to Governmental Authorities, and required approvals. Provider shall not exceed the dates set forth in such Schedule.

16.3 Suspension. Company may, at any time, by written notice to Provider, suspend all or any portion of Provider's performance hereunder. Upon receipt of such notice, Provider shall do the following, unless the notice requires otherwise:

(i) Immediately discontinue such performance on the date and to the extent specified in the notice;

(ii) Incur no further obligations, including without limitation placement of orders, Subcontracts or Supply Contracts for material, services or facilities, with respect to the suspended performance;

(iii) Promptly make every reasonable effort to obtain suspension or assignment to Company or Company's designee, upon terms satisfactory to Company, of all obligations, including without limitation orders, Subcontracts or Supply Contracts, to the extent such relate to the performance of such suspended performance;

(iv) Protect and maintain any materials and supplies utilized in such performance, and any work completed or in progress; and

(v) Mitigate costs associated with any such suspension.

16.4 Costs of Suspension. Within thirty (30) days of the effective date of any suspension by Company, Provider shall submit an itemization of expenses and time expended through the effective date of the suspension, together with cost, pricing, or other documents or data required by Company. Suspensions may only be withdrawn by written notice from Company, specifying the effective date and scope of the withdrawal. Provider shall immediately resume performance unless otherwise specified in such notice. If

Provider believes that an adjustment to the Services Costs or the Schedule hereunder or under an Order is justified as a result of the suspension or withdrawal of suspension, such suspension or withdrawal of suspension shall constitute a Change and Provider shall request such adjustment in accordance with the Change Control Process provisions hereunder. The Annual Budget and Cost Baseline for determining Provider's Shared Savings shall be equitably modified to take into account any period of suspension hereunder.

16.5 Acceleration of Performance. Provider shall notify Company immediately upon determining that it may be unable to meet the Schedule in whole or in part. Additionally, Company may inform Provider that Company has determined, in its reasonable judgment, that Provider may be unable to meet the Schedule in whole or in part. Within five (5) days of such notice or information, Provider shall submit to Company a proposed action plan to ensure compliance with the Schedule. If Company determines in its reasonable judgment that such action plan will not ensure compliance with the Schedule, Company may direct Provider to take steps necessary to accelerate its performance. If Provider believes that an adjustment to the Services Costs is justified as a result of such acceleration and that such acceleration constitutes a Change, Provider shall request such adjustment in accordance with the Change Control Process. Any incremental costs incurred by Provider as a result of such acceleration shall constitute a Change and shall be subject to the Change Control Process. Except to the extent provided for in any approved Change, Company shall have no liability to Provider for or arising out of the acceleration. If, within a reasonable period as determined by Company, Provider fails (i) to provide an action plan for accelerating and improving performance to meet the Schedule, or (ii) to diligently proceed to accelerate performance in accordance with such action plan, Company may take whatever actions it deems appropriate to meet the Schedule. The reasonable costs of any such actions shall be borne by Provider. No actions taken by Company under this Section 16.5 shall relieve Provider of its obligations under this Agreement, including without limitation meeting the Schedule.

16.6 Remedies for Failure to Timely Perform. Provider acknowledges that in the event Provider fails to timely perform under this Agreement, Company will suffer substantial damages, costs and expenses by reason of such failure of performance. The Parties may provide in this Agreement or in any Order for Service Costs credits to apply with respect to Provider's failure to meet prescribed Schedule requirements, in which event the terms of such Service Costs credit provision shall apply with respect to failure to meet such Schedule requirements. Notwithstanding the availability of Service Costs Credits, Company shall be entitled to enforce any and all remedies available under this Agreement, at law and/or in equity with respect to any failure of Provider to timely perform its obligations in accordance with the terms of this Agreement, including the recovery of actual damages.

17. TERM AND TERMINATION

17.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue for a period of five (5) years ("**Initial Term**") unless earlier terminated in accordance with this Article 17. This Agreement shall automatically renew for additional one (1) year periods (each a "**Renewal Term**," and together with the Initial Term, the "**Term**") unless Company provides written notice of non-renewal no later than three (3) months prior to the expiration of the Initial Term or then-current Renewal Term.

17.2 Effect on Orders. Upon expiration or termination of this Agreement in accordance with this Article 17, this Agreement shall remain in effect with respect to any then-open Order(s) issued under this Agreement until completion of Provider's performance thereunder unless terminated by Company for cause or convenience as provided below. Upon termination of this Agreement by Company for cause, Company shall have the right to terminate any and all Orders entered into hereunder.

17.3 Termination for Convenience. Company shall have the right to terminate this Agreement or any Order in whole or in part at any time, with or without cause, by giving Provider written notice specifying the extent of termination at least [*****] months prior to the designated termination date.

17.4 Remedies Upon Termination for Convenience. In the event of termination under Section 17.3, Provider shall be entitled to Services Costs in accordance with the terms of this Agreement and the

applicable Order up to the date of termination, as well as for Termination Assistance Services to the extent requested by Company. [*****] In no event shall Company be liable to Provider for any direct, indirect, special or consequential damages, lost profits, penalties or costs arising out of any termination for convenience.

17.5 Termination for Cause by Company. In the event that:

(i) Provider commits a material breach of this Agreement or an Order, which breach is capable of being cured within thirty (30) days after notice of breach from Company to Provider, but is not cured in such 30-day period;

(ii) Provider commits a material breach of this Agreement or an Order that is not capable of being cured within thirty (30) days but is capable of being cured within sixty (60) days and fails to (a) proceed promptly and diligently to correct the breach, (b) develop within thirty (30) days following written notice of breach from Company a complete plan for curing the breach, and (c) cure the breach within sixty (60) days of notice thereof;

(iii) Provider commits a material breach of this Agreement or an Order that is not subject to cure with due diligence within sixty (60) days of written notice thereof;

(iv) Provider commits numerous breaches of its duties or obligations which collectively constitute a material breach of this Agreement or the applicable Order;

(v) Provider fails to furnish Company, upon Company's reasonable request, with assurances satisfactory to Company evidencing Provider's ability to complete its obligations hereunder in compliance with all of the requirements of this Agreement;

(vi) Provider makes a general assignment for the benefit of its creditors, or a petition in bankruptcy is filed by or against Provider, or a receiver shall be appointed on account of Provider's insolvency;

(vii) an Event of Deteriorating Provider Condition (other than the events described in Section 17.7 below) occurs;

(viii) a KPI Default occurs; or

(ix) Provider otherwise persistently fails to meet the Service Levels;

then Company may, by giving written notice to Provider, terminate this Agreement, in whole or in part, or the applicable Order as of the date specified in the notice of termination. If Company chooses to terminate this Agreement in part, the Service Costs payable under this Agreement shall be equitably adjusted to reflect those services that are terminated. Termination under this Section 17.5 shall be without cost or penalty and without the payment of any termination charges.

17.6 Termination for Cause by Provider. [*****] Any notice required pursuant to this Section 17.6 shall be sent in accordance with the requirements of Section 32.3 to the addresses set forth therein and a copy shall also be concurrently sent to the address set forth below:

Vice President, Engineering
Amgen Inc.
Mailstop: 38-4-B
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [*]

17.7 Other Termination by Company. In the event:

(i) Provider transfers, sells, assigns or otherwise disposes of (a) all or substantially all of its assets or (b) any controlling interest in its business (whether in the form of stock or otherwise); or

(ii) Provider consolidates with or merges into another corporation or entity, or permits the consolidation with or merger into another entity;

then Company may, by giving written notice to Provider, terminate this Agreement, in whole or in part, or the applicable Order as of the date specified in the notice of termination. If Company chooses to terminate this Agreement in part, the Services Costs payable under this Agreement shall be equitably adjusted to reflect those services that are terminated. Termination under this Section 17.7 shall be without cost or penalty and without the payment of any termination charges.

17.8 Remedies Upon Termination for Cause. In the event of termination of this Agreement or any Order, without prejudice to other rights or remedies, Company may complete performance of Provider's obligations by whatever method Company deems appropriate.

17.9 No Actual Default. If, after termination for cause under this Article 17, it is determined for any reason that a Party was not in default, the rights and obligations of the Parties shall be the same as if the notice of termination had been issued as a termination for convenience.

17.10 Upon Termination. Without limiting the obligations of Provider under Article 18, upon receipt of notice of termination, Provider shall do the following unless otherwise specified by Company:

(i) Incur no further obligations, including without limitation placement of orders, Subcontracts or Supply Contracts for material, services or facilities;

(ii) Mitigate costs associated with such termination;

(iii) Preserve any Work Product or other performance that is in progress or completed until Company or Company's designee takes possession thereof; and

(iv) Deliver all Work Product to Company in accordance with Company's reasonable instructions.

17.11 Discontinuance. On the date of termination, Provider shall discontinue, and cause any of Provider Personnel to discontinue, performance hereunder to the extent specified in the termination notice from Company; provided, however, the provisions of this Section 17.11 shall not operate to excuse Provider's performance of Termination Assistance Services during the Termination Assistance Period, in accordance with Article 18 of this Agreement.

17.12 Termination of Dependent Orders. In the event that an Order is terminated for cause, Company shall have the option to terminate any other Orders identified therein as being dependent on the terminated Order.

17.13 Notice of Deteriorating Financial Condition. In the event of the occurrence of any fact or circumstance relating to an Event of Deteriorating Provider Condition, Provider shall immediately provide notification of such event to Company (except to the extent Provider is precluded from making such disclosure pursuant to applicable securities laws) and Provider shall use its commercially reasonable efforts to (i) secure from all relevant third parties, including Third Party Suppliers and Subcontractors, all rights reasonably required for Company to continue to receive the Services and to exercise its rights under this Agreement, and (ii) at the expense of Company, cooperate with Company and any third party service Providers selected by Company, to establish and implement a contingency plan to avoid

disruption of Services in the event that Provider is unable to meet its obligations under this Agreement. At any time that Provider is not a publicly reporting company under the securities Laws of the United States, Provider shall, within forty-five (45) days of the end of each calendar quarter, provide Company with sufficient financial information to enable Company to determine whether an Event of Deteriorating Provider Condition has occurred during such calendar quarter. In the event that Company becomes aware of an Event of Deteriorating Provider Condition for which Provider has not provided such notification to Company, Company shall have the immediate right to take all reasonable actions to ensure continued availability of the Services, either by the Provider, Company or its third party designee, including, but not limited to, pursuant to a Step-in in accordance with Article 7.

17.14 Survival. All provisions of this Agreement that by their nature would apply to the Termination Assistance Services shall continue in effect during the Termination Assistance Period. In addition, the provisions of Sections 2.9, 4.9, 7.5, 9.1, 11.2, 11.3, 11.7, 12.15, 12.23(iv), 14.5, 14.7, 15.1, 15.2, 15.3, 15.4, 16.6, 18.6, 18.9, 20.2, 22.3, 23.3, 25.2, 25.3, 28.3, 28.4, 28.5, 28.6, 32.5, and 32.7 and Articles 17, 18, 27, 29, 30 and 32 shall survive termination of this Agreement (and expiration of the Termination Assistance Period), together with any other obligations of Provider that by their nature would survive such termination.

18. TERMINATION ASSISTANCE SERVICES

18.1 Termination Assistance Services. Upon expiration or termination of all or part of the Services or this Agreement for any reason, Provider shall for a period of twelve (12) months (the "**Termination Assistance Period**"), upon Company's request and at Company's expense, continue to provide the Services that were provided prior thereto and any reasonable cooperation requested by Company that may be required from Provider to facilitate the efficient and orderly transfer of the affected Services to Company or a third-party service provider, as applicable, or Company's designee ("**Termination Assistance Services**"). The rights of Company under this Article 18 shall be without prejudice to the Parties' rights to pursue legal remedies for breach of this Agreement, either for breaches prior to termination or during the period this Agreement is continued in force post-termination. Ongoing Services during the Termination Assistance Period shall be provided at the prevailing Services Costs in effect immediately prior to such termination. Any material incremental costs incurred by Provider in providing the Termination Assistance Services shall constitute a Change and shall be subject to the Change Control Process. In the event Provider exercises its termination rights pursuant to Section 17.6, then, [*****].

18.2 Development of Termination Plan. If and to the extent requested by Company, whether prior to or upon expiration or termination of this Agreement or during any Termination Assistance Period, Provider shall assist Company in developing a termination plan which shall specify the tasks to be performed by the Parties in connection with the Termination Assistance Services and the schedule for the performance of such tasks. The plan shall include descriptions of the Services, Service Levels, fees, documentation (such as operating manuals) and access requirements that will promote an orderly transition of the Services, and a list of all assets, software, licenses, personnel and other contracts to be transitioned to Company or its designee.

18.3 Absolute Obligation. [*****] Provider acknowledges and agrees that it shall have an absolute and unconditional obligation to provide Company with Termination Assistance Services. Provider's quality and level of performance during the Termination Assistance Period shall continue to comply with the Standard of Care and all requirements of this Agreement unless otherwise expressly approved in the Termination Plan.

18.4 Post-Termination Assistance. For a period of six (6) months following the Termination Assistance Period, Provider shall: (i) at Company's expense, answer all reasonable and pertinent verbal or written questions from Company regarding the Services; and (ii) deliver to Company any remaining Company-owned reports and documentation still in Provider's possession.

18.5 Transfer of Agreements. With respect to, Subcontracts, Supplier Contracts, and contracts for any other third-party services applicable to the terminated Services, Company shall have the right to have

such contracts assigned to Company provided that Company assumes all ongoing obligations under such contracts from and after the effective date of such assignment. With respect to Third Party Intellectual Property used by Provider in connection with the performance of the Services that are subject to Termination Assistance Services, during the Termination Assistance Period, Provider shall, at the request of Company, assign the licenses of such Third Party Intellectual Property to Company or its designee, provided that: (i) Provider shall have the right to assign such licenses or contracts, and (ii) Company shall assume all future contractual responsibility and liability under such licenses and contracts, including payment of future license fees, maintenance fees and other charges. In connection with any license or contract transfer under this Paragraph, Company shall pay any transfer fees that the Parties were unable to avoid through reasonable good faith efforts, unless otherwise set forth in an Order.

18.6 Transfer of Software. No Provider Intellectual Property Rights will transfer to Company upon expiration or termination of the Services except as specifically permitted pursuant to this Section 18.6. [*****] Provider shall not be liable for any changes made to the data by Company.

18.7 Transfer of Equipment. For any Provider Equipment that was used to provide Services at the time of notice of termination or expiration of this Agreement and/or to provide to Termination Assistance Services, Provider shall allow Company or its designee to (a) purchase, at fair market value at the time of Company's purchase, any equipment supplies, tools or equipment owned by Provider that is used primarily or exclusively to provide the terminated Services; and/or (b) assume the lease of any equipment leased by Provider. Following the Termination Assistance Services period, each Party shall return to the other Party any assets owned by such other Party to which it is not given ongoing rights as part of the termination plan.

18.8 Transfer of Personnel. Notwithstanding Section 2.9 above, Company or its Affiliates or designees shall have the right to extend offers of employment to any and all Provider Personnel, including Key Provider Personnel, primarily assigned to or working on the applicable terminated Services at the time of notice of termination or expiration of this Agreement and/or to provide to Termination Assistance Services. Provider shall provide reasonable access to these employees. Provider [*****] shall not [*****] interfere with Company's employment efforts.

18.9 Other Transfer. Upon expiration or termination of this Agreement, or at the end of the Termination Assistance Period, Provider shall transfer to Company or its designees (except as provided below) (i) copies of all software transferred or licensed to Company pursuant to this Article 18, (ii) all equipment transferred or licensed to Company pursuant to this Article 18, (iii) to the extent available or requested by Company to be so documented, copies of all applicable requirements, standards, policies, reports and report formats, user manuals, technical manuals, system architecture, processes, operating procedures and other documentation relating to the terminated Services, and (iv) all know-how of Provider reasonably required to perform the Services.

19. COMPENSATION

19.1 Contract Price and Pricing Schedule. Pricing structures for the Services are set forth in Exhibit D (Pricing) of this Agreement and each Order shall set forth one or more pricing structures under which the applicable Services shall be performed, which may include the pricing structures set forth in Exhibit D (Pricing). Company shall pay Provider all fees and compensation due to Provider in connection with such Services in accordance with the terms of Exhibit D (Pricing) and other applicable terms of this Agreement and the applicable Order ("**Services Costs**"), which Services Costs shall include the Management Fees, Reimbursable Costs, Incentive Compensation and any Provider's Shared Savings payable to Provider pursuant to Exhibit D (Pricing) or any Order. With respect to all Services subject to acceptance testing, Company shall have no obligation to pay Provider for any Services unless and until such Services have successfully met the acceptance testing requirements and all other requirements prerequisite to payment in accordance with this Agreement and any relevant Order. Company shall not be billed for any charges or expenses other than those Services Costs or Reimbursable Costs stated and expressly authorized in this Agreement or an Order.

19.2 Reimbursable Costs. Company may agree to pay or reimburse Provider for some or all Reimbursable Costs incurred by Provider in connection with its performance under this Agreement or an Order. Such Reimbursable Costs shall be subject to the pricing structures set forth in Exhibit D (Pricing), including a [**]. In no event shall Company be obligated to reimburse Provider for any Reimbursable Costs (i) that are not authorized in writing by Company, (ii) that are not Reimbursable Costs in accordance with this Agreement or the applicable Order, or (iii) that are incurred in excess of the Company-approved amount or [**].

19.3 Charge Increases and Decreases. Unless otherwise agreed in writing by Company or as otherwise provided in this Agreement or an Order, Provider shall not increase the Service Costs above the prices for such Services specified in this Agreement or the applicable Order. On mutual agreement of the Parties, Provider may decrease the Services Costs payable for any Services to reflect changed market conditions and/or improvements in technology.

19.4 No Services Costs for Errors or Defective Performance. In no event shall Provider be entitled to receive Services Costs for charges to the extent arising out of or resulting from (i) any costs or expenses incurred by the Provider or its Affiliates or payable by Company to remedy any error, omission or mistake of Provider, its Affiliates or their respective Personnel or breach of this Agreement or any Order by Provider, its Affiliates or their respective Personnel, or (ii) any incremental or additional costs or expenses incurred by Provider or its Affiliates or payable by Company to remedy any error, omission or mistake of Provider, its Affiliates or their respective Personnel or breach of this Agreement or any Order by Provider, its Affiliates or their respective Personnel.

20. TAXES

20.1 Taxes, Exemptions and Reductions. Company reserves the right to modify this Agreement, as necessary, to receive the benefits of any available tax exemptions or reductions. Provider shall cooperate with Company's efforts to realize the benefits of any tax exemptions or tax structures that may be available to Company in connection with any Order issued pursuant to this Agreement or any element(s) of the Services.

20.2 Tax Claims. If any Governmental Authority makes any claim with respect to any taxes for which Company may be responsible, Provider shall notify Company regarding such claim immediately after Provider's discovery of such claim. Further, Provider shall reasonably assist Company with the investigation and assessment of such claim. If required by Company, Provider shall challenge the imposition of any taxes for which Company may be responsible or request a refund of such taxes. In accordance with the requirements of Exhibit Q (Invoicing and Accounting Requirements), Company shall reimburse Provider for reasonable attorneys' fees incurred in challenging any imposition of taxes or requesting a refund of such taxes pursuant to the preceding sentence.

20.3 Government Tax Filings. Provider shall file with the Internal Revenue Service and provide to all Subcontractors any Form 1099 or other report required by relevant sections of Applicable Law, including the Internal Revenue Code of 1986, as amended, or any successor provisions. Provider shall withhold from payments to such Subcontractors and remit promptly to the Internal Revenue Service, all amounts necessary to insure compliance with relevant sections of Applicable Law, including the Internal Revenue Code of 1986 as amended, or any successor provisions. Provider shall provide copies of all such reports to Company promptly after filing the same with the Internal Revenue Service or other Governmental Authority.

21. INVOICING AND PAYMENT

21.1 Invoicing. Provider shall invoice Company for the Services in accordance with the requirements of Exhibit Q (Invoicing and Accounting Requirements) to this Agreement.

Note: Redacted portions have been marked with [*]. The redacted portions are subject to a request for confidential treatment that has been submitted to the Securities and Exchange Commission.

21.2 Timing of Payments; Disputes. Company may dispute Provider invoices in accordance with the provisions of Exhibit Q (Invoicing and Accounting Requirements) to this Agreement. Company shall pay all undisputed invoice amounts in accordance with the provisions of Exhibit Q (Invoicing and Accounting Requirements) to this Agreement.

21.3 Security Interest. To the extent of any progress payments made by Company arising from or related to this Agreement, Provider grants to Company a security interest in all raw materials and components committed by or on behalf of Provider for use in connection with this Agreement or any Order, wherever located. Upon Company's request, Provider shall execute a written security agreement and financing statement that grants the foregoing security interest to Company in form and content satisfactory to Company.

21.4 Right of Off-Set. With respect to any amount that (i) should be reimbursed to a Party under this Agreement or an Order, or (ii) is otherwise payable to a Party under this Agreement or an Order, such Party may, upon notice to the other Party, deduct the entire amount owed to such Party from the Services Costs otherwise payable or expenses owed to the other Party pursuant to this Agreement or the applicable Order. The rights granted under this Paragraph shall not apply to amounts relating to services provided by third parties relative to Provider's provision of Services. Any credits due Company that are not applied against Provider's invoices or that are due to Provider by Company shall be paid to within thirty (30) days after receipt of written request for such payment.

21.5 Withholding Payment. Company may, in whole or in part, decline to approve any request for payment hereunder, withhold or offset against any payment or, due to subsequently discovered evidence or inspection, nullify any payment previously made to such extent as may be necessary, in Company's reasonable opinion, to protect Company from loss due to Provider's failure to meet its obligations hereunder. The conditions or occurrences for which Company may withhold or offset against any payment include without limitation Provider's failure to properly make payments to Subcontractors in accordance with Section 13.8. If, through subsequently discovered evidence or subsequent observations, Company becomes aware that it could have withheld approval and payment (but did not), Company reserves the right to deduct the applicable amount from later invoices or obtain a credit from Provider for the applicable amount. The provisions of this Section 21.5 shall not lessen or diminish, but shall be in addition to, the right or duty of Company to withhold payments under the provisions of Applicable Law respecting the withholding of sums due to Provider.

22. GOVERNMENT

22.1 Changes to Applicable Laws. Provider shall notify Company of (i) any changes or anticipated changes in Applicable Laws of which Provider is aware or should be aware that may impact performance of the Services, (ii) the impact of such changes on performance of Provider's obligations hereunder and the intent of this Agreement, and (iii) recommendations for modifications to such performance to comply with such changes, subject to Company's approval pursuant to the Change Control Process.

22.2 Equal Opportunity/Affirmative Action. For any performance required under this Agreement (i) between two business entities based in the United States of America and (ii) being performed in the United States of America and/or its territories, Provider agrees that, unless otherwise specifically exempted, this Agreement shall be performed in full compliance with all Applicable Laws, including without limitation applicable equal opportunity/affirmative action requirements; of Title VII of the Civil Rights Act of 1964; Executive Orders No. 11141 and 11246, as amended; Sections (1) and (3) of Executive Order No. 11625 relating to the promotion of Minority Business Enterprises; Americans with Disabilities Act; Age Discrimination in Employment Act; Fair Labor Standards Act; Family Medical Leave Act; the Vietnam Era Veterans' Readjustment Assistance Act of 1974; Rehabilitation Act of 1973; and all corresponding implementing rules and regulations, all of which, including without limitation the contract clauses required and regulations promulgated thereunder, are incorporated herein by reference.

22.3 Inspections and Government Contacts. To the extent that Provider is or becomes aware of meetings with or inspections by Governmental Authorities regarding Provider's obligations hereunder,

Provider shall notify Company within one (1) business day of becoming aware of any such meeting or inspection with any such Governmental Authority. Company shall have the right to be present at all such meetings and inspections that are (i) of general nature; or (ii) specific to Provider's conduct of Services under this Agreement or any applicable Order. Provider shall provide Company with an opportunity to comment on drafts of documents Provider is required to submit to Governmental Authorities pursuant to its obligations hereunder. Provider shall submit to Company copies of documents to be submitted to Governmental Authorities or insurance companies relating to Provider's obligations hereunder, including, without limitation, reports of accidents or injuries occurring on Company's premises. Notwithstanding anything contained in this Agreement to the contrary, Provider shall not initiate or participate in any communications with any Governmental Authorities concerning the subject matter hereof unless required by law or requested to do so by Company and, then, only upon prior consultation with Company.

22.4 Ethics and Conflict of Interest. In its performance of its obligations hereunder, Provider shall adhere to business practices that meet and are in the spirit of Applicable Laws and ethical principles, including, without limitation the following:

(i) All transactions undertaken in connection with Provider's obligations hereunder shall be accurately reflected in Provider's records; and

(ii) Provider shall perform its obligations hereunder and conduct itself with respect to Subcontractors and third parties so as to avoid loss or embarrassment to Company including loss or embarrassment due to any real or apparent conflict of interest.

23. SAFETY

23.1 Safety Obligations. Provider and Provider Personnel shall comply with the business practices, hours, working conditions and Company Policies related to Provider's performance hereunder, including, but not limited to, Company Policies regarding safety attached or listed in Exhibit I (Company Standard Operating Procedures) and Exhibit J (Company Standard Policies). Provider shall be solely responsible to inquire, inspect and acquaint itself with all conditions at Company Facilities, subject to Company's obligation to disclose pertinent information. In the performance of its obligations hereunder, Provider shall at all times: (i) require the presence, as appropriate, of competent supervisory personnel; (ii) keep the Company Facilities clean and safe, including without limitation keeping the Company Facilities free from debris and hazards; and (iii) be responsible for the safe and orderly performance of such obligations in accordance with this Agreement, any Orders and all Applicable Laws. Upon expiration or termination of this Agreement or, if applicable, expiration of the Termination Assistance Period, Provider shall remove all of Provider's equipment and unused material from the Company Facilities, thoroughly clean up all refuse and debris, and leave the site neat, orderly and in good condition, normal wear and tear excepted. In addition, to the extent Provider performs such obligations on Company Facilities, Provider shall (i) cooperate with Company and comply with Company's hours, working conditions and Company Facilities' policies; and (ii) repair or replace to Company's satisfaction any property that is damaged or destroyed by Provider or Provider Personnel. Provider shall notify Company as promptly as possible upon becoming aware of an inspection under, or any alleged violation of the Occupational Safety and Health Act or similar Applicable Laws in connection with the Services. Provider shall be responsible for removing or disposing of any hazardous materials that it uses in providing Services and for the remediation of any areas impacted by the release of such hazardous materials.

23.2 Safety Exhibit. Provider shall meet the obligations set forth in the Safety Appendix attached hereto as Exhibit L (Safety Appendix), as may be revised by Company from time to time (subject to Section 4.6), and any additional safety requirements specified in an Order.

23.3 Hazardous Materials.

(i) To the extent that Company has actual knowledge of the presence of hazardous chemical substances on a Company Facility at the commencement of Provider's performance of activities on such Company Facility that could in Company's opinion (i)

pose hazards to human health or safety of Provider's or Provider's Personnel working on the Company Facility given the scope of Provider's Services to be performed or (ii) significantly affect Provider's performance hereunder on such Company Facility, if requested in writing by Provider prior to commencement of its performance on such Company Facility, Company shall disclose such pre-existing conditions to Provider. Conditions, including the presence of any hazardous chemical substance, described or referenced in any reports or studies given to or made available to Provider, or in any studies or investigations by Provider, shall be deemed to have been disclosed upon receipt by Provider of such information. If Company provides any such disclosure(s) of pre-existing conditions to Provider, Provider shall fully review and familiarize itself with such disclosure(s) and shall (A) exercise the Standard of Care in dealing with the disclosed pre-existing conditions; (B) conform to, and otherwise not interfere with any existing programs, controls, limitations or activities which are in place as a result of the presence of such substances, and (C) take such steps (and require all contractors to take such steps) in accordance with the Standard of Care, including but not limited to workplace controls, required use of personal protective equipment, or limitations on location and scope of Services to address any hazard to human health or safety.

(ii) Provider must comply with all Applicable Laws in the performance of its obligations hereunder including without limitation those regarding hazardous and toxic substances and associated disclosure requirements. Additionally, Provider must comply with Company's chemical release and hazardous and toxic substances disclosure and notification requirements, including those specified in the Chemical Release/Hazardous and Toxic Substances Disclosure Requirements Appendix attached hereto. For Services performed in California or Company's Facilities, Provider shall comply with the requirements of the Safe Drinking Water and Toxic Enforcement Act of 1986 and amendments thereto (commonly referred to as "**Proposition 65**"). Such compliance may require the posting of notices on the Company Facility to warn people on the Company Facility of the potential for exposure to products which contain certain levels of chemicals known to the State of California to cause cancer, birth defects or other reproductive harm, as identified and listed by the Governor or the Health and Welfare Agency of the State of California pursuant to the requirements of Proposition 65. Provider shall inquire of its Subcontractors whether they have received any such warning notices from product manufacturers for products being used on the Company Facility, and shall ensure that any such notice, or a general warning sign, is posted conspicuously on the Company Facility so that it is likely to be read and understood by those who may be affected. Provider shall maintain records of any inquiries of its Subcontractors, and any responses received from them, and shall make these records available to any individual who inquires about potential exposures. If Provider causes or discovers (i) a reportable release of a hazardous substance or extremely hazardous substance; or (ii) a discharge or release, or potential discharge or release, of a regulated quantity of a listed chemical into a source of drinking water, which includes discharges or releases onto or into land, or into air, so long as the chemical will be deposited directly and immediately into a source of drinking water, then Provider shall immediately stop the activities causing or threatening such discharge or release, prevent or limit human, environmental, or natural resource exposure to the discharge or release, and take reasonable steps to stop any continuing discharge or release. Provider shall immediately notify Company that such a discharge or release has occurred or is threatened. Company will then determine whether the substances that gave rise to the actual or threatened discharge or release may be used at the Company Facility or need to be removed from the Company Facility in order to comply with the requirements of Proposition 65.

(iii) In the event that the removal or remediation of hazardous or toxic substances (other than a Provider Substance Release, as defined below) located on the Company Facility is required under any Applicable Law (a "**Company Substance Condition**"), then Company shall be responsible for the removal or remediation of such Company

Substance Condition, and Provider shall give full cooperation to persons authorized to conduct such removal or remedial actions and take all reasonable steps related to the Services to prevent any future or additional discharge or release with respect to such Company Substance Condition. Company shall indemnify, defend and hold Provider harmless from and against any and all third-party claims directly arising from a Company Substance Condition. The immediately foregoing indemnity, defense and hold harmless obligations expressly exclude any claims in connection with the exacerbation of any Company Substance Condition arising from the negligence or willful misconduct of Provider or its Personnel.

(iv) In the event that hazardous or toxic substances were brought onto and released on the Company Facility by Provider or its Personnel in violation of this Agreement, an Order or Applicable Law, then Provider at its sole cost and expense shall be responsible for and cause the removal and remediation of such hazardous or toxic substances to the fullest extent required to restore the affected property to the condition required by Company for its intended use of such property (the "**Remediation Standard**"). At a minimum, the Remediation Standard shall comply with Applicable Laws. Provider's removal and remediation activities pursuant to the preceding sentence shall comply with the guidance and direction of Company's EHS department. If a hazardous or toxic substance present at the Company Facility prior to the commencement of the Services hereunder or under an Order, or subsequently brought to the Company Facility by Company, is released or otherwise exacerbated as a result of the negligence or willful misconduct of Provider or Provider's Personnel, then Company, at Provider's sole cost and expense, shall cause such hazardous or toxic substance to be removed or otherwise remediated to the Remediation Standard. Provider shall immediately reimburse Company for the costs incurred by Company in performing the remediation described in the preceding sentence. For the purpose of this Agreement, the releases of hazardous substances described in this paragraph individually shall be referred to in this Agreement as, a "**Provider Substance Release.**" Provider shall indemnify, defend and hold the Company Indemnified Parties harmless from and against any and all third-party claims arising from or related to a Provider Substance Release and Provider's failure to perform the removal or remediation of a Provider Substance Release when required by this Section 23.3(iv).

23.4 Company Facilities.

(i) Provider shall use the Company Facilities for the sole and exclusive purpose of providing the Services, subject to Company's approval in its discretion of another use. Company grants Provider a license for all such approved use of the Company Facilities. The use of Company Facilities by Provider does not constitute a leasehold or other property interest in favor of Provider.

(ii) Provider shall use the Company Facilities in an efficient manner and in a manner that is coordinated, and does not interfere, with Company's business or operations. To the extent that Provider operates the space in a manner that unnecessarily increases facility or other costs incurred by Company, Company reserves the right to deduct such excess costs from the Services Costs payable hereunder. Provider shall be responsible for any damage to the Company Facilities resulting from the abuse, misuse, neglect or negligence of Provider or other failure to comply with its obligations respecting the Company Facilities.

(iii) Provider shall keep the Company Facilities in good order, not commit or permit waste or damage to Company Facilities or use Company Facilities for any unlawful purpose or act, and shall comply with Company's standard policies and procedures and applicable leases as these are made available to Provider regarding access to and use of the Company Facilities.

(iv) Provider shall permit Company Personnel to enter into those portions of the Company Facilities occupied by Provider Personnel at any time.

(v) Provider shall not make improvements or changes involving structural, mechanical or electrical alterations to the Company Facilities without Company's prior written approval. Any improvements to the Company Facilities shall become the property of Company.

(vi) When the Company Facilities are no longer required for performance of the Services, Provider shall return them to Company in substantially the same condition as when Provider began use of them, subject to normal wear and tear.

24. SECURITY

24.1 Access. Company shall provide the Project Staff with access to Company Facilities during normal working hours as reasonably required to perform the Services. If any Provider Personnel require access to a Company site or facility outside of normal working hours, Provider shall request the necessary permission from Company, which permission shall not be unreasonably withheld, conditioned or delayed.

24.2 Security Obligations on Company's Premises. At all times when present at Company's premises, Provider and Provider Personnel shall comply with Company Policies, including those related to security.

24.3 Access to Provider's Premises. If requested by Company in connection with Provider's performance of this Agreement, Provider shall provide safe and convenient access for Company to Provider's premises.

24.4 Restrictions on Access. Any Provider Personnel who are required to enter any of Company's premises may be required to complete a badge request form and must adhere to all security requirements of Company's security manager. Such Personnel of Provider may also be required to sign Company's Confidential Disclosure and Information Security Agreements and will have restricted access to Company's Facilities for business purposes only from 8:30 a.m. to 5:30 p.m. Monday through Friday, unless otherwise pre-approved by Company. Upon completion of such Personnel's assignment at Company's Facilities and/or in the event of termination of this Agreement, all badges shall be returned immediately to Company's Security Department.

24.5 Background Checks. No Personnel of Provider will (i) perform Services at a Company site, (ii) receive an access badge from Company, (iii) drive Company-owned or leased vehicles or (iv) routinely transport Company Personnel, without Provider, first providing to Company's Security Department the Background Check Certification Form attached hereto as Exhibit M (Background Check Certification Form) for the applicable Personnel. For all Provider Personnel (including Transitioned Employees), Provider shall perform, or shall use an outside agency to perform, the background check and all legally required notifications to Provider Personnel set forth in the Background Check Certification Form. Failure or refusal to provide the requisite Background Check Certification Form, or submission of a Background Check Certification Form without having performed the requisite background check, shall constitute a breach hereunder for which Company may terminate this Agreement immediately for cause, notwithstanding any right of Provider to cure. Provider shall return the appropriate Background Check Certification Form for Provider's representatives to the address set forth below the applicable Company site listed at the bottom of such form, prior to the Provider representative beginning his/her assignment at or for Company. In addition, Provider will provide verification to Company that it performed similar background investigations for all existing Provider Personnel regularly involved in the provision of Services at the time such employees were hired by Provider or at some subsequent time that is prior to their regular involvement in the provision of Services to Company.

24.6 Information Systems Security. In the event this Agreement or an Order provides for remote access to Company's electronic information systems ("**CIS**") by Provider, Provider shall at all times protect CIS through procedures and tools deemed satisfactory to Company. Such procedures and tools shall include without limitation:

(i) A mechanism to determine and immediately report to Company possible security breaches;

(ii) Controls to ensure the return or destruction, at Company's direction, of information transmitted through CIS;

(iii) A process for maintaining the confidentiality, integrity and availability of information transmitted through CIS; and

(iv) Methods for controlling access to CIS, which shall include without limitation (i) permitted access methods; (ii) an authorization process for users' access and privileges; and (iii) maintenance of a list of authorized users.

24.7 Access to CIS. Prior to Provider remotely accessing CIS, in order for Company to determine its satisfaction with the foregoing procedures and tools, Provider shall submit to Company:

(i) A list of established connections that Provider has with the electronic information systems of third parties in order for Company to evaluate security issues associated with such connections and CIS;

(ii) A copy of Provider's security policies applicable to electronic information systems; and

(iii) A copy of Provider's most recent external penetration test or network audit of its electronic information systems.

24.8 CIS Audit. Without limiting any rights and remedies hereunder, Company shall have the right to audit and monitor the procedures and tools required pursuant to Sections 24.6 and 24.7 to ensure compliance with the requirements hereunder. Company shall have the right to revoke or limit Provider's access to CIS at any time, including without limitation in the event Provider is deemed by Company, in its sole discretion, to have failed to comply with the requirements of this Article 24. In addition to its other obligations hereunder, Provider shall return to Company immediately upon any such revocation any hardware and software provided to Provider by or on behalf of Company for use with CIS.

24.9 Access Protections. All Provider interconnectivity to Company computing systems and/or networks and all attempts at such interconnectivity shall be only through Company's security gateways/firewalls. Provider will not access, and will not permit unauthorized persons or entities to access, Company computing systems and/or networks without Company's express written authorization, and any such actual or attempted access shall be consistent with any such authorization.

24.10 Viruses. Provider shall use the latest version available of a mutually agreed virus detection/scanning program (i) prior to any attempt to access any of Company's computing systems and/or networks, (ii) prior to use of any software in connection with the Services, and (iii) prior to delivery or transfer of any software to Company. Upon detecting a virus, all attempts to access Company's computing systems and/or networks shall immediately cease and shall not resume until any such virus has been eliminated. Without limiting the foregoing, each Party shall use commercially reasonable efforts to avoid the transmission of any virus from its own systems to the other Party's systems.

24.11 Information Systems. To the extent Provider creates, uses or modifies software or information systems in connection with providing the Services, Provider represents and warrants that all such software or information systems shall be maintained in a fully validated state.

24.12 Security Breaches. In the event of an attack or threatened or suspected intrusion or other breach of security against any computing systems and/or networks, hardware and/or software used to provide the Services, Provider shall, at its expense, and without limiting the Service Level obligations hereunder, take whatever steps are necessary to immediately protect such systems, networks, hardware and/or software and prevent any further breaches, including, without limitation: (i) preventing further access to the systems, networks, hardware and software from the source of the attack, (ii) immediately backing up the affected systems and any related systems, (iii) enhancing defensive systems to prevent any similar breaches in the future, (iv) contacting the ISP where the threat or attack originated and/or law enforcement authorities; (v) investigating the extent of the damage, if any, (vi) producing an incident report detailing Provider's findings and providing such report to Company, (vii) providing supplemental monitor traffic from the attack source until risk of further attacks is deemed to be eliminated, and (viii) temporarily disabling the Services, if warranted by the circumstances and with prior approval of Company, provided that such Services are reinstated as soon as the risk of further breaches is deemed to have been eliminated or adequate additional security measures have been implemented. Provider shall immediately contact Company upon discovering such an attack or threatened or suspected intrusion or breach of security and provide to Company all information reasonably requested, and the Parties shall mutually agree on appropriate measures to be taken with respect thereto.

24.13 Company Disabling Access. In the event that Company shall disable Provider's access to Company's computing systems and/or networks, Provider shall be excused from failure to meet any Service Levels only to the extent such failure is a direct result of such disabled access, provided that such disabled access is not caused by Provider or is initiated to protect Company's computing systems and/or networks from a virus or disabling device on Provider's computing systems and/or networks.

24.14 Office Space. To the extent Company agrees to provide office space to Provider, Company shall provide Project Staff with reasonable office space, office furnishings, janitorial services and utilities (including air conditioning) consistent with that which Company provides to its own similarly situated Personnel. Provider may not provide services to other customers of Provider from space provided by Company without Company's prior written consent. Company shall have the option during the Term to relocate Provider Personnel located on Company's premises to other comparable locations or facilities within the same metropolitan area.

24.15 Equipment Space. In the event that Provider shall be required to house Equipment on Company premises in connection with the Services, Company shall provide Provider with adequate space, air conditioning, and security for such Equipment. Such space shall meet the reasonable operating specifications and environmental conditions specified by Provider.

24.16 Company Assets. All assets owned, leased or otherwise held by Company during the Term or Termination Assistance Period ("**Company Assets**") shall at all times remain the sole property of Company; provided, however, Provider shall operate, repair, maintain and replace Company Assets as specified in this Agreement. Company Assets required by Provider to perform its obligations hereunder are set forth in detail in Exhibit R, (Company Assets) or the relevant Order. Provider shall have access to and use of such Company Assets as set forth herein or in the relevant Order(s) and may manage such assets as required or appropriate to enable Provider to properly perform the Services.

25. REGULATORY COMPLIANCE

25.1 Compliance with Regulatory Requirements. Provider understands and agrees that the Services provided hereunder may be in support of an IND or NDA submissions to the U.S. Food and Drug Administration ("**FDA**") and/or similar regulatory submissions to any Governmental Authority and Provider shall provide such Services and conduct its activities hereunder in compliance with all Applicable Laws related to such submissions.

25.2 Information and Support Involving Governmental Authorities. Provider shall provide Company with all cooperation and assistance reasonably required by Company in connection with informal presentations, administrative hearings or court proceedings involving any Governmental Authority or other U.S. or international agency, and in private party litigation, to the extent such may be related to a project initiated hereunder.

25.3 Documentation. Provider will prepare, maintain, and safeguard complete and accurate documentation regarding the Services provided hereunder in compliance with all Applicable Laws, and the terms of this Agreement.

25.4 Additional Warranties and Covenants Relating to Regulatory Compliance. Provider represents, warrants and covenants that (i) it has significant expertise and experience in providing services of the kind contemplated by this Agreement, and (ii) it is familiar with Applicable Laws relating to the Services, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations set forth at 45 Code of Federal Regulations ("**C.F.R.**") Parts 160 and 164, the Federal Food, Drug, and Cosmetic Act and the regulations promulgated pursuant thereto, and current good clinical practices and current good laboratory practices (each as defined under Applicable Laws).

25.5 Deliverables. Provider represents, warrants and covenants that each Deliverable (1) shall conform to the specifications and requirements for such Deliverable agreed upon by the Parties, and (2) shall comply with cGMP, as applicable.

25.6 No Debarment. Provider represents and warrants that neither Provider nor any of Provider Personnel rendering services in connection with this Agreement is presently: (i) the subject of a debarment action or is debarred pursuant to the Generic Drug Enforcement Act of 1992, (ii) the subject of a disqualification proceeding or is disqualified as a clinical investigator pursuant to 21 C.F.R. §312.70, (iii) the subject of an exclusion proceeding or excluded from participation in any federal health care program under 42 C.F.R. Part 1001 et seq., or (iv) listed on the United States Department of Health & Human Services, Office of Research Integrity's Administrative Actions Listing. Provider shall notify Company immediately upon any inquiry concerning, or the commencement of any such proceeding concerning Provider or any of its Personnel.

25.7 HIPAA. To the extent that Provider requires access in order to provide the Services or is otherwise provided access, Provider shall adhere to all current and future laws pertaining to privacy or confidentiality of patient information, including without limitation, the Health Insurance Portability and Accountability Act of 1996 (45 C.F.R. parts 160 and 164)("**HIPAA**"), and regulations, including without limitation, laws and regulations related to medical records and patient privacy, confidentiality, and consumer protection.

26. REPRESENTATIONS AND WARRANTIES

26.1 Mutual Representations. Each Party hereby represents and warrants to the other Party as follows:

(i) Due Authorization. Such Party is a corporation duly organized and in good standing as of the Effective Date, and the execution, delivery and performance of this Agreement by such Party have been duly authorized by all necessary action on the part of such Party.

(ii) Due Execution. This Agreement has been duly executed and delivered by such Party and, with due authorization, execution and delivery by the other Party, constitutes a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

(iii) No Conflict. Such Party's execution, delivery and performance of this Agreement do not: (i) violate, conflict with or result in the breach of any provision of the charter or by-laws (or similar organizational documents) of the Party; or (ii) conflict with or violate any law or governmental order applicable to the Party or any of its assets, properties or businesses.

(iv) Duly Licensed. Such Party is duly licensed, authorized or qualified to do business and is in good standing in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it except where the failure to be so licensed, authorized or qualified would not have a material adverse effect on such Party's ability to fulfill its obligations hereunder.

26.2 Provider Representations. Provider hereby represents, warrants and covenants to Company as follows:

(i) Infringement. The performance of the Services, the use of the Work Product, Provider Intellectual Property Rights and Third Party Intellectual Property, and Company's exercise of the rights granted to Company under this Agreement, do not and will not infringe, misappropriate or conflict with any Intellectual Property right of any third party. No confidential, proprietary or trade secret information that will be used in performing the Services has been misappropriated from any third party.

(ii) Quality. In performing the Services, Provider shall meet the professional standard of diligence, care, timeliness, trust and skill exercised by experienced members of Provider's profession with expertise in performing services similar to those to be provided hereunder. Provider possesses a high level of expertise in the business, administration, management and supervision required to undertake its obligations contemplated hereunder and is fully and properly licensed, qualified, experienced, equipped, organized and financed to perform hereunder.

(iii) Compliance with Laws. In performing under this Agreement, Provider shall comply with all Applicable Laws.

(iv) Kickbacks. No employee, agent or representative of Provider has been offered, shall be offered, has received, or shall receive, directly or indirectly, from Company, any gratuities, merchandise, cash, services benefit, fee, commission, dividend, gift, or other inducements or consideration of any kind in connection with this Agreement.

(v) Title. Provider shall have good, free and clear title to all Work Product that Provider may deliver to Company under this Agreement, free and clear of any liens, claims or encumbrances.

(vi) Deliverables. At the time of delivery thereof to Company, the Work Product shall (i) function in accordance to any written specifications and requirements for such Work Product, (ii) be free from defects, errors and deficiencies, (iii) be fit for the purposes and uses communicated by Company to Provider, its Affiliates and their respective Personnel or expected by a person receiving services similar to this provided by the Provider under this Agreement and the applicable Order, (iv) meet the timelines set forth herein or in the applicable Order, and (v) comply with all Applicable Laws.

(vii) Required Consents. Provider has obtained and possesses any and all necessary rights and consents to perform the Services and its obligations under this Agreement, including the right to grant Company the rights granted hereunder.

(viii) Capability to Perform. Provider is capable of and will perform its obligations hereunder and under each Order within the time limits and periods applicable thereto.

(ix) Financial Condition. Provider is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete its obligations hereunder.

(x) Employment Issues. Provider is an employer subject to, and shall comply with, all Applicable Laws, including without limitation applicable wage and hour statutes, unemployment compensation statutes and occupational safety and health statutes, and shall be responsible for withholding and payment of any and all payroll taxes and contributions, including without limitation federal, state, provincial, commonwealth and local income taxes; Federal Insurance Contributions Act, Federal Unemployment Tax Act and state unemployment contributions; and workers' compensation and disability insurance payments.

(xi) Third Party Intellectual Property. No Work Product provided hereunder shall incorporate or require use of any Third Party Intellectual Property for which Company would be liable for royalty or other payments separate and apart from the Service Costs unless specifically agreed to in writing by Company.

(xii) No Conflict. Provider's execution, delivery and performance of this Agreement do not conflict with, result in any breach of, constitute a default (or event which with the giving of notice or lapse of time, or both, would become a default) under, require any consent under, or give to others any rights of termination, amendment, acceleration, suspension, revocation or cancellation of any note, bond, mortgage or indenture, contract, agreement, lease, sublease, license, permit, franchise or other instrument or arrangement to which Provider is a party.

(xiii) Personnel. Provider shall use an adequate number of qualified individuals who possess the requisite training, education, licensing, experience and skill to perform its obligations hereunder.

(xiv) Technology and Equipment. Provider shall provide the Services using proven, current technology, Equipment and software that shall enable Company to take advantage of technological advancements in Provider's industry. All Equipment provided by Provider pursuant to this Agreement shall be new, not refurbished or reconditioned, except to the extent agreed to by Company in writing, and Provider is either the owner of, or authorized to use, the Equipment provided by Provider pursuant to this Agreement.

(xv) Provider Due Diligence. Prior to entering into this Agreement, Provider has undertaken all inspections, investigations and analysis as Provider deems necessary and appropriate in connection with entering into this Agreement and committing to provide the Services upon the terms and conditions set forth in this Agreement. Provider hereby acknowledges that Company has delivered or made available to Provider all information and documents Provider has deemed necessary, including all information and documents requested by Provider (collectively, the "**Due Diligence Information**") for Provider to enter into this Agreement and perform its obligations under this Agreement in accordance with its terms. Provider shall not be relieved of any of its obligations under this Agreement, as a result of (i) its failure to review the Due Diligence Information or any documents referred to therein, or (ii) its failure to request any other information or documents from Company.

26.3 Warranties Not Exclusive. The warranties provided hereunder are not sole or exclusive, shall not be construed to modify or limit in any way any rights or remedies which Company may otherwise have against Provider, and are in addition to any other express or implied warranties set forth in this Agreement or provided by law. The warranties set forth herein do not extend to any Equipment or Services that have been intentionally misused by Company contrary to clear, documented instructions without the supervision of and prior written approval of Provider, or if Company removes or renders illegible the relevant Provider serial numbers or warranty date decals.

26.4 Third Party Warranties. Provider shall secure on the Company's behalf the maximum warranty period available for all goods and services provided by third parties; which period, unless expressly

agreed to by Company in writing and on a case-by-case basis, shall be for a period of no less than eighteen (18) months after completion of the subject Services. Without limiting the other provisions of this Article 26, Provider shall assign to Company all warranties provided by Subcontractors or other third parties who furnish goods and/or services in connection with Provider's performance hereunder. Provider warrants that it shall perform its obligations in such manner so as to preserve any such third party warranties. Provider shall use commercially reasonable efforts to assist Company in enforcing such third party warranties. In the event that Provider's best efforts are unsuccessful, Provider shall perform all obligations under such third party warranties at Provider's expense.

26.5 Warranty Corrective Actions. In the event Provider fails to meet a warranted condition under this Agreement, Provider shall promptly identify an action plan for (i) correcting such warranted condition; and (ii) correcting any damages arising out of or resulting from Provider's failure to meet such warranted condition. Such action plan shall be subject to Company's approval and be promptly implemented by Provider to Company's satisfaction. The implementation of such action plan and all actions taken in furtherance thereof shall be governed by the terms of this Agreement. Provider shall bear all costs associated with and incidental to such implementation. If Provider refuses or is not able to promptly identify or implement an action plan satisfactory to Company, Company may take corrective actions as it sees fit, all at Provider's expense.

27. CONFIDENTIALITY

27.1 Confidentiality. Each Party shall maintain in confidence all Confidential Information of the other Party, and shall not disclose such Confidential Information to any third party except to those of its Personnel as are necessary in connection with the receiving Party's activities as contemplated by this Agreement, and shall not use Confidential Information of the other Party for any purpose other than the performance of its obligations hereunder. In maintaining the confidentiality of Confidential Information of the other Party, each Party shall exercise the same degree of care that it exercises with its own confidential information, and in no event less than a reasonable degree of care. Each Party shall ensure that each of its Personnel holds in confidence and makes no use of the Confidential Information of the other Party for any purpose other than those permitted under this Agreement or otherwise required by law. Each Party shall clearly and completely convey the requirements of this Article 27 to all of its Personnel to ensure such requirements are understood and followed. [**]

27.2 Exceptions. The obligation of confidentiality contained in this Agreement shall not apply to the extent that a Party can demonstrate that (a) the disclosed information was at the time of such disclosure to such Party already in (or thereafter enters) the public domain other than as a result of actions of such Party or its Personnel in violation hereof; (b) the disclosed information was rightfully known to such Party without any obligation of confidentiality prior to the date of disclosure to such Party; (c) the disclosed information was received by such Party on an unrestricted basis from a source unrelated to any Party to this Agreement and not under a duty of confidentiality; or (d) the information was independently developed by such Party without use of or reference to Company's Confidential Information. In the event that the Party receiving Confidential Information receives a request from a third party, pursuant to a valid subpoena, legally valid governmental authority request, or other valid legal request, that requires it to disclose Company's Confidential Information, prior to disclosing such Confidential Information or Company Data, such Party shall (i) give the other Party prompt (but in no event later than forty eight (48) hours after receipt of the request) prior written notice of the requested disclosure which notice shall include a copy of such subpoena or request, (ii) use reasonable efforts to resist disclosing the Confidential Information, (iii) cooperate with the other Party on request to obtain a protective order or otherwise limit the disclosure of the Confidential Information, (iv) consent to an injunction or protective order and not oppose the other Party's request to intervene, and (v) prior to such disclosure, provide a letter from its counsel confirming that the Confidential Information is, in fact, required to be disclosed. A disclosure of Confidential Information in accordance with the preceding sentence of this Section 27.2 shall not be deemed a breach of the confidentiality obligations hereunder.

27.3 Unauthorized Disclosure. Each Party acknowledges and confirms that the Confidential Information of the other Party constitutes proprietary information or trade secrets valuable to the other

Party, and that the unauthorized use, loss or outside disclosure of such Confidential Information may cause irreparable injury to the other Party. Each Party shall notify the other Party immediately upon discovery of any unauthorized use or disclosure of Confidential Information, and will cooperate with the other Party in every reasonable way to help regain possession of such Confidential Information and to prevent its further unauthorized use.

27.4 Injunctive Relief. Each Party acknowledges that monetary damages is not a sufficient remedy for unauthorized disclosure of Confidential Information of the other Party and that the other Party shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction.

27.5 Return of Information. Upon the earlier of (i) completion of the Services to be performed under each Order, (ii) expiration or termination of an Order or this Agreement, or (iii) a written request by the other Party, each Party shall return to the other Party all Confidential Information in its possession or control, including any copies, reproductions, or derivative works thereof.

27.6 Company Data. All Company Data is and shall remain the property of Company and shall be deemed Confidential Information of Company. Except with the prior written consent of Company, Company Data shall not be (i) used by Provider other than in connection with providing the Services, (ii) disclosed, sold, assigned, leased or otherwise provided to third parties by Provider, (iii) commercially exploited by or on behalf of Provider, or (iv) allowed by Provider to be used or disclosed for any such purpose by third parties. Upon the request of Company, Provider shall (i) at Company's expense, promptly return to Company, in the format and on the media requested by Company, all Company Data, and (ii) erase or destroy all Company Data in Provider's possession. Any archival tapes or other media containing Company Data shall be used by Provider solely for back-up purposes.

27.7 No Implied Rights. Subject to the provisions of Article 11, each Party's Confidential Information shall remain the property of that Party. Nothing contained in this Section 27.7 shall be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights or license to the Confidential Information of the other Party, and any such obligation or grant shall only be as provided by other provisions of this Agreement.

28. RISK ALLOCATION

28.1 Insurance Coverage. Provider shall at all times during the Term and Termination Assistance Period maintain the insurance coverage set forth in Exhibit O (Insurance Provisions). The insurance obligations hereunder shall be in addition to and in no way be construed to limit the indemnification obligations set forth herein.

28.2 Force Majeure. A **"Force Majeure Event"** shall be an event, occurrence or circumstance that (a) directly impacts the Company Facilities; (b) directly impacts the Party's performance of its obligations that must be performed on the Company Facilities; and (c) is caused, directly or indirectly, by acts of God, war, riots, terrorism, embargos, industry-wide strikes and boycotts, acts of public enemy, acts of military authority, earthquake, fire or flood; provided that (i) such Party is without fault or negligence in causing such delay; (ii) such delay could not have been prevented by reasonable precautions taken by such Party, including without limitation the use of alternate sources or workaround plans; (iii) such Party uses commercially reasonable efforts to recommence performance of such obligations whenever and to whatever extent possible following the Force Majeure Event; and (iv) such Party immediately notifies the other Party by the most expedient method possible (to be confirmed in writing) and describes at a reasonable level of detail the circumstances causing the delay. A Party shall not be liable for any delay in performance of its obligations hereunder if and to the extent such delay is caused by a Force Majeure Event. During the duration of the Force Majeure Event, the Party so affected shall use its reasonable commercial efforts to avoid or remove such Force Majeure Event and shall take reasonable steps to resume its performance under this Agreement with the least possible delay. Whenever a Force Majeure Event causes Provider to allocate limited resources between or among Provider's customers, Company shall receive priority allocation of such resources. Notwithstanding anything to the contrary in this

Paragraph, in the event Provider's performance under this Agreement or any Order(s) is delayed for a period of thirty (30) days or more due to a delay excusable under this Section 28.2, Company may terminate this Agreement and/or such Order(s) immediately upon notice to Provider.

28.3 Consequential Damages. SUBJECT TO SECTION 28.5, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

28.4 Limitation of Liability. Subject to Section 28.5, each Party's total liability to the other per calendar year, whether in contract or in tort (including breach of warranty, negligence and strict liability in tort) shall be limited to an amount equal to [*****].

28.5 Exceptions. The limitations set forth in Section 28.3 and Section 28.4 shall not apply with respect to: (1) damages occasioned by the unlawful acts or omissions, willful misconduct or gross negligence of a Party; (2) claims that are the subject of indemnification hereunder; (3) breach of Article 27; and (4) damages occasioned by improper or wrongful termination of this Agreement or abandonment of the Services by Provider; (5) Service Costs payable to Provider by Company in accordance with this Agreement or payable by Provider to its Personnel; and (6) any [*****].

28.6 Mitigation. Each Party shall have a duty to mitigate damages for which the other Party is responsible.

29. INDEMNIFICATION

29.1 Provider Indemnification. Provider shall defend, indemnify and hold harmless Company, its Affiliates, and their respective officers, directors and Personnel (the "**Company Indemnified Parties**") from and against any and all third party (for purposes of this Section, "third party" shall include Provider Personnel) suits, actions, legal or administrative proceedings, claims, liens, demands, damages, liabilities, losses, costs, fees, penalties, fines and expenses (including without limitation attorneys' fees and expenses (both Company's in-house and outside attorneys), and costs of investigation, litigation, settlement, and judgment) ("**Losses**") arising out of or related to:

(i) Claims arising out of or related to breach of Provider's representations, warranties and covenants set forth in this Agreement;

(ii) Breaches of Article 27;

(iii) Any and all acts or omissions of Provider or its Personnel (unless performed under the specific instructions of Company) resulting in any death, bodily injury or damage to real or tangible personal property in connection with the Services, or any intentional, fraudulent, tortious or negligent act or omission of Provider or Provider Personnel;

(iv) Any and all acts or omissions of Provider that results in the breach by a Company Indemnified Party of (A) its contractual obligations to a third party or (B) any legal or regulatory requirement applicable to such Company Indemnified Party, which contractual obligation or legal or regulatory requirement is within the scope of the Services or is being managed by or the responsibility of Provider in connection with the Services;

(v) Relating to Provider's failure to observe or perform any duties or obligations to be observed or performed on or after the Effective Date by Provider under any contracts, including software licenses, Equipment leases, Assigned Contracts and Managed Contracts, in each case, that are within the scope of Services or being managed by or the responsibility of Provider in connection with the Services, except to the extent Company has either withheld or not timely made a properly invoiced payment with respect to such Subcontractor or Supplier;

(vi) Claims that the performance or use of the Services, or that the Deliverables, Provider Equipment, any other enhancements or modifications to any works prepared or provided by Provider or any other resources or items provided to Company by Provider (collectively, "**Provider Provided Items**") infringe the Intellectual Property or other proprietary rights of such third party, except as may have been caused by (A) a modification or misuse of such Provider Provided Items other than according to or in compliance with the specifications or designs of such Provider Provided Items, or (B) the combination, operation or use of such Provider Provided Items with Equipment not furnished or approved by Provider or not contemplated by the documentation for or expected use of such Provider Provided Items;

(vii) Any claim by Provider Personnel against any Company Indemnified Party [*****];

(viii) Any claim or action by, on behalf of, or related to, Affected Personnel to the extent accruing on or after the Effective Date[*****];

(ix) Any claims relating to any Transitioned Personnel arising before, on or after the Effective Date arising from the acts or omissions of Provider, or one of its Affiliates [*****];

(x) [*****]; and

(xi) Claims arising from a breach of Article 18.

29.2 Company Indemnification. Company shall indemnify and hold harmless Provider, its Affiliates, and their respective officers, directors and Personnel (the "**Provider Indemnified Parties**") from and against any and all Losses arising out of or related to:

(i) Claims arising out of or related to breach of Company's representations, warranties and covenants set forth in this Agreement;

(ii) The acts or omissions of Company or its Personnel resulting in any death, bodily injury or damage to real or tangible personal property, or any intentional, fraudulent, tortious or negligent act or omission of Company or Company Personnel;

(iii) Any claims by, or on behalf of, or related to the Transferred Employee arising from the acts or omissions of the Company, or one of its Affiliates, prior to the Effective Date, including claims relating to employment or engagement, occupational health and safety, worker's compensation, ERISA or arising under other Applicable Laws[*];

(iv) Any claims relating to the termination by Company of Affected Employees or Affected Contractors who either refuse, for whatever reason, to accept Provider's offer of employment or engagement in accordance with Section 12.23(i), Section 12.23(ii) or Section 12.23(iv), or who object to the transfer of their employment to Provider with or without good reason;

(v) [*****]; and

(vi) Claims by or on behalf of Transitioned Employees that the transfer of their employment to Provider or the terms on which Provider proposes to employ them is [*****] in breach of their contract of employment.

29.3 Infringement. If any Provider Provided Item becomes, or in Provider's reasonable opinion is likely to become, the subject of an infringement, including misappropriation, claim or proceeding, Provider shall, in addition to indemnifying Company as provided in this Article 29 and to the other rights Company may have under this Agreement, (i) promptly at Provider's expense secure the right to continue using the Provider Provided Item, or (ii) if this cannot be accomplished with commercially reasonable efforts, then at Provider's expense, replace or modify the Provider Provided Item to make it non-infringing, provided that any such replacement or modification shall not degrade the performance or quality of the Provider Provided Item or any affected component of the Services, or (C) if neither of the foregoing can be accomplished by Provider with commercially reasonable efforts, and only in such event, then remove the Provider Provided Item from the Services, in which case the Services Costs shall be equitably adjusted to reflect such removal.

29.4 Indemnification Procedures. With respect to third-party claims for which a Party is seeking indemnification hereunder, the following procedures shall apply:

(i) Promptly after receipt by any entity entitled to indemnification under Section 29.1 and Section 29.2 of notice of the assertion or the commencement of any action, proceeding or other claim by a third party in respect of which the indemnitee shall seek indemnification pursuant to any such Section, the indemnitee shall notify the indemnitor of such claim in writing. No failure to so notify an indemnitor shall relieve it of its obligations under this Agreement except to the extent that it can demonstrate actual damages attributable to such failure. Within fifteen (15) days following receipt of written notice from the indemnitee relating to any claim, but no later than ten (10) days before the date on which any response to a complaint or summons is due, the indemnitor shall notify the indemnitee in writing if the indemnitor acknowledges its indemnification obligation and elects to assume control of the defense and settlement of that claim (a "**Notice of Election**").

(ii) If the indemnitor delivers a Notice of Election relating to any claim within the required notice period, the indemnitor shall be entitled to have sole control over the defense and settlement of such claim; provided that (1) the indemnitee shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim; and (2) the indemnitor shall obtain the prior written approval of the indemnitee before entering into any settlement of such claim or ceasing to defend against such claim. After the indemnitor has delivered a Notice of Election relating to any claim in accordance with the preceding paragraph, the indemnitor shall not be liable to the indemnitee for any legal expenses incurred by the indemnitee in connection with the defense of that claim. In addition, the indemnitor shall not be required to indemnify the indemnitee for any amount paid or payable by the indemnitee in the settlement of any claim for which the indemnitor has delivered a timely Notice of Election if such amount was agreed to without the written consent of the indemnitor.

(iii) If the indemnitor does not deliver a Notice of Election relating to a claim, or otherwise fails to acknowledge its indemnification obligation or to assume the defense of a claim, within the required notice period, the indemnitee shall have the right to defend the claim in such manner as it may deem appropriate, at the cost and expense of the indemnitor, including payment of any judgment or award and the costs of settlement or compromise of the claim. The indemnitor shall promptly reimburse the indemnitee for all such costs and expenses, including payment of any judgment or award and the costs of settlement or compromise of the claim.

29.5 Subrogation. In the event that an indemnitor shall be obligated to indemnify an indemnitee pursuant to this Article 29, the indemnitor shall, upon fulfillment of its obligations with respect to indemnification, including payment in full of all amounts due pursuant to its indemnification obligations, be subrogated to the rights of the indemnitee with respect to the claims to which such indemnification relates.

29.6 Liens by Provider. To the extent permitted by Applicable Law, Provider hereby waives and releases any and all lien rights and similar rights for payment for services, labor, equipment or materials furnished by Provider in performance of its obligations hereunder and granted by law to persons supplying materials, equipment, services and other items of value to improve or modify land or the structures thereon, which Provider may have against Company's or Company's landlord's premises, property or funds payable to Company.

29.7 Third-Party Liens. Except to the extent Company has either withheld or not timely made a properly invoiced payment with respect to such Subcontractor or Supplier, if a lien affecting any of Company's rights is filed by any Supplier or Subcontractor, Provider must remove the lien within ten (10) days of notice of lien or of written demand from Company, whichever is earlier. If Provider fails to remove the lien, Company may (i) pay the amount of the lien, (ii) bond the removal of the lien, or (iii) take any other step necessary to remove the lien. Provider shall immediately reimburse Company for the cost of removal of any such lien, including without limitation all attorneys' fees and costs, upon receipt of written demand from Company. If Provider fails to reimburse Company, Company may back charge or withhold the cost of removal, including without limitation all attorneys' fees and costs, from any amount that Company may be required to pay to Provider for performance of its obligations hereunder.

30. DISPUTE RESOLUTION

30.1 Identification of Problems. During the Term and Termination Assistance Period, each Party shall bring to the attention of the other Party any issues that may reasonably be expected to prevent such Party from completing, or that may delay or otherwise affect the performance of, its obligations under this Agreement.

30.2 Dispute Resolution Procedures. Should a dispute arise that, in the opinion of either Party, threatens to impair the continued performance of this Agreement by either or both of the Parties, the aggrieved Party shall provide the other Party with written notice setting forth the nature of such dispute. The dispute shall be referred to a committee of four, comprised of two senior executives of each Party. The committee shall convene as promptly as possible, and in no event more than two (2) business days after receipt of such notice, to attempt to resolve the problem as promptly as possible. The committee shall continue to meet in accordance with a schedule that it shall determine until the problem shall be resolved. If the problem is not resolved within five (5) business days after the first meeting of the committee ("Resolution Period"), either Party shall be free to pursue all available remedies, at law or in equity, consistent with the terms of this Agreement, unless the Parties shall agree in writing to extend the Resolution Period. Notwithstanding the foregoing, either Party may, before, during, or after the Resolution Period, apply to a court of competent jurisdiction for a temporary restraining order, preliminary injunction of other equitable relief, where such relief is necessary to protect its interests. Notwithstanding any other provision of this Agreement, in the event that any Party believes in good faith a dispute or potential dispute to be "urgent," such Party shall have no obligations to utilize the dispute resolution mechanism set forth in this Paragraph, and such Party may immediately seek any remedies available to such Party at law or in equity.

31. EQUIPMENT

31.1 Company Provided Equipment. Company shall retain ownership of all Equipment that is owned by Company as of the Effective Date, or that is subsequently acquired in the name of the Company during the Term or Termination Assistance Period, and supplied by Company to Provider and used to provide the Services ("**Company Provided Equipment**"). Company will retain the lease agreements for all Equipment that is leased in Company's name as of the Effective Date, or that is subsequently leased in the name of the Company during the Term or Termination Assistance Period. Company shall provide Provider with access to such Company Provided Equipment on an "as is, where is" basis for use by Provider in delivering the Services. Company's and Provider's respective responsibilities with respect to the upgrade, replacement and refreshing of Company Provided Equipment may vary by Equipment type and shall be as set forth in Exhibit G (Equipment List) or the applicable Order. Company shall be responsible for procuring any upgrades with respect to such Company Provided Equipment. Unless

otherwise set forth herein or in the applicable Order, Provider shall manage and maintain all of the Company Provided Equipment in accordance with the maintenance schedules recommended by the applicable Equipment manufacturer.

31.2 Provider Equipment. Provider shall be responsible for providing any Equipment other than the Company Provided Equipment that is necessary or required to provide the Services (collectively, the "**Provider Equipment**"). Provider shall install, operate, manage and maintain all of the Provider Equipment, in accordance with the maintenance schedules recommended by the applicable Equipment manufacturer. All Provider Equipment shall be currently supported by the applicable Equipment manufacturer. Notwithstanding the location of Provider Equipment at a Company Facility, all right, title and interest in and to any such Provider Equipment shall be and remain in Provider, and Company shall not have any title or ownership interest in the Provider Equipment; provided, however, by the delivery of written notice to Provider, Company may elect to cause Provider to transfer to Company or its designee ownership of any Provider Equipment designated by Company in such notice that is no longer used in the performance of Services under this Agreement or any Order issued pursuant to this Agreement.

31.3 New Equipment. Provider shall acquire new Equipment in addition to, or in replacement of, existing Provider Equipment and Company Provided Equipment that is necessary or appropriate to provide the Services in accordance with the Service Levels. Unless otherwise set forth herein or in the applicable Order, such new Equipment shall be purchased or leased in the name of Provider, except for purchases or leases of upgrades or replacements for Company Provided Equipment, which shall be purchased or leased in the name of Company.

31.4 Procurement Responsibilities. With respect to Equipment procured by Provider to meet its obligations hereunder, Provider's responsibilities shall include: (i) evaluating the Equipment and the qualifications of the Equipment vendor; (ii) negotiating the most favorable pricing and terms; and (iii) ordering, receiving, configuring, installing, testing, maintaining and distributing all new Equipment.

31.5 Asset Tracking. Company shall perform tracking and asset management for all Company Provided Equipment and Provider Equipment, and ensure compliance with applicable contractual restrictions. With respect to any Provider Equipment leased by Provider, Provider shall structure its leasing arrangements so that the applicable leases may be assigned to Company upon the termination of this Agreement and so that any ongoing payments under those leases payable by Company after such assignment are consistent with, and no higher than, the payments payable by Provider prior to such assignment.

31.6 Equipment Disposal. Provider shall be responsible for the disposal of Provider Equipment and Company Provided Equipment no longer required by Provider for the provision of the Services. Provider shall dispose of all such Equipment in a manner consistent with the requirements of Applicable Law and Company Policies.

32. MISCELLANEOUS

32.1 Consents. Unless otherwise specified in this Agreement, all consents, approvals, acceptances or similar actions to be given by either Party under this Agreement shall not be unreasonably withheld, conditioned or delayed and each Party shall make only reasonable requests under this Agreement.

32.2 Assignment. Company has specifically contracted with Provider because of its unique experience, expertise and qualifications; and, therefore, Provider may not assign or delegate Provider's obligations under this Agreement, either in whole or in part, without the prior written consent of Company. Any attempt by Provider to assign or delegate this Agreement, in whole or in part, without Company's prior written consent, shall be deemed a default hereunder and such assignment or delegation shall be voidable at the option of Company. Company may assign this Agreement at any time without the prior consent of Provider. Notwithstanding the foregoing, any assignment of Provider's obligations hereunder by operation of law, or pursuant to any plan of merger or consolidation, shall be deemed an assignment for which prior written consent of Company is not required; provided, however, that in any such event

Provider shall provide prompt prior written notice of such event and Company may terminate this Agreement pursuant to Section 17.7. This Agreement shall be binding on the Parties and their respective successors and permitted assigns.

32.3 Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed given as of the date it is (i) delivered by hand; or (ii) received by registered or certified mail, postage prepaid, return receipt requested; or (iii) confirmed as received if by facsimile; or (iv) received by nationally recognized, overnight courier, and addressed to the party to receive such notice at the address set forth below, or such other address as is subsequently specified in writing:

If to Company:

Vice President, Global Strategic Sourcing
Amgen Inc.
Mailstop: 91-2-C
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [**]

If to Provider:

CEO, Corporate Solutions
Jones Lang LaSalle Americas, Inc.
200 East Randolph Drive
Chicago, IL 60601
Fax Number: [**]

With a copy to:

General Counsel
Attn: Operations Group
Amgen Inc.
Mailstop: 28-1-A
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
Fax Number: [**]

With a copy to:

Chief Commercial Counsel, Americas
Jones Lang LaSalle Americas, Inc.
200 East Randolph Drive
Chicago, IL 60601
Fax Number: [*]

With a copy of any notices of an indemnity claim that triggers a Notice of Election under Section 29.4:

Director, Corporate Insurance
Amgen Inc.
One Amgen Center Drive
Mail Stop 24-2-A
Thousand Oaks, CA 91320-1799
Fax Number: [*]

With a copy of any notices of an indemnity claim that triggers a Notice of Election under Section 29.4:

Jones Lang LaSalle
Attn: Risk Management Department
Jones Lang LaSalle Americas, Inc.
200 East Randolph Drive
Chicago, IL 60601
Fax Number: [*]

32.4 Governing Law. This Agreement shall be governed by the laws of the State of California, excluding conflict of law rules.

32.5 Venue and Jurisdiction. With respect to any dispute arising out of or related to this Agreement or the transactions contemplated hereby, the Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction and venue (and waive any claim of forum non conveniens) of (i) the state or federal courts sitting in Ventura County, California; or (ii) if such court does not have jurisdiction, the United States District Court for the Central District of California.

32.6 Independent Contractor. Provider shall be acting as an independent contractor in performing the Services and shall not be considered or deemed to be an agent, employee, joint venturer or partner of Company. Provider shall have no authority to contract for or to bind Company in any manner and shall not represent itself as an agent of Company or as otherwise authorized to act for or on behalf of Company.

32.7 Publicity. Except for the purposes of performance hereunder, neither Party shall use or allow its Personnel to use the other Party's name, the names of the other Party's Affiliates, or any derivatives thereof without the other Party's prior written consent, which may be withheld at the other Party's sole discretion. This prohibition of use shall include without limitation use in any publicity or advertising, including without limitation media releases, public announcements, or public disclosures. A Party violating this Section 32.7 shall immediately provide notice to the other Party in the event it becomes aware of any violation of this prohibition and, at the violating Party's sole expense, take such steps necessary to cease and cure such violation to the non-violating Party's satisfaction.

32.8 Cumulative Remedies. Except as expressly provided herein, no remedy made available to either Party hereunder is intended to be exclusive of any other remedy provided hereunder or available at law or in equity.

32.9 Amendment. This Agreement may not be amended or modified except by an instrument in writing signed by authorized representatives of Company and Provider. Unless otherwise specified by Company, to be effective, a representative of Company's Global Strategic Sourcing Department must authorize in writing any amendment or modification to this Agreement including without limitation amendments or modifications to Service Levels and the scope of Services.

32.10 No Waiver. The failure of either Party to enforce at any time for any period the provisions of or any rights deriving from this Agreement shall not be construed to be a waiver of such provisions or rights or the right of such Party thereafter to enforce such provisions.

32.11 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any law or public policy, all other terms and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party.

32.12 Headings. The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of the Agreement.

32.13 Counterparts. This Agreement may be executed in one or more counterparts, and by the respective Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

32.14 Entire Agreement. This Agreement and the Orders constitute the entire agreement between the Parties with respect to the subject matter hereof, and no oral or written statement that is not expressly set forth in this Agreement or the Orders may be used to interpret or vary the meaning of the terms and conditions hereof. This Agreement, including the Exhibits attached hereto and any Orders, supersede any prior or contemporaneous agreements and understandings, whether written or oral, between the Parties with respect to the subject matter hereof.

32.15 Third Party Beneficiaries. Except as expressly provided herein, nothing in this Agreement, either express or implied, is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

33. DEFINITIONS

33.1 Certain Defined Terms. The following defined terms as used in the Agreement, including its exhibits and appendices, shall have the meanings set forth below.

Affected Contractors. "**Affected Contractors**" means those individuals or entities who are subject to Company Contractor Agreements and who are identified as "affected contractors" in Schedule 8 (Affected Personnel) of Exhibit A (Description of Services) or an applicable Order.

Affected Employees. "**Affected Employees**" means those Company employees identified as "affected employees" in Schedule 8 (Affected Personnel) of Exhibit A (Description of Services) or an applicable Order.

Affected Personnel. "**Affected Personnel**" means, collectively, Affected Contractors and Affected Employees.

Affiliate. "**Affiliate**" means any entity controlling, controlled by or under common control with a Party, but only for so long as such control continues, where "control" means: (i) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or the right to vote for or appoint a majority of the board of directors or other governing body of such entity; or (ii) the power to directly or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

Agreed Service Location. "**Agreed Service Location**" means any premises and facilities approved by Company and specified in Exhibit A (Description of Services) or an applicable Order as a location from which or for which the Services will be performed.

Agreement. "**Agreement**" means this Integrated Facilities Management Services Agreement and all appendices, exhibits, schedules and other attachments thereto, and all amendments of any of the foregoing.

Applicable Law. "**Applicable Law**" means any country, international, federal, state, provincial, commonwealth, cantonal or local government law, statute, rule, requirement, code, regulation, permit, ordinance, authorization or similar such governmental requirement and interpretation and guidance documents of the same by a Governmental Authority as applicable to Provider, Company, the Services, or this Agreement.

ARD Countries. "**ARD Countries**" means those jurisdictions that have implemented ARD Laws and in which Company or one of its Affiliates employs Affected Employees.

ARD Laws. "**ARD Laws**" means (1) the European Community Council Directive (77/187/EEC) of February 14, 1977 as consolidated by Council Directive 2001/23/EC of March 12, 2001, in each case as amended from time to time, and legislation and Laws implementing such directives in any country in which an Agreed Service Location or a location from which Provider performs Services is located or where Transitioned Employees are employed; and (2) equivalent legislation and Laws dealing with the same subject matter as such directives.

Assigned Contracts. "**Assigned Contracts**" means any third party agreements that are assigned, in whole or in part, to Provider from Company or its Affiliates, such agreements to be identified as "Assigned Contracts" in Schedule 10 (Assigned and Managed Contracts/Company Contractor Agreements) of Exhibit A (Description of Services) or an applicable Order.

BC Policies. "**BC Policies**" means the business continuity and disaster recovery policies, standards and guidelines set forth in Exhibit P (Business Continuity Policies), as modified by Company from time-to-time.

Benchmarker. "**Benchmarker**" means an independent and industry-recognized organization appointed by Company that is acknowledged by the Parties (each Party acting reasonably) to have directly relevant benchmarking expertise, methodology and data sources.

Best Practice. "**Best Practice**" means the relevant best industry standards and practices for the performance of Comparable Services.

cGMP. "**cGMP**" means (i) the applicable regulatory requirements, as amended from time to time, for current good manufacturing practices, including without limitation those promulgated by the Food and Drug Administration under the United States Federal Food, Drug and Cosmetic Act, 21 C.F.R. § 210 *et seq.* or under the Public Health Service Act, Biological Products, 21 C.F.R. §§ 600-610, the European Medicines Agency or Health Canada under the Food and Drugs Act (Canada), R.S. 1985, CF-27 and its associated regulations; (ii) any applicable guidance documents published by a Governmental Authority; and (iii) current industry practice consistent and in accordance therewith.

Change Control Process. "**Change Control Process**" means the process for making Changes to Services set forth in Article 5.

Company Data. "**Company Data**" means all Company data stored, processed, accessed, or accessible by Provider, including data that Provider has derived from such information, in connection with the Services.

Company Facilities. "**Company Facilities**" means physical premises owned or controlled by Company at which Services are being performed by Provider.

Company Policies. "**Company Policies**" means any of Company's compliance, safety, security and other rules, programs, regulations, policies and procedures (including Standard Operating Procedures) applicable to Provider or this Agreement, including, but not limited to, the BC Policies and the rules, programs, regulations and policies set forth in Exhibit I (Company Standard Operating Procedures) and Exhibit J (Company Standard Policies), as modified from time-to-time in accordance with Section 4.6.

Comparable Services. "**Comparable Services**" means services that are supplied by third parties, and that are similar to the relevant Services (or the relevant category of such Services), having regard to factors such as the nature and size of Provider, Company, the relevant geographies, the Service Levels and volumes, the quality, nature and type of the relevant Services and the standard to which such Services are subject, any particular or unique circumstances in which such Services are received/supplied and any other relevant factors.

Competitor. "**Competitor**" means any company or entity that, either independently or through its Affiliates, competes (or intends to compete) in a material manner with Company and includes without limitation the following: [*]

Confidential Information. "**Confidential Information**" of a Party means all information, unless specifically identified by such Party as non-confidential, regardless of how communicated or stored, concerning the operations, affairs, products and businesses of such Party, the financial affairs of such Party, and the relations of such Party with its customers, employees and service providers, including without limitation, confidential or proprietary information, trade secrets, data, drafts, documents, communications, plans, know-how, formulas, improvements, designs, estimates, calculations, test results, specimens, schematics, drawings, tracings, studies, specifications, surveys, facilities, photographs, documentation, software, equipment, processes, programs, reports, orders, maps, models, agreements, ideas, methods, discoveries, inventions, patents, concepts, research, development, business and financial information, customer or client lists, account information, procedures, computer information and databases, business plans, budget forecasts, business arrangements, financial information and estimates, personnel data, and long-term plans and goals. "**Confidential Information**" of Company shall include (i) all information relating to the Services and Orders, including the terms and conditions of this Agreement, (ii) the specifications, designs, documents, correspondence, software, documentation, data and other materials and Work Products produced by or for Provider in the course of performing the Services other than Provider Intellectual Property Rights, (iii) Deliverables and Company data, and (iv) other Company information or data stored or otherwise or communicated, and obtained, received, transmitted, processed, stored, archived, maintained or derived by Provider under this Agreement or in connection with the

Services. "**Confidential Information**" of Provider shall include all information concerning the operations, affairs and businesses of Provider, the financial affairs of Provider, and the relations of Provider with its other customers, employees and suppliers (including customer lists, customer (other than Company) information, account information, and consumer markets).

Deliverables. "**Deliverables**" means any and all tangible Work Product, reports, data, specifications, designs, documents, correspondence, software, documentation, and other materials, Work Product and other deliverables resulting from the Services.

Disaster. "**Disaster**" means any incident, unplanned disruption or unplanned interruption whether relating to information processing facilities, inaccessibility of buildings, and unavailability of resources or otherwise (including a Force Majeure Event) that impairs the ability of Provider to perform any of the Services.

Equipment. "**Equipment**" means computer, telecommunications, mechanical, electrical and other equipment (without regard to the entity owning or leasing such equipment) used by Provider to provide the Services.

Event of Deteriorating Provider Condition. "**Event of Deteriorating Provider Condition**" means any of the following events: (i) Provider ceases to do business as a going concern, makes an assignment for the benefit of creditors, is unable to pay its debts as they become due, is insolvent or the subject of receivership, or any substantial part of Provider's property is or becomes subject to any levy, seizure, assignment or sale for or by any creditor or governmental agency without being released or satisfied within ten (10) days thereafter; (ii) Provider's auditors issue an opinion expressing doubt as to whether Provider can maintain itself as a "going concern," or Provider's credit is materially downgraded by a nationally recognized credit agency; (iii) any judgment or tax lien is filed or issued against Provider that materially impacts Provider's ability to provide the Services to Company; (iv) bankruptcy proceedings, whether voluntary or involuntary, are commenced by or against Provider; (v) Provider sells all or substantially all of its assets, or a material portion of its assets related to the Services; and (vi) there is a material adverse change in the Provider's business, financial condition or prospects that is reasonably likely to result in a delay in the performance of Provider's obligations hereunder, or a reduction in the quality of such performance.

Excused Company-Related Delay. "Excused Company-Related Delay" means a critical path delay in the performance of the Services that Provider demonstrates to Company's reasonable satisfaction is directly attributable to: (A) a breach of this Agreement by Company; or (B) acts or omissions of Company or a Third Party Supplier, provided that (i) Provider is without fault or negligence in causing such delay; (ii) such delay could not have been prevented by reasonable precautions taken by Provider, including without limitation the use of alternate sources or workaround plans; (iii) Provider uses commercially reasonable efforts to mitigate the impacts of the delay; and (iv) Provider immediately notifies Company by the most expedient method possible (to be confirmed in writing) and describes at a reasonable level of detail the circumstances causing the delay.

Governmental Authority. "**Governmental Authority**" means any and all governmental or regulatory authorities having jurisdiction over this Agreement and/or any Services or Orders associated therewith, including the FDA or any counterpart of the FDA outside of the United States.

Intellectual Property. "**Intellectual Property**" means: (i) patents, patent applications and statutory invention registrations; (ii) trademarks, service marks, domain names, trade dress, logos, and other source identifiers, including registrations and applications for registration thereof; (iii) copyrights, including registrations and applications for registration thereof; (iv) trade secrets; (v) moral rights; and (vi) any other industrial or proprietary rights similar to the foregoing.

Major Subcontracts. "**Major Subcontracts**" means (i) all Subcontracts with compensation exceeding [*****]; (ii) those Subcontracts that include the performance of any of the following Services: (a) installation or maintenance of high voltage electrical systems; fire and life safety systems; critical process control systems including without limitation building automation systems and critical equipment monitoring

systems; utility systems; bulk and specialty gas storage, monitoring, and delivery systems; high purity systems; energy management of /ventilation/air conditioning systems and refrigeration; (b) security guard services; (c) maintenance planning and administration; (d) capital projects; (f) engineering; (g) laundry; (h) pest control; (i) utilities; (j) specialty maintenance research; or (k) instrument calibration; and (iii) any other Subcontracts or types of Subcontracts that Company may in the future designate as "Major Subcontracts."

Major Supply Contracts. "**Major Supply Contracts**" means (i) all Supply Contracts with compensation exceeding [*]; (ii) Supply Contracts materially related to the Major Subcontracts and (iii) any other Supply Contracts or types of Supply Contracts that Company may in the future designate as "Major Supply Contracts."

Managed Contracts. **"Managed Contracts"** means any third party agreements to which Company or an Affiliate of Company is a party and for which Provider assumes management responsibility in connection with the Services, including any agreements identified as "Managed Contracts" in Exhibit A (Description of Services) or an applicable Order. "**Managed Contracts**" shall not include the Assigned Contracts.

Material Change. "**Material Change**" means any Change Request or series of Change Requests that involves a change in the scope of Services in excess of US$200,000.00 in any calendar year.

Order Effective Date. "**Order Effective Date**" means the date set forth in an Order for commencement of Services under such Order.

Personnel. "**Personnel**" of a Party means such Party's directors, officers, employees, Subcontractors, Third Party Suppliers, consultants, representatives and agents, excluding the other Party, who contribute or who are dedicated to the performance of such Party's obligations under this Agreement.

Provider Competitor. "**Provider Competitor**" means any of the following entities and their respective Affiliates [*]

Provider Intellectual Property Rights. "**Provider Intellectual Property Rights**" means any and all software and other Intellectual Property rights either (i) owned by or licensed to Provider and incorporated in or required to operate or utilize any Work Product which intellectual property is pre-existing on the Effective Date or the Order Effective Date governing the development of such Work Product or (ii) developed by Provider after the Effective Date or the Order Effective Date provided that the development of such Provider Intellectual Property Rights was not part of the Work Product performed pursuant to any Services to be performed under this Agreement or any Order issued pursuant to this Agreement.

Reimbursable Costs. "**Reimbursable Costs**" means those actual and necessary costs (excluding Non-Reimbursable Costs), all without any mark-up that (i) Company agrees to pay Provider in accordance with the terms of this Agreement, and (ii) Provider reasonably and properly incurs in performing its obligations hereunder.

SAS 70 Gap Period. "**SAS 70 Gap Period**" means the period of time between the issuance of a SAS 70 Type II Report by the service auditor and the date of the assessment by Company of the adequacy of Company's controls pursuant to the Compliance Objectives.

SAS 70 Type II Report. "**SAS 70 Type II Report**" means a written opinion of a service auditor, issued in accordance with and subject to the requirements of SAS 70, covering the Services, and addressing (i) whether Provider's description of its controls presents fairly, in all material respects, the relevant aspects of Provider's controls that had been placed in operation as of a specified date, (ii) whether such controls were suitably designed to achieve the Control Objectives, and (iii) whether the controls that were tested were operating with sufficient effectiveness to provide reasonable, but not absolute, assurance that the Control Objectives were achieved during the period specified; together with the service auditor's

(a) description of the Control Objectives, (b) report on the operating effectiveness of the controls, and (c) description of the tests of the operating effectiveness of the controls that may be relevant to specified assertions in Company's financial statements, and the results of those tests. The SAS 70 Type II Report will contain any additional information that may be required under SAS 70 and will contain a paragraph stating that the SAS 70 Type II Report is intended to be used by customers of Provider and such customers' independent auditors.

Service Categories. "**Services Categories"** shall mean those specific kinds or types of Services to be performed by Provider or by its Subcontractors. The initial Services Categories are identified in Exhibit A (Description of Services). The parties may add Services Categories by mutual written agreement.

Service Disruption. "**Service Disruption**" means the occurrence of (i) a disruption of any of the Services caused by a Force Majeure Event, or (ii) any other material disruption of the Services.

Service Levels. "**Service Levels**" for a Service means the service metrics and key performance indicators for such Service set forth in Exhibit C (Key Performance Indicators/Service Level Agreements) or the Order governing the performance of such Service, including the SLA Targets and KPI Targets.

Standard of Care. "**Standard of Care**" means (i) meeting the professional standards of diligence, care, timeliness, trust, dependability, safety, efficiency, economy and skill exercised by members of Provider's profession in the United States with expertise in providing comparable first class services substantially similar in size, scope, cost and complexity to those to be provided hereunder, (ii) exercising such professional standards by appropriate action or inaction during the Term and any Termination Assistance Period, and (iii) complying with all Applicable Laws.

Stranded Costs. "**Stranded Costs**" means [*****].

Supplier. "**Supplier**" means a third party who has entered into a Supply Contract.

Supply Contracts. "**Supply Contracts**" means third party trade and supply agreements that are required in the prudent conduct of the reasonable and ordinary performance of the applicable Services.

Third Party Intellectual Property. "**Third Party Intellectual Property**" means Intellectual Property licensed by Provider from third parties and used to provide the Services or incorporated in any Work Product.

Transitioned Contractors. "**Transitioned Contractors**" means Affected Contractors whose contractor agreements are either terminated or assigned pursuant to Section 12.23(ii).

Transitioned Employees. "**Transitioned Employees**" means Affected Employees who either accept an offer of employment with Provider or whose employment is transitioned to Provider pursuant to relevant ARD Laws (or the equivalent in countries outside of the EU) and become employed by Provider effective as of the start of business on the Effective Date or such other date as to which the Parties mutually agree.

Transitioned Personnel. "**Transitioned Personnel**" means, collectively, Transitioned Employees and Transitioned Contractors.

Work Product. "**Work Product**" means any and all work product, Deliverables, reports, data, developments, inventions, ideas and discoveries, technology, including patentable and unpatentable inventions, test results, testing methods, materials, and Intellectual Property developed, discovered, improved, authored, derived, invented or acquired by, for, or on behalf of Company in connection with or while performing Services, including improvements, variations, modifications, or derivative works to Intellectual Property. Innovations, practices, procedures, inventions, ideas, discoveries and technology developed by Provider only in connection with the Services or for Company's account shall be exclusive Work Product of Company. Innovations, practices, procedures, inventions, ideas, discoveries and

technology developed by Provider generally in connection with the Services and services provided to other customers of Provider shall not be exclusive Work Product of Company. With respect to Provider Intellectual Property Rights, Work Product shall only include the licenses and rights provided for in this Agreement, and Company shall not be conveyed full ownership of such Provider Intellectual Property Rights.

33.2 Other Defined Terms.

“Account Executive”	Section 12.1
“Aggregate KPI Score”	Exhibit C
“Aggregate SLA Score”	Exhibit C
“Allocated MFAR Portion”	Exhibit C
“Annual Budgets”	Exhibit D
“Approved Equipment Lease Termination Fee”	Section 13.3
“Approved Subcontract Termination Fee”	Section 13.1
“Approved Supply Contract Termination Fee”	Section 13.3
“ARD Affected Employees”	Section 12.23(iv)
“Base Management Fee”	Exhibit D
“BC Plan”	Section 8.1
“Benchmark Category”	Section 10.1
“Burden Rates”	Exhibit D
“C.F.R.”	Section 25.4
“Change”	Section 5.1
“Change Request”	Section 5.1
“Chemical Release”	Exhibit L
“CIS”	Section 24.6
“CMMS”	Exhibit A
“Code”	Section 11.9
“Company”	Preamble
“Company Assets”	Section 24.16
“Company Contractor Agreements”	Section 12.23(ii)

“Company Emergency Change”	Section 5.10
“Company Indemnified Parties”	Section 29.1
“Company Provided Equipment”	Section 31.1
“Company Substance Condition”	Section 23.3 (iii)
“Control Objectives”	Section 15.9
“Controllable Costs”	Exhibit D
“Cost Baseline”	Exhibit D
[*]	Exhibit D
[*]	Exhibit D
“Critical Affected Personnel”	Section 12.23(iii)
“Direct Provider Labor”	Exhibit D
“Direct Provider Labor Allocation”	Exhibit D
“Disqualifying Event”	Exhibit C
“Due Diligence Information”	Section 26.2(xv)
“Effective Date”	Preamble
“Emergency”	Exhibit D
“Emergency Change”	Section 5.10
“FDA”	Section 25.1
“Fiscal Quarter”	Exhibit D
“Fiscal Year”	Exhibit D
“Fiscal Year Prior to the Measurement Year”	Exhibit D
“For Cause”	Section 12.12
“Force Majeure Event”	Section 28.2
“GAAP”	Section 15.2
“HIPAA”	Section 25.7
“Incentive Compensation”	Exhibit D

Note: Redacted portions have been marked with [*]. The redacted portions are subject to a request for confidential treatment that has been submitted to the Securities and Exchange Commission.

“Incidental Expenses”	Exhibit D
“Initial Term”	Section 17.1
“Key Performance Indicators” or “KPIs”	Exhibit C
“Key Provider Personnel”	Section 12.11
“Key Transferred Employee”	Section 12.23(iii)
“KPI Default”	Exhibit C
“KPI Failure”	Exhibit C
“KPI Multiplier”	Exhibit C
“KPI Out-Performance Bonus”	Exhibit D
“KPI Score”	Exhibit C
“KPI Scorecard”	Exhibit C
“KPI Table”	Exhibit C
“KPI Target”	Exhibit C
“Labor Disputes”	Section 13.14
“Losses”	Section 29.1
“Managed Costs”	Exhibit D
“Managed Facility”	Exhibit D
“Management Fee”	Exhibit D
“Management Fee at Risk”	Exhibit D
“Management Fee at Risk Earned”	Exhibit C
“Measurement Period”	Exhibit C
“Measurement Year”	Exhibit D
“MFAR Amount at Risk”	Exhibit C
“MFAR Amount Earned”	Exhibit C
“Minimum Savings”	Exhibit D
“MSDS”	Exhibit L

“New Services”	Section 2.3
“Non-Controllable Costs”	Exhibit D
“Non-Reimbursable Costs”	Exhibit D
“Notice of Election”	Section 29.4(i)
“Operating Costs and Expenses”	Exhibit D
“Operational Responsibility Matrix”	Exhibit A
“Operations”	Exhibit A
“Order”	Section 2.3
“Order Effective Date”	Exhibit K
“Outcomes”	Exhibit A
“Party” or “Parties”	Preamble
“Plan”	Exhibit A
“PM”	Exhibit L
“Policies and Procedures Guide”	Section 12.4
“Potential Management Fee”	Exhibit D
“Potential Management Fee Rate”	Exhibit D
“Program Manager”	Section 12.2
“Project Staff”	Section 12.16
“Proposition 65”	Section 23.3 (ii)
“Provider”	Preamble
“Provider Emergency Change”	Section 5.10
“Provider Equipment”	Section 31.2
“Provider Indemnified Parties”	Section 29.2
“Provider Provided Items”	Section 29.1(vi)
“Provider Required Consents”	Section 14.5
“Provider Senior Management”	Exhibit D

“Provider’s Shared Savings”	Exhibit D
“Provider Substance Release”	Section 23.3(iv)
“Provider T&M Project Labor”	Exhibit D
“Remediation Standard”	Section 23.3(iv)
“Renewal Term”	Section 17.1
“Resolution Period”	Section 30.2
“Savings”	Exhibit D
“Savings Initiative”	Exhibit D
“Savings Performance Manager”	Exhibit D
“Schedule”	Section 16.2
“Services”	Section 2.1
“Services Costs”	Section 19.1
“Service Level Agreements” or “SLAs”	Exhibit C
“Shared Savings”	Exhibit D
“Shared Savings Multiplier”	Exhibit D
“Shared Savings Threshold”	Exhibit D
“Small Project Services”	Exhibit A
“SLA Failure”	Exhibit C
“SLA Scorecard”	Exhibit C
“SLA Target”	Exhibit C
“Staffing Action Plan”	Section 12.14
“Staffing Notice”	Section 12.14
“Step-In”	Section 7.1
“Subcontract”	Section 13.1
“Subcontractor”	Section 13.1
“Taxes”	Exhibit Q

“Technology Solutions”	Exhibit A
“Term”	Section 17.1
“Termination Assistance Period”	Section 18.1
“Termination Assistance Services”	Section 18.1
“Third Party Supplier” or “Third Party Suppliers”	Section 12.20
“Three-Year Budget”	Exhibit D
“Toxic Substances”	Exhibit L
“Transferred Employees”	Section 12.8
“Transition”	Section 6.1
“Transition Costs”	Exhibit D
“Transition Deliverables”	Section 6.1(iii)
“Transition Manager”	Section 6.5
“Transition Milestone”	Section 6.1
“Transition Plan”	Section 6.1
“Weighted Average Aggregate Annual KPI Score”	Exhibit D
“Weighted KPI Period”	Exhibit D

IN WITNESS WHEREOF, this Agreement has been executed by the Parties.

AMGEN INC.

Signature: /s/ FABRIZIO BONANNI

By: Fabrizio Bonanni

Title: Executive Vice President, Operations

Signature: /s/ FARRYN MELTON

By: Farryn Melton

Title: Vice President, Global Strategic Sourcing and Chief Procurement Officer

JONES LANG LASALLE AMERICAS, INC.

Signature: /s/ BRIAN P. HAKE

By: Brian P. Hake

Title: Executive Vice President/ Chief Administrative Officer

Exhibit 21

AMGEN INC.

SUBSIDIARY (Name under which subsidiary does business)	STATE OR OTHER JURISDICTION OF INCORPORATION OR ORGANIZATION
Immunex Corporation	Washington
Amgen Manufacturing, Limited	Bermuda
Amgen USA Inc.	Delaware

Exhibit 31

CERTIFICATIONS

I, Kevin W. Sharer, Chairman of the Board, Chief Executive Officer and President of Amgen Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K of Amgen Inc.;

2. Based on my knowledge, this annual 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 annual report;

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

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

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

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

   (d) Disclosed in this annual report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2009

/S/ KEVIN W. SHARER

Kevin W. Sharer
Chairman of the Board,
Chief Executive Officer and President

CERTIFICATIONS

I, Robert A. Bradway, Executive Vice President and Chief Financial Officer of Amgen Inc., certify that:

1. I have reviewed this Annual Report on Form 10-K of Amgen Inc.;

2. Based on my knowledge, this annual 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 annual report;

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

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

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

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

   (d) Disclosed in this annual report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2009

/S/ ROBERT A. BRADWAY

Robert A. Bradway
Executive Vice President
and Chief Financial Officer

Exhibit 32

Certification of Chief Executive Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Amgen Inc. (the "Company") hereby certifies that:

(i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2008 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

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

Dated: February 27, 2009

/S/ KEVIN W. SHARER

Kevin W. Sharer
Chairman of the Board,
Chief Executive Officer and President

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 ("Section 906"), or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Amgen Inc. and will be retained by Amgen Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

Certification of Chief Financial Officer

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Amgen Inc. (the "Company") hereby certifies that:

(i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2008 (the "Report") fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

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

Dated: February 27, 2009

/S/ ROBERT A. BRADWAY

Robert A. Bradway
Executive Vice President
and Chief Financial Officer

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 ("Section 906"), or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Amgen Inc. and will be retained by Amgen Inc. and furnished to the Securities and Exchange Commission or its staff upon request.