

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

FORM 10-Q

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

For the quarterly period ended September 30, 2009

OR

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

For the transition period from _____ to _____

Commission File Number 000-31293

EQUINIX, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)

77-0487526
(I.R.S. Employer Identification No.)

301 Velocity Way, Fifth Floor, Foster City, California 94404
(Address of principal executive offices, including ZIP code)

(650) 513-7000
(Registrant's telephone number, including area code)

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

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

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

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company

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

The number of shares outstanding of the registrant's Common Stock as of September 30, 2009 was 38,983,344.

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Condensed Consolidated Balance Sheets
(in thousands)**

	September 30, 2009	December 31, 2008
	(unaudited)	
Assets		
Current assets:		
Cash and cash equivalents	\$ 283,147	\$ 220,207
Short-term investments	326,234	42,112
Accounts receivable, net	67,589	66,029
Current portion of deferred tax assets, net	15,163	35,936
Other current assets	21,961	15,227
Total current assets	714,094	379,511
Long-term investments	18,061	45,626
Property, plant and equipment, net	1,703,009	1,492,830
Goodwill	377,556	342,829
Intangible assets, net	52,062	50,918
Deferred tax assets, net	43,938	65,228
Other assets	53,858	57,794
Total assets	<u>\$ 2,962,578</u>	<u>\$ 2,434,736</u>
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable and accrued expenses	\$ 104,288	\$ 74,317
Accrued property, plant and equipment	64,598	89,518
Current portion of capital lease and other financing obligations	6,347	4,499
Current portion of mortgage and loans payable	53,101	52,054
Current portion of convertible debt	—	19,150
Other current liabilities	51,827	50,455
Total current liabilities	280,161	289,993
Capital lease and other financing obligations, less current portion	154,179	133,031
Mortgage and loans payable, less current portion	394,263	386,446
Convertible debt, less current portion	888,364	608,510
Other liabilities	111,177	100,095
Total liabilities	<u>1,828,144</u>	<u>1,518,075</u>
Commitments and contingencies (Note 9)		
Stockholders' equity:		
Common stock	39	38
Additional paid-in capital	1,636,984	1,524,834
Accumulated other comprehensive loss	(98,887)	(152,800)
Accumulated deficit	(403,702)	(455,411)
Total stockholders' equity	<u>1,134,434</u>	<u>916,661</u>
Total liabilities and stockholders' equity	<u>\$ 2,962,578</u>	<u>\$ 2,434,736</u>

See accompanying notes to condensed consolidated financial statements

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EQUINIX, INC.
Condensed Consolidated Statements of Operations
(in thousands, except per share data)

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008 As Adjusted (Note 2)	2009	2008 As Adjusted (Note 2)
Revenues	\$227,558	\$ 183,735	\$639,957	\$ 513,997
Costs and operating expenses:				
Cost of revenues	126,007	109,905	356,346	306,453
Sales and marketing	15,543	16,009	46,315	46,650
General and administrative	39,071	35,529	111,677	111,350
Restructuring charges	—	799	(6,053)	799
Acquisition costs	1,379	—	1,379	—
Total costs and operating expenses	182,000	162,242	509,664	465,252
Income from operations	45,558	21,493	130,293	48,745
Interest income	353	1,968	1,949	7,820
Interest expense	(22,256)	(15,671)	(51,619)	(45,179)
Other-than-temporary impairment loss on investments	—	(1,527)	(2,687)	(1,527)
Other income (expense)	2,484	(520)	3,675	602
Income before income taxes	26,139	5,743	81,611	10,461
Income tax expense	(7,327)	(187)	(29,902)	(400)
Net income	<u>\$ 18,812</u>	<u>\$ 5,556</u>	<u>\$ 51,709</u>	<u>\$ 10,061</u>
Earnings per share:				
Basic earnings per share	<u>\$ 0.49</u>	<u>\$ 0.15</u>	<u>\$ 1.35</u>	<u>\$ 0.27</u>
Weighted-average shares	<u>38,787</u>	<u>37,268</u>	<u>38,270</u>	<u>36,976</u>
Diluted earnings per share	<u>\$ 0.47</u>	<u>\$ 0.15</u>	<u>\$ 1.32</u>	<u>\$ 0.27</u>
Weighted-average shares	<u>39,887</u>	<u>38,023</u>	<u>39,305</u>	<u>37,854</u>

See accompanying notes to condensed consolidated financial statements

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EQUINIX, INC.
Condensed Consolidated Statements of Cash Flows
(in thousands)

	Nine months ended September 30,	
	2009	2008 As Adjusted (Note 2)
	(unaudited)	
Cash flows from operating activities:		
Net income	\$ 51,709	\$ 10,061
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	126,958	110,206
Stock-based compensation	39,030	41,951
Restructuring charges	(6,053)	799
Amortization of intangible assets	4,100	5,236
Amortization of debt issuance costs and debt discount	12,210	8,635
Accretion of asset retirement obligation and accrued restructuring charges	1,046	1,245
Realized net (gains) losses on investments	2,679	(1,063)
Other items	785	1,348
Changes in operating assets and liabilities:		
Accounts receivable	(23)	(3,783)
Deferred tax assets, net	20,750	—
Other assets	(7,852)	(2,018)
Accounts payable and accrued expenses	27,638	5,015
Other liabilities	5	13,631
Net cash provided by operating activities	<u>272,982</u>	<u>191,263</u>
Cash flows from investing activities:		
Purchases of investments	(309,666)	(240,556)
Sales of investments	24,697	71,141
Maturities of investments	26,387	93,268
Purchase of Upminster, net of cash acquired	(28,176)	—
Purchase of Virtu, net of cash acquired	—	(23,241)
Purchases of other property, plant and equipment	(240,440)	(305,546)
Accrued property, plant and equipment	(27,362)	(16,015)
Purchase of restricted cash	(895)	(14,234)
Release of restricted cash	12,882	333
Other investing activities	79	—
Net cash used in investing activities	<u>(542,494)</u>	<u>(434,850)</u>
Cash flows from financing activities:		
Proceeds from employee equity awards	23,050	26,087
Proceeds from convertible debt	373,750	—
Proceeds from loans payable	28,679	102,101
Repayment of capital lease and other financing obligations	(3,765)	(2,874)
Repayment of mortgage and loans payable	(34,525)	(11,456)
Capped call costs	(49,664)	—
Debt issuance costs	(8,210)	—
Other financing activities	(2,795)	(908)
Net cash provided by financing activities	<u>326,520</u>	<u>112,950</u>
Effect of foreign currency exchange rates on cash and cash equivalents	5,932	689
Net increase (decrease) in cash and cash equivalents	62,940	(129,948)
Cash and cash equivalents at beginning of period	220,207	290,633
Cash and cash equivalents at end of period	<u>\$ 283,147</u>	<u>\$ 160,685</u>
Supplemental cash flow information:		
Cash paid for taxes	\$ 5,829	\$ 405
Cash paid for interest	<u>\$ 36,016</u>	<u>\$ 35,486</u>

See accompanying notes to condensed consolidated financial statements

EQUINIX, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. Basis of Presentation and Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared by Equinix, Inc. (“Equinix” or the “Company”) and reflect all adjustments, consisting only of normal recurring adjustments, which in the opinion of management are necessary to fairly state the financial position and the results of operations for the interim periods presented. The condensed consolidated balance sheet data at December 31, 2008 has been derived from audited consolidated financial statements at that date. The consolidated financial statements have been prepared in accordance with the regulations of the Securities and Exchange Commission (“SEC”), but omit certain information and footnote disclosure necessary to present the statements in accordance with generally accepted accounting principles in the United States of America. For further information, refer to the Consolidated Financial Statements and Notes thereto included in Equinix’s Form 8-K as filed with the SEC on June 8, 2009. Results for the interim periods are not necessarily indicative of results for the entire fiscal year.

As a result of a Financial Accounting Standards Board (“FASB”) amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) (see “2.50% Convertible Subordinated Notes” in Note 8) and a FASB amendment related to the accounting for instruments granted in share-based payment transactions that are considered participating securities prior to vesting and, therefore, should be included in the calculation of earnings per share (“EPS”) (see “Earnings per Share” below), the Company adjusted comparative condensed consolidated statements of operations and statements of cash flows previously issued to reflect such changes in accounting principles (see Note 2).

Basis of Presentation and Consolidation

The accompanying condensed consolidated financial statements include the accounts of Equinix and its subsidiaries, including the operations of Upminster GmbH (“Upminster”) from July 22, 2009 (see Note 3). All significant intercompany accounts and transactions have been eliminated in consolidation.

Reclassification

Certain amounts in the accompanying condensed consolidated financial statements have been reclassified to conform to the condensed consolidated financial statement presentation as of and for the three and nine months ended September 30, 2009.

Property, Plant and Equipment

During the three months ended September 30, 2009, the Company reassessed the estimated useful lives of certain of its property, plant and equipment as part of a review of the related assumptions. As a result, the estimated useful lives of certain of the Company’s property, plant and equipment within the below table were affected.

	Estimated Useful Life	
	Original	Revised
	(in years)	
IBX plant and machinery	2-13	2-25
Leasehold improvements	10-20	10-20
Site improvements	10-15	10-15
Buildings	40-50	30-50
IBX equipment	2-13	2-15
Computer equipment and software	2-5	2-5
Furniture and fixtures	2-5	2-10

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The Company undertook this review due to its determination that it was generally using certain of its existing assets longer than originally anticipated and, therefore, certain estimated useful lives have been lengthened. The change in the estimated useful lives of certain of the Company's property, plant and equipment was accounted for as a change in accounting estimate on a prospective basis effective July 1, 2009 under the accounting standard related to change in accounting estimates.

The change in estimated useful lives of certain of the Company's property, plant and equipment, which has resulted in less depreciation expense than would have otherwise been recorded, resulted in the following increases (in thousands, except per share amounts):

	Three months ended	Nine months ended
	<u>September 30, 2009</u>	
Income from operations	\$ 4,804	\$ 4,804
Net income	2,993	2,993
Earnings per share:		
Basic and diluted	0.08	0.08

Earnings per Share

In April 2008, the FASB issued an amendment related to the accounting for instruments granted in share-based payment transactions that are considered participating securities prior to vesting and, therefore, should be included in the calculation of EPS, which requires that all prior-period EPS data presented shall be adjusted retrospectively and was effective for the Company beginning January 1, 2009. This accounting standard did not have a significant impact on the Company's historical EPS calculations.

The following table sets forth the computation of basic and diluted earnings per share for the periods presented (in thousands, except per share amounts):

	Three months ended September 30,		Nine months ended September 30,	
	<u>2009</u>	<u>2008</u>	<u>2009</u>	<u>2008</u>
Numerator:				
Numerator for basic earnings per share	\$18,812	\$ 5,556	\$51,709	\$10,061
Effect of assumed conversion of convertible debt:				
Interest expense, net of tax	—	—	23	—
Numerator for diluted earnings per share	<u>\$18,812</u>	<u>\$ 5,556</u>	<u>\$51,732</u>	<u>\$10,061</u>
Denominator:				
Weighted-average shares	<u>38,787</u>	<u>37,268</u>	<u>38,270</u>	<u>36,976</u>
Effect of dilutive securities:				
Convertible subordinated debentures	—	—	282	—
Employee equity awards	<u>1,100</u>	<u>755</u>	<u>753</u>	<u>878</u>
Total dilutive potential shares	<u>1,100</u>	<u>755</u>	<u>1,035</u>	<u>878</u>
Denominator for diluted earnings per share	<u>39,887</u>	<u>38,023</u>	<u>39,305</u>	<u>37,854</u>
Earnings per share:				
Basic	\$ 0.49	\$ 0.15	\$ 1.35	\$ 0.27
Diluted	<u>\$ 0.47</u>	<u>\$ 0.15</u>	<u>\$ 1.32</u>	<u>\$ 0.27</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The following table sets forth weighted-average outstanding potential shares of common stock that are not included in the diluted earnings per share calculation above because to do so would be anti-dilutive for the periods indicated (in thousands):

	Three months ended		Nine months ended	
	September 30,		September 30,	
	2009	2008	2009	2008
Shares reserved for conversion of convertible subordinated debentures	—	816	—	816
Shares reserved for conversion of 2.50% convertible subordinated notes	2,232	2,232	2,232	2,232
Shares reserved for conversion of 3.00% convertible subordinated notes	2,945	2,945	2,945	2,945
Shares reserved for conversion of 4.75% convertible subordinated notes	4,433	—	1,851	—
Common stock warrants	1	1	1	1
Common stock related to employee equity awards	1,023	1,386	1,506	1,371
	<u>10,634</u>	<u>7,380</u>	<u>8,535</u>	<u>7,365</u>

Income Taxes

The Company's effective tax rates were 36.6% and 3.8% for the nine months ended September 30, 2009 and 2008, respectively. The effective tax rate for the nine months ended September 30, 2009 is substantially higher than the effective tax rate for the same period of 2008, as well as the effective tax rate for fiscal 2008, primarily as a result of the Company's release of the valuation allowance against the net deferred tax assets of its domestic operations which achieved sufficient profitability in the fourth quarter of 2008.

During the three months ended September 30, 2009, the Company recorded \$4,024,000 of deferred tax assets attributable to its Hong Kong operations as a result of a release of the valuation allowance against the deferred tax assets. In reaching this decision, the Company assessed both the positive and negative evidence, which included the following:

Positive Evidence

- The establishment of a cumulative profitability by the Hong Kong operations for the past 12 quarters including the three months ended September 30, 2009.
- The Company expects that during the remainder of 2009 and thereafter the Hong Kong operations will be profitable, even after considering the effects of the global financial crisis and credit crunch.
- The indefinite carry-over periods for the net operating losses generated by the Hong Kong operations.

Negative Evidence

- The lack of profitability history of the Hong Kong operations until 2009.
- The impact of the global recession to the Hong Kong operations.

When conducting the quantitative and qualitative analysis of all the positive and negative evidence listed above, the Company gave significant weight to the achievement of three years of cumulative profitability that was achieved in the third quarter of 2009. Therefore, the Company concluded that the positive evidence outweighed the negative evidence and that it is more likely than not that the deferred tax assets will be fully realizable in its Hong Kong operations.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

As a result of the adoption of an accounting standard update related to the accounting for business combinations on January 1, 2009, the Company's tax provision will be reduced in future periods to the extent that the Company has not recognized the deferred tax assets associated with any subsidiaries acquired in previous business combinations for which goodwill exists. The recognition of such deferred tax assets in the periods subsequent to the adoption of the accounting standard update will benefit the Company's consolidated statements of operations at the time such recognition occurs. Prior to the accounting standard update, such releases were recorded against goodwill.

Interest Charges

The following table sets forth total interest costs expensed and total interest costs capitalized for the periods presented (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Interest expense	\$22,256	\$15,671	\$51,619	\$45,179
Interest capitalized	2,628	2,034	10,397	6,701
Interest charges incurred	<u>\$24,884</u>	<u>\$17,705</u>	<u>\$62,016</u>	<u>\$51,880</u>

Fair Value of Financial Instruments

The carrying value of many of the Company's financial instruments, including cash and cash equivalents, short-term and long-term investments, accounts receivable, accounts payable and accrued expenses and accrued property, plant and equipment approximate their fair value due primarily to the short-term maturity of the related instruments. The fair value of the Company's convertible debt, which is traded in the market, is based on quoted market prices. The fair value of the Company's mortgage and loans payable, which are not traded in the market, is estimated by considering the Company's credit rating, current rates available to the Company for debt of the same remaining maturities and the terms of the debt.

The following table sets forth the estimated fair values of the Company's convertible debt and mortgage and loans payable as of (in thousands):

	September 30, 2009		December 31, 2008	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Convertible Debt:				
Convertible subordinated debentures	\$ —	\$ —	\$ 19,150	\$ 19,290
2.50% convertible subordinated notes	220,247	223,899	212,524	128,552
3.00% convertible subordinated notes	395,986	419,860	395,986	251,451
4.75% convertible subordinated notes	272,131	299,360	—	—
	<u>\$ 888,364</u>	<u>\$ 943,119</u>	<u>\$ 627,660</u>	<u>\$ 399,293</u>
Mortgage and Loans Payable:				
Mortgage payable	\$ 92,432	\$ 97,403	\$ 94,362	\$ 80,221
Chicago IBX financing	109,991	106,369	109,991	103,184
Asia-Pacific financing	72,990	67,500	87,009	77,382
European financing	135,455	112,581	130,981	96,853
Netherlands financing	10,247	8,188	6,485	6,485
Other note payable	2,485	2,485	9,672	9,672
Singapore financing	23,764	20,380	—	—
	<u>\$ 447,364</u>	<u>\$ 414,906</u>	<u>\$ 438,500</u>	<u>\$ 373,797</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Stock-Based Compensation

In March 2009, the Compensation Committee and the Stock Award Committee of the Board of Directors approved the issuance of an aggregate of 653,100 shares of restricted stock units to certain employees, including executive officers, pursuant to the 2000 Equity Incentive Plan as part of the Company's annual refresh program. All awards are subject to vesting provisions. All such equity awards described in this paragraph had a total fair value as of the dates of grant of \$31,797,000, which is expected to be amortized over a weighted-average period of 3.22 years.

The following table presents, by operating expense category, stock-based compensation expense recognized in the Company's condensed consolidated statement of operations for all outstanding equity awards (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Cost of revenues	\$ 1,887	\$ 1,257	\$ 4,439	\$ 3,435
Sales and marketing	2,681	2,367	7,699	7,421
General and administrative	9,465	8,938	26,892	31,095
	<u>\$14,033</u>	<u>\$12,562</u>	<u>\$39,030</u>	<u>\$41,951</u>

Goodwill and Other Intangible Assets

The Company has three reportable segments comprised of 1) the United States, 2) Asia-Pacific and 3) Europe geographic regions. As of September 30, 2009, the Company had goodwill attributable to the Asia-Pacific reporting unit and the Europe reporting unit (see "Goodwill and Other Intangibles" in Note 7). The Company performed its annual impairment review of the Europe reporting unit as of August 31, 2009 as prescribed in the accounting standard related to goodwill impairment tests. The Company concluded that its goodwill attributed to the Company's Europe reporting unit was not impaired as the fair value of its Europe reporting unit exceeded the carrying value of this reporting unit, including goodwill. In order to determine the fair value of the Company's reporting units, the Company utilizes the discounted cash flow and market methods. The Company has consistently utilized both methods in its goodwill impairment tests and weights both results equally. The Company uses both methods in its goodwill impairment tests as it believes both, in conjunction with each other, provide a reasonable estimate of the determination of fair value of the reporting unit – the discounted cash flow method being specific to anticipated future results of the reporting unit and the market method, which is based on the Company's market sector including its competitors. The assumptions supporting the discounted cash flow method, including the discount rate, which was assumed to be 10.0%, were determined using the Company's best estimates as of the date of the impairment review. The Company has performed various sensitivity analyses on certain of the assumptions used in the discounted cash flow method, such as forecasted revenues and discount rate, and notes that no reasonably possible changes would reduce the fair value of the reporting unit to such a level that would cause an impairment charge.

Impairment assessments inherently involve judgment as to assumptions about expected future cash flows and the impact of market conditions on those assumptions. Future events and changing market conditions may impact the Company's assumptions as to prices, costs, growth rates or other factors that may result in changes in the Company's estimates of future cash flows. Although the Company believes the assumptions it used in testing for impairment are reasonable, significant changes in any one of the Company's assumptions could produce a significantly different result. The Company performs its annual impairment review of the Asia-Pacific reporting unit in the fourth quarter; however, the Company has noted no indications of impairment as of September 30, 2009. Indicators of potential impairment that might lead the Company to perform interim goodwill impairment assessments include significant and unforeseen customer losses, a significant adverse change in legal factors or in the business climate, a significant adverse action or assessment by a regulator or unanticipated competition.

Recent Accounting Pronouncements

In May 2009, the FASB issued an accounting standard update, which establishes the accounting for and disclosures of subsequent events. The Company adopted this accounting standard update during the three months ended June 30, 2009. The adoption of this accounting standard update did not have material impact on the Company's consolidated financial statements.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

In June 2009, the FASB issued Accounting Standards Update No. 2009-01 (“ASU 2009-01”), which establishes the FASB Accounting Standards Codification™ as the source of authoritative U.S. GAAP recognized by the FASB to be applied by nongovernmental entities. The Company adopted ASU 2009-01 during the three months ended September 30, 2009 and its adoption did not have any impact on the Company’s consolidated financial statements.

In August 2009, the FASB issued Accounting Standards Update No. 2009-05 (“ASU 2009-05”), which clarified how to measure the fair value of liabilities in circumstances when a quoted price in an active market for the identical liability is not available. ASU 2009-05 is effective for the first reporting period beginning after the issuance of this standard. The Company expects to adopt ASU 2009-05 during the three months ended December 31, 2009 and is evaluating the impact that this adoption will have on its consolidated financial statements.

In October 2009, the FASB issued Accounting Standards Update No. 2009-13 (“ASU 2009-13”), which addresses the accounting for multiple-deliverable arrangements to enable vendors to account for products or services (deliverables) separately rather than as a combined unit. ASU 2009-13 is effective prospectively for revenue arrangements entered into or materially modified beginning in fiscal years on or after June 15, 2010. Early adoption is permitted. The Company is currently evaluating the impact that the adoption of this standard will have on its consolidated financial statements, if any.

2. Changes in Accounting Principle

The Company changed its accounting principles to reflect the impact of the adoption of a FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) (see “2.50% Convertible Subordinated Notes” in Note 8) and a FASB amendment related to the accounting for instruments granted in share-based payment transactions that are considered participating securities prior to vesting and, therefore, should be included in the calculation of EPS (see Note 1), which were effective January 1, 2009. These FASB amendments were applied retrospectively, as a result, the Company adjusted comparative condensed consolidated financial statements of prior periods in this Quarterly Report on Form 10-Q.

The following condensed consolidated statement of operations for the three and nine months ended September 30, 2008 and condensed consolidated statement of cash flows for the nine months ended September 30, 2008 were affected by the changes in accounting principle (in thousands, except per share amounts):

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Condensed Consolidated Statement of Operations

	Three Months Ended September 30, 2008		
	As Originally Reported	As Adjusted	Effect of Change
Revenues	\$ 183,735	\$ 183,735	\$ —
Costs and operating expenses:			
Cost of revenues	109,863	109,905	42
Sales and marketing	16,009	16,009	—
General and administrative	35,529	35,529	—
Restructuring charges	799	799	—
Total costs and operating expenses	<u>162,200</u>	<u>162,242</u>	<u>42</u>
Income from operations	21,535	21,493	(42)
Interest income	1,968	1,968	—
Interest expense	(13,880)	(15,671)	(1,791)
Other-than-temporary impairment loss on investments	(1,527)	(1,527)	—
Other income (expense)	(520)	(520)	—
Income before income taxes	<u>7,576</u>	<u>5,743</u>	<u>(1,833)</u>
Income tax expense	(187)	(187)	—
Net income	<u>\$ 7,389</u>	<u>\$ 5,556</u>	<u>\$(1,833)</u>
Earnings per share:			
Basic earnings per share	<u>\$ 0.20</u>	<u>\$ 0.15</u>	<u>\$(0.05)</u>
Diluted earnings per share	<u>\$ 0.19</u>	<u>\$ 0.15</u>	<u>\$(0.04)</u>
		Nine Months Ended September 30, 2008	
	As Originally Reported	As Adjusted	Effect of Change
Revenues	\$ 513,997	\$ 513,997	\$ —
Costs and operating expenses:			
Cost of revenues	306,357	306,453	96
Sales and marketing	46,650	46,650	—
General and administrative	111,350	111,350	—
Restructuring charges	799	799	—
Total costs and operating expenses	<u>465,156</u>	<u>465,252</u>	<u>96</u>
Income from operations	48,841	48,745	(96)
Interest income	7,820	7,820	—
Interest expense	(40,297)	(45,179)	(4,882)
Other-than-temporary impairment loss on investments	(1,527)	(1,527)	—
Other income (expense)	602	602	—
Income before income taxes	<u>15,439</u>	<u>10,461</u>	<u>(4,978)</u>
Income tax expense	(400)	(400)	—
Net income	<u>\$ 15,039</u>	<u>\$ 10,061</u>	<u>\$(4,978)</u>
Earnings per share:			
Basic earnings per share	<u>\$ 0.41</u>	<u>\$ 0.27</u>	<u>\$(0.14)</u>
Diluted earnings per share	<u>\$ 0.40</u>	<u>\$ 0.27</u>	<u>\$(0.13)</u>

As a result of the Company's adoption of the FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement), the most significant impact to the Company's financial results for the three and nine months ended September 30, 2009 was an increase to interest expense of \$2,526,000 and \$7,465,000, respectively.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Condensed Consolidated Statement of Cash Flows

	Nine Months Ended September 30, 2008		
	As Originally Reported	As Adjusted	Effect of Change
Cash flows from operating activities:			
Net income	\$ 15,039	\$ 10,061	\$(4,978)
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation	110,110	110,206	96
Stock-based compensation	41,951	41,951	—
Amortization of intangibles	5,236	5,236	—
Amortization of debt issuance costs and debt discount	3,753	8,635	4,882
Accretion of asset retirement obligation and accrued restructuring charges	1,245	1,245	—
Restructuring charges	799	799	—
Realized net gains on investments	(1,063)	(1,063)	—
Other items	1,348	1,348	—
Changes in operating assets and liabilities:			
Accounts receivable	(3,783)	(3,783)	—
Other assets	(2,018)	(2,018)	—
Accounts payable and accrued expenses	5,015	5,015	—
Accrued restructuring charges	(2,034)	(2,034)	—
Other liabilities	15,665	15,665	—
Net cash provided by operating activities	191,263	191,263	—
Net cash used in investing activities	(434,850)	(434,850)	—
Net cash provided by financing activities	112,950	112,950	—
Effect of foreign currency exchange rates on cash and cash equivalents	689	689	—
Net decrease in cash and cash equivalents	(129,948)	(129,948)	—
Cash and cash equivalents at beginning of period	290,633	290,633	—
Cash and cash equivalents at end of period	<u>\$ 160,685</u>	<u>\$ 160,685</u>	<u>\$ —</u>

3. IBX Acquisitions and Expansions

Upminster Acquisition

On July 22, 2009, a wholly-owned subsidiary of the Company acquired all of the issued and outstanding share capital of Upminster GmbH, a company which owns a data center and the real estate on which it is situated in Frankfurt, Germany, for a cash payment of \$28,208,000, excluding acquisition costs (the “Upminster Acquisition”). The combined company operates under the Equinix name. The Upminster Acquisition was accounted for using the acquisition method of accounting in accordance with the accounting standard related to the accounting for business combinations. The results of operations for Upminster are not significant to the Company; therefore, the Company does not present its purchase price allocation or pro forma combined results of operations. The Company expensed its acquisition costs in connection with the Upminster Acquisition.

Chicago IBX Expansion Project

In July 2009, a wholly-owned subsidiary of the Company entered into an operating lease agreement (“the Lease”) for data center space in the Chicago metro area. The Lease has a fixed term of 12 years, with options to extend for up to an additional 15 years, in five-year increments. Cumulative minimum payments under the Lease total \$92,286,000 over the initial Lease term.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Zurich IBX Expansion Project

In June 2009, an indirect wholly-owned subsidiary of the Company entered into a lease for building space within a multi-floor, multi-tenant building that the Company will convert into its fourth IBX center in Zurich, Switzerland (the “Zurich Lease” and the “Zurich IBX Expansion Project”). The Zurich Lease has a fixed term of 10 years, with options to extend for up to an additional 10 years, in five-year increments. Cumulative minimum payments under the Zurich Lease total approximately \$8,727,000 (using the exchange rate as of September 30, 2009) over the Zurich Lease term, which does not include any rent obligation for the extension periods. Pursuant to the accounting standards related to the accounting for lessee’s involvement in asset construction and the accounting for leasing transactions involving special-purpose entities, the Company is considered the owner of the leased building space during the construction phase due to some specific provisions contained in the Zurich Lease. As a result, as of September 30, 2009, the Company has recorded a building asset and a related financing liability (the “Zurich IBX Building Financing”) totaling approximately \$11,348,000 (using the exchange rate as of September 30, 2009).

London IBX Expansion Project

In October 2008, an indirect wholly-owned subsidiary of the Company entered into an agreement for lease for property and a warehouse building to be constructed for the Company in the London, England metro area (the “Agreement for Lease”). The Agreement for Lease provides for the completion of a warehouse building within a specified time and the entry into a definitive lease (the “Lease”) upon its completion. The Lease will have a term of 20 years, with the Company’s option to terminate after 15 years upon six months’ prior notice, and a total cumulative rent obligation of approximately \$39,801,000 (using the exchange rate as of September 30, 2009) over the first 15 years of the Lease. On the fifteenth anniversary of the Lease, the rent can be reviewed and adjusted to market rents, as set out in the Lease. The Company expects to enter into the Lease in approximately February 2010. In January 2009, the landlord commenced construction of the building that the Company will ultimately lease. Pursuant to the accounting standards related to the accounting for lessee’s involvement in asset construction and the accounting for leasing transactions involving special-purpose entities, the Company is considered the owner of the building during the construction phase. As a result, the Company will be recording a building asset during the construction period and a related financing liability (the “London IBX Building Financing”), while the underlying land will be considered an operating lease. The building is expected to be completed in February 2010. In connection with the London IBX Building Financing, the Company recorded a building asset and a corresponding financing obligation liability totaling approximately \$11,280,000 (using the exchange rate as of September 30, 2009), representing the estimated percentage-of-completion of the building as of September 30, 2009.

4. Fair Value Measurements

In April 2009, the Company adopted an accounting standard update related to determining fair value when the volume and level of activity for an asset or liability have significantly decreased and identifying transactions that are not orderly. This adoption did not have any significant impact on the Company’s consolidated financial statements.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The Company’s financial assets and liabilities measured at fair value on a recurring basis at September 30, 2009 were as follows (in thousands):

	Fair value at September 30, 2009	Fair value measurement using		
		Level 1	Level 2	Level 3
Assets:				
U.S. Government and Agency obligations	\$ 437,076	\$ —	\$437,076	\$ —
Money markets	166,152	166,152	—	—
Reserve	897	—	—	897
Corporate bonds	14,807	—	14,807	—
Asset-backed securities	7,367	—	7,367	—
Other securities	1,143	—	1,143	—
	<u>\$ 627,442</u>	<u>\$166,152</u>	<u>\$460,393</u>	<u>\$ 897</u>
Liabilities:				
Derivative liabilities ⁽¹⁾	(11,833)	—	(11,833)	—
	<u>\$ (11,833)</u>	<u>\$ —</u>	<u>\$ (11,833)</u>	<u>\$ —</u>

(1) Included in the condensed consolidated balance sheets within other current liabilities and other liabilities.

The following table provides a summary of the activities of the Company’s Level 3 financial assets measured at fair value for the nine months ended September 30, 2009 (in thousands):

Balance at December 31, 2008	\$ 9,250
Other-than-temporary impairment loss on investments (1)	(2,687)
Settlements	(5,666)
Balance at September 30, 2009	<u>\$ 897</u>

(1) Included in the condensed consolidated statements of operations.

In January 2009, the Company adopted the accounting standard related to the measurement of fair value for nonfinancial assets and liabilities that are not remeasured at fair value on a recurring basis. These include:

- Nonfinancial assets and nonfinancial liabilities initially measured at fair value in a business combination or other new basis event, but not measured at fair value in subsequent reporting periods;
- Reporting units and nonfinancial assets and nonfinancial liabilities measured at fair value for goodwill impairment test under the accounting standard related to the accounting for intangibles;
- Indefinite-lived intangible assets measured at fair value for impairment assessment under the accounting standard related to the accounting for intangibles;
- Nonfinancial long-lived assets or asset groups measured at fair value for impairment assessment or disposal under the accounting standard related to the accounting for property, plant and equipment;
- Asset retirement obligations initially measured at fair value under the accounting standard related to the accounting for asset retirement and environmental obligations; and
- Nonfinancial liabilities associated with exit or disposal activities initially measured at fair value under the accounting standard related to the accounting for exit or disposal cost obligations.

During the three and nine months ended September 30, 2009, the Company did not have any nonfinancial assets or liabilities measured at fair value on a recurring basis.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

During the three and nine months ended September 30, 2009, there were no impairment charges recorded in connection with the Company's goodwill and long-lived assets. The Company performs impairment tests of its goodwill at least annually (or whenever events or circumstances indicate a triggering event has occurred indicating that the carrying amount of the asset may not be recoverable). Goodwill attributed to the Company's Europe reporting unit was tested for impairment in the third quarter of 2009 and goodwill attributed to the Company's Asia-Pacific reporting unit is scheduled to be tested in the fourth quarter of 2009 (see Note 1). The Company performs impairment tests for its long-lived assets, other than goodwill, whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. During the nine months ended September 30, 2009, the Company recorded new asset retirement obligations and recorded a reduction to its restructuring charge, which include measurements of fair value on a non-recurring basis; however, the amounts for both of these items were not significant.

5. Derivatives and Hedging Activities

The Company follows the accounting standard related to derivative and hedging in its accounting for derivatives and hedging activities. The Company employs interest rate swaps to partially offset its exposure to variability in interest payments due to fluctuations in interest rates for certain of its variable-rate debt. To assess effectiveness, the Company uses a regression analysis. The extent to which a hedging instrument has been and is expected to continue to be effective at achieving offsetting changes in cash flows is assessed and documented at least quarterly. Any ineffectiveness is reported in current-period earnings. If it is determined that a derivative is not highly effective at hedging the designated exposure, hedge accounting is discontinued. For qualifying cash flow hedges, the effective portion of the change in the fair value of the derivative is recorded in other comprehensive income (loss) and recognized in the consolidated statements of operations when the hedged cash flows affect earnings. The ineffective portions of cash flow hedges are immediately recognized in earnings. If the hedge relationship is terminated, then the change in fair value of the derivative recorded in other comprehensive income (loss) is recognized in earnings when the cash flows that were hedged occur, consistent with the original hedge strategy. For hedge relationships discontinued because the forecasted transaction is not expected to occur according to the original strategy, any related derivative amounts recorded in other comprehensive income (loss) are immediately recognized in earnings. The Company has no fair value hedges. The Company does not use derivatives for speculative or trading purposes. The Company employs foreign currency forward contracts to partially offset its business exposure to foreign exchange risk for certain existing foreign currency-denominated assets and liabilities.

Cash Flow Hedges—Interest Rate Swaps

The Company has variable-rate debt financing. These obligations expose the Company to variability in interest payments and therefore fluctuations in interest expense and cash flows due to changes in interest rates. Interest rate swap contracts are used in the Company's risk management activities in order to minimize significant fluctuations in earnings that are caused by interest rate volatility. Interest rate swaps involve the exchange of variable-rate interest payments for fixed-rate interest payments based on the contractual underlying notional amount. Gains and losses on the interest rate swaps that are linked to the debt being hedged are expected to substantially offset this variability in earnings.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

As of September 30, 2009, the Company had a total of four outstanding interest rate swap instruments with expiration dates ranging from February 2011 to May 2011 as follows (in thousands):

	<u>Notional Amount</u>	<u>Fair Value (1)</u>	<u>Loss (2)</u>
Liabilities:			
European Financing interest rate swaps	\$ 89,265	\$(5,899)	\$(5,814)
Chicago IBX Financing interest rate swap	<u>105,000</u>	<u>(4,004)</u>	<u>(4,004)</u>
	<u>\$194,265</u>	<u>\$(9,903)</u>	<u>\$(9,818)</u>

- (1) Included in the condensed consolidated balance sheets within other liabilities.
(2) Included in the condensed consolidated balance sheets within accumulated other comprehensive income (loss).

As of September 30, 2008, the Company had six interest rate swap instruments with expiration dates ranging from August 2009 to May 2011 as follows (in thousands):

	<u>Notional Amount</u>	<u>Fair Value (1)</u>	<u>Gain (Loss) (2)</u>
Liabilities:			
European Financing interest rate swaps	113,710	(1,602)	(1,832)
Chicago IBX Financing interest rate swap	<u>105,000</u>	<u>(513)</u>	<u>(513)</u>
	<u>\$218,710</u>	<u>\$(2,115)</u>	<u>\$(2,345)</u>

- (1) Included in the condensed consolidated balance sheets within other current liabilities and other liabilities.
(2) Included in the condensed consolidated balance sheets within accumulated other comprehensive income (loss).

The Company designated all existing interest rate swaps as highly effective hedge relationships at achieving offsetting changes in cash flows as of September 30, 2009 and 2008 with an insignificant amount of ineffectiveness recorded in interest expense on the accompanying condensed consolidated statements of operations.

Other Derivatives—Foreign Currency Forward Contracts

The Company uses foreign currency forward contracts to manage the foreign exchange risk associated with certain foreign currency-denominated assets and liabilities. As a result of foreign currency fluctuations, the U.S. dollar equivalent values of the foreign currency-denominated assets and liabilities change. Foreign currency forward contracts represent agreements to exchange the currency of one country for the currency of another country at an agreed-upon price on an agreed-upon settlement date.

The Company has not designated the foreign currency forward contracts as hedging instruments under the accounting standard related to the accounting for derivative and hedging. Gains and losses on these contracts are included in other income (expense), net, along with those foreign currency gains and losses of the related foreign currency-denominated assets and liabilities associated with these foreign currency forward contracts. The Company entered into various foreign currency forward contracts during the three and nine months ended September 30, 2009. As of September 30, 2009, the Company had gross assets totaling \$1,238,000 and gross liabilities totaling \$3,168,000 representing the fair values of these foreign currency forward contracts. The Company records its foreign currency forward contracts, net, within other current liabilities. During the three and nine months ended September 30, 2009, the Company recognized a net loss of \$820,000 and \$1,156,000, respectively, in connection with its foreign currency forward contracts, which is reflected in other income (expense) on the accompanying consolidated statement of operations. During the three and nine months ended September 30, 2008, the Company recognized a net gain of \$3,181,000 and \$2,944,000, respectively, in connection with its foreign currency forward contracts, which is reflected in other income (expense) on the accompanying consolidated statement of operations.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

6. Related Party Transactions

The Company has several significant stockholders and other related parties that are also customers and/or vendors. For the three and nine months ended September 30, 2009, revenues recognized from related parties were \$5,654,000 and \$17,308,000, respectively. For the three and nine months ended September 30, 2008, revenues recognized from related parties were \$6,662,000 and \$14,266,000, respectively. As of September 30, 2009 and 2008, accounts receivable with these related parties were \$3,070,000 and \$5,386,000, respectively. For the three and nine months ended September 30, 2009, costs and services procured from related parties were \$489,000 and \$788,000, respectively. For the three and nine months ended September 30, 2008, costs and services procured from related parties were \$735,000 and \$2,250,000, respectively. As of September 30, 2009 and 2008, accounts payable with these related parties were \$43,000 and \$87,000, respectively.

7. Balance Sheet Components*Cash, Cash Equivalents and Short-Term and Long-Term Investments*

Cash, cash equivalents and short-term and long-term investments consisted of the following as of (in thousands):

	September 30, 2009			Fair Value
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	
U.S. Government and Agency obligations	\$ 436,831	\$ 249	\$ (4)	\$ 437,076
Money markets	166,152	—	—	166,152
Reserve	897	—	—	897
Corporate bonds	14,531	276	—	14,807
Asset-backed securities	7,203	169	(5)	7,367
Other securities	1,131	12	—	1,143
Total available-for-sale securities	626,745	706	(9)	627,442
Less amounts classified as cash and cash equivalents	(283,144)	(3)	—	(283,147)
Total securities classified as investments	343,601	703	(9)	344,295
Less amounts classified as short-term investments	(325,977)	(261)	4	(326,234)
Total long-term investments	<u>\$ 17,624</u>	<u>\$ 442</u>	<u>\$ (5)</u>	<u>\$ 18,061</u>

EQUINIX, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

	December 31, 2008			
	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
U.S. Government and Agency obligations	\$ 130,672	\$ 344	\$ (14)	\$ 131,002
Money markets	112,208	—	—	112,208
Reserve	9,250	—	—	9,250
Corporate bonds	35,046	35	(546)	34,535
Asset-backed securities	17,970	53	(299)	17,724
Certificates of deposits	2,000	5	—	2,005
Other securities	1,199	22	—	1,221
Total available-for-sale securities	308,345	459	(859)	307,945
Less amounts classified as cash and cash equivalents	(220,207)	—	—	(220,207)
Total securities classified as investments	88,138	459	(859)	87,738
Less amounts classified as short-term investments	(42,132)	(135)	155	(42,112)
Total long-term investments	<u>\$ 46,006</u>	<u>\$ 324</u>	<u>\$ (704)</u>	<u>\$ 45,626</u>

As of September 30, 2009 and December 31, 2008, cash equivalents included investments which were readily convertible to cash and had maturity dates of 90 days or less. The maturities of securities classified as short-term investments were one year or less as of September 30, 2009 and December 31, 2008. The maturities of securities classified as long-term investments were greater than one year and less than three years as of September 30, 2009 and December 31, 2008.

Effective April 1, 2009, the Company adopted an accounting standard update related to the recognition and disclosure of other-than-temporary impairments of investments. As a result of this adoption, the Company reclassified previously-recorded other-than-temporary impairment losses in connection with its investment in the Reserve Primary Fund (the "Reserve") from other income (expense), net, to other-than-temporary impairment loss on investments in the Company's accompanying condensed consolidated statements of operations. During the nine months ended September 30, 2009, the Company received additional distributions of \$5,666,000 from the Reserve. During the nine months ended September 30, 2009, the Company recorded an additional \$2,687,000 of other-than-temporary impairment loss in connection with its investments in the Reserve, which is included in the Company's accompanying condensed consolidated statements of operations. During the three months ended September 30, 2008, the Company recorded a \$1,527,000 other-than-temporary impairment loss from the Reserve. The other-than-temporary impairment losses that the Company recorded in 2008 and 2009 as described above were entirely credit losses with nothing required to be reclassified from earnings to accumulated other comprehensive income (loss) for non-credit portions in either period. As of September 30, 2009, funds held by the Reserve with a fair value totaling \$897,000 remained outstanding and are classified as a short-term investment on the Company's accompanying condensed consolidated balance sheets. This classification is based on the Company's assessment of each of the individual securities which make up the underlying portfolio holdings in the Reserve, which primarily consisted of commercial paper, certificates of deposits and discount notes. While the Company expects to receive substantially all of its current holdings in the Reserve within the next nine months, it is possible the Company may encounter difficulties in receiving distributions given the current credit market conditions. If market conditions were to deteriorate even further such that the current fair value was not achievable, or if the Reserve is delayed in its ability to accurately complete their account reconciliations, the Company could realize additional losses in its holdings with the Reserve and distributions could be further delayed. A number of litigation claims have been filed against the Reserve's management which could potentially delay the timing and amount of the final distributions of the fund. If the litigation were to continue for an extended period of time it is possible that the Reserve management's cost of defending these claims could also reduce the final amount of distribution to the Company.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The following table summarizes the fair value and gross unrealized losses related to six available-for-sale securities with an aggregate cost basis of \$130,691,000, aggregated by type of investment and length of time that individual securities have been in continuous unrealized loss position, as of September 30, 2009 (in thousands):

	Securities in a loss position for less than 12 months		Securities in a loss position for 12 months or more	
	Fair value	Gross unrealized losses	Fair value	Gross unrealized losses
U.S. Government and Agency obligations	\$129,954	\$ (4)	\$ —	\$ —
Asset-backed securities	728	(5)	—	—
	<u>\$130,682</u>	<u>\$ (9)</u>	<u>\$ —</u>	<u>\$ —</u>

The Company does not believe it holds investments that are other-than-temporarily impaired, other than its investment in the Reserve, and believes that the Company's investments will mature at par, as of September 30, 2009. As securities mature and additional proceeds become available for investing, the Company invests these proceeds in U.S. government securities, such as Treasury bills and Treasury notes, of a short-term duration and lower yield in order to meet its liquidity and lower risk requirements in this current market environment. As a result, the Company expects interest income to remain at low levels in future periods.

Accounts Receivable

Accounts receivables, net, consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Accounts receivable	\$ 127,868	\$ 119,030
Unearned revenue	(58,843)	(50,964)
Allowance for doubtful accounts	(1,436)	(2,037)
	<u>\$ 67,589</u>	<u>\$ 66,029</u>

Trade accounts receivable are recorded at the invoiced amount and generally do not bear interest. The Company generally invoices its customers at the end of a calendar month for services to be provided the following month. Accordingly, unearned revenue consists of pre-billing for services that have not yet been provided, but which have been billed to customers in advance in accordance with the terms of their contract.

Other Current Assets

Other current assets consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Prepaid expenses	\$ 13,080	\$ 9,550
Taxes receivable	4,981	3,434
Foreign currency forward contract receivable	—	377
Debt issuance costs, net	—	18
Other receivable	2,177	1,280
Other current assets	1,723	568
	<u>\$ 21,961</u>	<u>\$ 15,227</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Property, Plant and Equipment

Property, plant and equipment consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
IBX plant and machinery	\$ 903,624	\$ 651,820
Leasehold improvements	536,674	472,872
Buildings	277,911	196,009
Site improvements	231,747	217,200
IBX equipment	168,250	147,832
Land	85,022	48,950
Computer equipment and software	80,673	74,179
Furniture and fixtures	10,899	9,866
Construction in progress	147,472	277,208
	2,442,272	2,095,936
Less accumulated depreciation	(739,263)	(603,106)
	<u>\$ 1,703,009</u>	<u>\$ 1,492,830</u>

Leasehold improvements, IBX plant and machinery, computer equipment and software and buildings recorded under capital leases aggregated \$81,596,000 and \$80,239,000 at September 30, 2009 and December 31, 2008, respectively. Amortization on the assets recorded under capital leases is included in depreciation expense and accumulated depreciation on such assets totaled \$14,644,000 and \$10,407,000 as of September 30, 2009 and 2008, respectively.

As of September 30, 2009 and December 31, 2008, the Company had accrued property, plant and equipment expenditures of \$64,598,000 and \$89,518,000, respectively. The Company's planned capital expenditures during the remainder of 2009 in connection with recently acquired IBX properties and expansion efforts are substantial. For further information, refer to "Other Purchase Commitments" in Note 9.

During the three months ended September 30, 2009, the Company changed the estimated useful lives of certain of the Company's property, plant and equipment, which is accounted for as a change in accounting estimate (see "Property, Plant and Equipment" in Note 1).

Goodwill and Other Intangible Assets

Goodwill and other intangible assets, net, consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Goodwill:		
Europe	\$ 359,140	\$ 324,674
Asia-Pacific	18,416	18,155
	<u>377,556</u>	<u>342,829</u>
Other intangibles:		
Intangible asset – customer contracts	63,489	58,605
Intangible asset – leases	4,655	4,349
Intangible asset – others	1,631	755
	<u>69,775</u>	<u>63,709</u>
Accumulated amortization	(17,713)	(12,791)
	<u>52,062</u>	<u>50,918</u>
	<u>\$ 429,618</u>	<u>\$ 393,747</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The Company's goodwill and intangible assets in Europe, denominated in British pounds and Euros, and goodwill in Asia-Pacific, denominated in Singapore dollars, are subject to foreign currency fluctuations. The changes in goodwill balances noted above are predominantly due to foreign exchange rate changes; however, the Company also recorded \$4,403,000 of additional goodwill to the Europe reporting unit in connection with the Upminster Acquisition (see Note 3). The Company's foreign currency translation gains and losses, including those related to goodwill and other intangibles, are a component of other comprehensive income (loss).

For the three and nine months ended September 30, 2009, the Company recorded amortization expense of \$1,454,000 and \$4,100,000, respectively, associated with its other intangible assets. For the three and nine months ended September 30, 2008, the Company recorded amortization expense of \$1,690,000 and \$5,236,000, respectively, associated with its other intangible assets. Estimated future amortization expense related to these intangibles is as follows (in thousands):

Year ending:	
2009 (three months remaining)	\$ 1,495
2010	5,763
2011	5,669
2012	5,653
2013	5,653
2014 and thereafter	<u>27,829</u>
Total	<u>\$52,062</u>

Other Assets

Other assets consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Deposits	\$ 25,170	\$ 21,485
Debt issuance costs, net	20,994	16,216
Prepaid expenses	3,364	3,874
Restricted cash	3,211	14,934
Other assets	1,119	1,285
	<u>\$ 53,858</u>	<u>\$ 57,794</u>

Accounts Payable and Accrued Expenses

Accounts payable and accrued expenses consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Accounts payable	\$ 18,222	\$ 18,325
Accrued compensation and benefits	27,469	22,135
Accrued taxes	16,886	8,640
Accrued utilities and security	15,494	10,327
Accrued interest	15,405	5,962
Accrued professional fees	2,959	2,741
Accrued other	7,853	6,187
	<u>\$ 104,288</u>	<u>\$ 74,317</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Other Current Liabilities

Other current liabilities consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Deferred installation revenue	\$ 26,962	\$ 22,769
Deferred tax liabilities	7,342	7,342
Customer deposits	8,032	5,913
Deferred recurring revenue	4,695	4,434
Accrued restructuring charges	1,967	6,023
Foreign currency forward contract payable	1,930	2,072
Deferred rent	403	495
Interest rate swap payable	—	271
Other current liabilities	496	1,136
	<u>\$ 51,827</u>	<u>\$ 50,455</u>

Other Liabilities

Other liabilities consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Deferred rent, non-current	\$ 32,535	\$ 28,146
Deferred tax liabilities, non-current	17,616	16,531
Asset retirement obligations	17,791	12,264
Deferred installation revenue, non-current	16,851	12,083
Interest rate swap payable, non-current	9,903	10,631
Customer deposits, non-current	5,472	6,108
Deferred recurring revenue, non-current	5,576	6,180
Accrued restructuring charges, non-current	4,271	7,288
Other liabilities	1,162	864
	<u>\$ 111,177</u>	<u>\$ 100,095</u>

The Company currently leases the majority of its IBX centers and certain equipment under non-cancelable operating lease agreements expiring through 2027. The IBX center lease agreements typically provide for base rental rates that increase at defined intervals during the term of the lease. In addition, the Company has negotiated rent expense abatement periods to better match the phased build-out of its centers. The Company accounts for such abatements and increasing base rents using the straight-line method over the life of the lease. The difference between the straight-line expense and the cash payment is recorded as deferred rent.

8. Debt Facilities and Other Financing Obligations

4.75% Convertible Subordinated Notes

In June 2009, the Company issued \$373,750,000 aggregate principal amount of 4.75% Convertible Subordinated Notes due June 15, 2016 (the “4.75% Convertible Subordinated Notes”). Interest is payable semi-annually on June 15 and December 15 of each year, beginning December 15, 2009.

The 4.75% Convertible Subordinated Notes are governed by an Indenture dated as of June 12, 2009, between the Company, as issuer, and U.S. Bank National Association, as trustee (the “4.75% Convertible Subordinated Notes Indenture”). The 4.75% Convertible Subordinated Notes Indenture does not contain any financial covenants or any restrictions on the payment of dividends, the incurrence of senior debt or other indebtedness, or the issuance or repurchase of securities by the Company. The 4.75% Convertible Subordinated Notes are unsecured and rank junior in right of payment to the Company’s existing or future senior debt and equal in right of payment to the Company’s existing and future subordinated debt.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Upon conversion, holders will receive, at the Company's election, cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock. However, the Company may at any time irrevocably elect for the remaining term of the 4.75% Convertible Subordinated Notes to satisfy its obligation in cash up to 100% of the principal amount of the 4.75% Convertible Subordinated Notes, with any remaining amount to be satisfied, at the Company's election, in shares of its common stock or a combination of cash and shares of its common stock.

The initial conversion rate is 11.8599 shares of common stock per \$1,000 principal amount of 4.75% Convertible Subordinated Notes, subject to adjustment. This represents an initial conversion price of approximately \$84.32 per share of common stock. Holders of the 4.75% Convertible Subordinated Notes may convert their notes at any time prior to the close of business on the business day immediately preceding the maturity date under the following circumstances:

- during any fiscal quarter (and only during that fiscal quarter) ending after September 30, 2009, if the sale price of the Company's common stock, for at least 20 trading days during the period of 30 consecutive trading days ending on the last trading day of the previous fiscal quarter, is greater than 130% of the conversion price per share of common stock on such last trading day, which was \$109.62 per share (the "Stock Price Condition Conversion Clause");
- subject to certain exceptions, during the five business day period following any 10 consecutive trading day period in which the trading price of the 4.75% Convertible Subordinated Notes for each day of such period was less than 98% of the product of the sale price of the Company's common stock and the conversion rate (the "4.75% Convertible Subordinated Notes Parity Provision Clause");
- upon the occurrence of specified corporate transactions described in the 4.75% Convertible Subordinated Notes Indenture, such as a consolidation, merger or binding share exchange in which the Company's common stock would be converted into cash or property other than securities (the "Corporate Action Provision Clause"); or
- at any time on or after March 15, 2016.

Upon conversion, if the Company elected to pay a sufficiently large portion of the conversion obligation in cash, additional consideration beyond the \$373,750,000 of gross proceeds received would be required. As of September 30, 2009, the 4.75% Convertible Subordinated Notes were convertible into 4,432,638 shares of the Company's common stock.

The conversion rates may be adjusted upon the occurrence of certain events, including for any cash dividend, but they will not be adjusted for accrued and unpaid interest. Holders of the 4.75% Convertible Subordinated Notes will not receive any cash payment representing accrued and unpaid interest upon conversion of a note. Accrued but unpaid interest will be deemed to be paid in full upon conversion rather than cancelled, extinguished or forfeited.

The Company does not have the right to redeem the 4.75% Convertible Subordinated Notes at its option. Holders of the 4.75% Convertible Subordinated Notes have the right to require the Company to purchase with cash all or a portion of the 4.75% Convertible Subordinated Notes upon the occurrence of a fundamental change, such as a change of control at a purchase price equal to 100% of the principal amount of the 4.75% Convertible Subordinated Notes plus accrued and unpaid interest, if any, to, but excluding, the date of repurchase. Following certain corporate transactions that constitute a change of control, the Company will increase the conversion rate for a holder who elects to convert the 4.75% Convertible Subordinated Notes in connection with such change of control in certain circumstances.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Under a FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement), the Company separated the 4.75% Convertible Subordinated Notes into a liability component and an equity component. The carrying amount of the liability component was calculated by measuring the fair value of a similar liability (including any embedded features other than the conversion option) that does not have an associated equity component. The carrying amount of the equity component representing the embedded conversion option was determined by deducting the fair value of the liability component from the initial proceeds ascribed to the 4.75% Convertible Subordinated Notes as a whole. The excess of the principal amount of the liability component over its carrying amount is amortized to interest expense over the expected life of a similar liability that does not have an associated equity component using the effective interest method. The equity component is not remeasured as long as it continues to meet the conditions for equity classification as prescribed in the accounting standard related to the accounting for derivative financial instruments indexed to, and potentially settled in, an entity's own common stock and the accounting standard related to the accounting for determining whether an instrument (or embedded feature) is indexed to an entity's own stock.

Issuance and transaction costs incurred at the time of the issuance of the 4.75% Convertible Subordinated Notes with third parties are allocated to the liability and equity components and accounted for as debt issuance costs and equity issuance costs, respectively. Debt issuance costs related to the 4.75% Convertible Subordinated Notes, net of amortization, were \$6,862,000 as of September 30, 2009 and equity issuance costs were \$2,796,000. Additionally, the Company recorded a deferred tax liability of \$21,998,000 in connection with the 4.75% Convertible Subordinated Notes and the Capped Call (see below). The 4.75% Convertible Subordinated Notes consisted of the following (in thousands):

	<u>September 30, 2009</u>
Equity component (1)	<u>\$ 104,794</u>
Liability component :	
Principal	\$ 373,750
Less: debt discount, net (2)	<u>(101,619)</u>
Net carrying amount	<u>\$ 272,131</u>

- (1) Included in the condensed consolidated balance sheets within additional paid-in capital.
(2) Included in the condensed consolidated balance sheets within convertible debt and is amortized over the remaining life of the 4.75% Convertible Subordinated Notes.

As of September 30, 2009, the remaining life of the 4.75% Convertible Subordinated Notes was 6.7 years.

The following table sets forth total interest expense recognized related to the 4.75% Convertible Subordinated Notes (in thousands):

	<u>Three months ended September 30, 2009</u>	<u>Nine months ended September 30, 2009</u>
Contractual interest expense	\$ 4,438	\$ 5,375
Amortization of debt issuance costs	259	314
Amortization of debt discount	<u>2,622</u>	<u>3,175</u>
	<u>\$ 7,319</u>	<u>\$ 8,864</u>
Effective interest rate of the liability component	10.88%	10.88%

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

To minimize the impact of potential dilution upon conversion of the 4.75% Convertible Subordinated Notes, the Company entered into capped call transactions (“the Capped Call”) separate from the issuance of the 4.75% Convertible Subordinated Notes and paid a premium of \$49,664,000 for the Capped Call. The Capped Call covers a total of approximately 4,432,638 shares of the Company’s common stock, subject to adjustment. Under the Capped Call, the Company effectively raised the conversion price of the 4.75% Convertible Subordinated Notes from \$84.32 to \$114.82. Depending upon the Company’s stock price at the time the 4.75% Convertible Subordinated Notes are converted, the Capped Call will return up to 1,177,456 shares of the Company’s common stock to the Company; however, the Company will receive no benefit from the Capped Call if the Company’s stock price is \$84.32 or lower at the time of conversion and will receive less shares for share prices in excess of \$114.82 at the time of conversion than it would have received at a share price of \$114.82 (the Company’s benefit from the Capped Call is capped at \$114.82 and no additional benefit is received beyond this price). In connection with the Capped Call, the Company recorded a \$19,000 derivative loss in its statement of operations for the nine months ended September 30, 2009, and the remaining \$49,645,000 was recorded in additional paid-in capital pursuant to the accounting standard related to the accounting for derivative financial instruments indexed to, and potentially settled in, an entity’s own common stock and the accounting standard related to the accounting for determining whether an instrument (or embedded feature) is indexed to an entity’s own stock.

2.50% Convertible Subordinated Notes

In January 2009, the Company adopted a FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement). This FASB amendment specifies that issuers of convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) should separately account for the liability and equity components in a manner that will reflect the entity’s nonconvertible debt borrowing rate when interest cost is recognized in subsequent periods. The Company’s 2.50% Convertible Subordinated Notes fall within the scope of this FASB amendment due to the Company’s ability to elect to repay the 2.50% Convertible Subordinated Notes in cash. This FASB amendment did not impact the Company’s other convertible debt instruments that were outstanding as of January 1, 2009. This accounting standard was applied retrospectively. As a result, the Company adjusted its previously issued comparative condensed consolidated financial statements (see Note 2).

In March 2007, the Company issued \$250,000,000 aggregate principal amount of 2.50% Convertible Subordinated Notes due April 15, 2012 (the “2.50% Convertible Subordinated Notes”). Interest is payable semi-annually on April 15 and October 15 of each year, and commenced October 15, 2007. Upon conversion, holders will receive, at the Company’s election, cash, shares of the Company’s common stock or a combination of cash and shares of the Company’s common stock. However, the Company may at any time irrevocably elect for the remaining term of the 2.50% Convertible Subordinated Notes to satisfy its obligation in cash up to 100% of the principal amount of the 2.50% Convertible Subordinated Notes converted, with any remaining amount to be satisfied, at the Company’s election, in shares of its common stock or a combination of cash and shares of its common stock. The 2.50% Convertible Subordinated Notes have an initial conversion rate of 8.9259 shares of common stock per \$1,000 principal amount of 2.50% Convertible Subordinated Notes, subject to adjustment. This represents an initial conversion price of approximately \$112.03 per share of common stock. As of September 30, 2009, the 2.50% Convertible Subordinated Notes were convertible into 2,231,475 shares of the Company’s common stock.

The Company has determined that the embedded conversion option in the 2.50% Convertible Subordinated Notes is not required to be separately accounted for as a derivative under the accounting standard related to the accounting for derivative and hedging. Under the FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement), the Company separated the 2.50% Convertible Subordinated Notes into a liability component and an equity component. The carrying amount of the liability component was calculated by measuring the fair value of a similar liability (including any embedded features other than the conversion option) that does not have an associated equity component. The carrying amount of the equity component representing the embedded conversion option was determined by deducting the fair value of the liability component from the initial proceeds ascribed to the 2.50% Convertible Subordinated Notes as a whole.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The excess of the principal amount of the liability component over its carrying amount is amortized to interest expense over the expected life of a similar liability that does not have an associated equity component using the effective interest method. The equity component is not remeasured as long as it continues to meet the conditions for equity classification as prescribed in the accounting standard related to the accounting for derivative financial instruments indexed to, and potentially settled in, an entity's own common stock and the accounting standard related to the accounting for determining whether an instrument (or embedded feature) is indexed to an entity's own stock.

Issuance and transaction costs incurred at the time of the issuance of the 2.50% Convertible Subordinated Notes with third parties are allocated to the liability and equity components in proportion to the allocation of proceeds and accounted for as debt issuance costs and equity issuance costs, respectively. The 2.50% Convertible Subordinated Notes consisted of the following (in thousands):

	September 30, 2009	December 31, 2008
Equity component (1)	\$ 53,991	\$ 53,991
Liability component :		
Principal	\$ 250,000	\$ 250,000
Less: debt discount, net (2)	(29,753)	(37,476)
Net carrying amount	\$ 220,247	\$ 212,524

- (1) Included in the condensed consolidated balance sheets within additional paid-in capital.
(2) Included in the condensed consolidated balance sheets within convertible debt and is amortized over the remaining life of the 2.50% Convertible Subordinated Notes.

As of September 30, 2009, the remaining life of the 2.50% Convertible Subordinated Notes was 2.54 years.

The following table sets forth total interest expense recognized related to the 2.50% Convertible Subordinated Notes (in thousands):

	Three months ended		Nine months ended	
	September 30,		September 30,	
	2009	2008	2009	2008
Contractual interest expense	\$1,563	\$1,563	\$ 4,688	\$ 4,688
Amortization of debt issuance costs	311	313	934	940
Amortization of debt discount	2,612	2,421	7,722	7,157
	<u>\$4,486</u>	<u>\$4,297</u>	<u>\$13,344</u>	<u>\$12,785</u>
Effective interest rate of the liability component	8.37%	8.37%	8.37%	8.37%

Singapore Financing

In September 2009, a wholly-owned subsidiary of the Company located in Singapore entered into a 37,000,000 Singapore dollar, or approximately \$26,247,000 (using the exchange rate as of September 30, 2009) credit facility agreement (the "Singapore Financing"). The Singapore Financing is comprised of two tranches: (i) Facility A, which is available for drawing upon through March 18, 2010, provides a term loan of up to 34,500,000 Singapore dollars and (ii) Facility B, which is available for drawing upon through September 12, 2010, provides a term loan of up to 2,500,000 Singapore dollars (collectively, the "Loans Payable"). The Loans Payable under the Singapore Financing bear interest at a floating rate (Swap Offer Rate plus 3.65% per annum). Facility A will be repaid in nine semi-annual installments beginning in August 2010 and Facility B will be repaid in eight semi-annual installments beginning in February 2011. The Singapore Financing has a final maturity date of August 31, 2014 and interest is payable in periods of one,

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

three or six months at the election of the Company's Singaporean subsidiary. The Singapore Financing is guaranteed by the parent, Equinix, and is secured by the assets of the Company's second IBX center in Singapore. The Singapore Financing has several financial covenants specific to the Company's operations in Singapore, with which the Company must comply periodically. As of September 30, 2009, the Company had borrowings under the Facility A tranche of 33,500,000 Singapore dollars, or approximately \$23,764,000, at an approximate interest rate per annum of 4.15%, leaving 3,500,000 Singapore dollars, or approximately \$2,483,000, available for future borrowings under the Singapore Financing.

Bank of America Revolving Credit Line

In February 2009, the Company and one of its wholly-owned subsidiaries, as co-borrower, entered into a \$25,000,000 one-year revolving credit facility with Bank of America (the "Bank of America Revolving Credit Line"). The Bank of America Revolving Credit Line will be used primarily to fund the Company's working capital and to enable the Company to issue letters of credit. The effect of issuing letters of credit under the Bank of America Revolving Credit Line will be to reduce the amount available for borrowing under the Bank of America Revolving Credit Line. The Company may borrow, repay and reborrow under the Bank of America Revolving Credit Line at either the prime rate or at a borrowing margin of 2.75% over one, three or six month LIBOR, subject to a minimum borrowing cost of 3.00%. The Bank of America Revolving Credit Line contains three financial covenants, which the Company must comply with quarterly, consisting of a tangible net worth ratio, a debt service ratio and a senior leverage ratio and is collateralized by the Company's domestic accounts receivable balances. As of September 30, 2009, the Company was in compliance with all financial covenants in connection with the Bank of America Revolving Credit Line. The Bank of America Revolving Credit Line is available for renewal subject to mutual agreement by both parties. During the nine months ended September 30, 2009, the Company issued nine irrevocable letters of credit totaling \$14,717,000 under the Bank of America Revolving Credit Line, which resulted in the release of restricted cash (see "Other Assets" in Note 7). As a result, the amount available to borrow was \$10,283,000 as of September 30, 2009.

Convertible Subordinated Debentures

In June 2009, the Company entered into agreements with the holders of the remaining \$19,150,000 of the Convertible Subordinated Debentures to exchange an aggregate of 484,809 newly issued shares of the Company's common stock to settle the Convertible Subordinated Debentures. The number of shares of common stock issued equals the amount issuable upon conversion of the Convertible Subordinated Debentures in accordance with their original terms. As of September 30, 2009, there were no Convertible Subordinated Debentures outstanding.

Netherlands Financing

In June 2009, the Company's wholly-owned subsidiary in the Netherlands amended senior credit facilities totaling approximately 5,500,000 Euros ("the Netherlands Financing"), which were assumed as a result of the Virtu Acquisition, by entering into a 7,000,000 Euro term loan to replace the previously outstanding senior credit facilities. The Netherlands Financing contains several financial covenants, which the Company must comply with annually, is guaranteed by the Company and is collateralized by substantially all of the Company's operations in the Netherlands. The Netherlands Financing has a final maturity date of June 30, 2016 with repayment to occur over the remaining seven years in 28 equal quarterly installments starting September 30, 2009. The Netherlands Financing bears interest at a floating rate (three month EURIBOR plus 3.60% per annum). As of September 30, 2009, a total of 7,000,000 Euros, or approximately \$10,247,000, was outstanding under the Netherlands Financing.

EQUINIX, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

Maturities

Combined aggregate maturities for the Company’s various debt facilities and other financing obligations as of September 30, 2009 were as follows (in thousands):

	Convertible debt ⁽¹⁾	Mortgage and loans payable ⁽¹⁾	Capital lease and other financing obligations ⁽²⁾	Total
2009 (three months remaining)	\$ —	\$ 16,412	\$ 4,317	\$ 20,729
2010	—	53,865	17,596	71,461
2011	—	56,532	19,605	76,137
2012	250,000	145,972 ⁽³⁾	19,486	415,458
2013	—	36,651	19,587	56,238
2014 and thereafter	<u>769,736</u>	<u>137,932</u>	<u>182,801</u>	<u>1,090,469</u>
	1,019,736	447,364	263,392	1,730,492
Less amount representing interest	—	—	(124,852)	(124,852)
Less amount representing debt discount	(131,372)	—	—	(131,372)
Less amount representing remaining estimated building costs	—	—	(4,640)	(4,640)
Plus amount representing residual property value	—	—	26,626	26,626
	<u>888,364</u>	<u>447,364</u>	<u>160,526</u>	<u>1,496,254</u>
Less current portion of principal	—	(53,101)	(6,347)	(59,448)
	<u>\$ 888,364</u>	<u>\$ 394,263</u>	<u>\$ 154,179</u>	<u>\$1,436,806</u>

(1) Represents principal only.

(2) Represents principal and interest in accordance with minimum lease payments.

(3) The loan payable under the Chicago IBX Financing has an initial maturity date of January 31, 2010, with options to extend for up to an additional two years, in one-year increments, upon satisfaction of certain extension conditions. The Company intends to exercise such extensions.

9. Commitments and Contingencies

Legal Matters

On July 30, 2001 and August 8, 2001, putative shareholder class action lawsuits were filed against the Company, certain of its officers and directors (the “Individual Defendants”), and several investment banks that were underwriters of the Company’s initial public offering (the “Underwriter Defendants”). The cases were filed in the United States District Court for the Southern District of New York. Similar lawsuits were filed against approximately 300 other issuers and related parties. These lawsuits have been coordinated before a single judge. The purported class action alleges violations of Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b), Rule 10b-5 and 20(a) of the Securities Exchange Act of 1934 against the Company and the Individual Defendants. The plaintiffs have since dismissed the Individual Defendants without prejudice. The suits allege that the Underwriter Defendants agreed to allocate stock in the Company’s initial public offering to certain investors in exchange for excessive and undisclosed commissions and agreements by those investors to make additional purchases in the aftermarket at pre-determined prices. The plaintiffs allege that the prospectus for the Company’s initial public offering was false and misleading and in violation of the securities laws because it did not disclose these arrangements. The action seeks damages in an unspecified amount. On February 19, 2003, the court dismissed the Section 10(b) claim against the Company, but denied the motion to dismiss the Section 11 claim.

The parties in the approximately 300 coordinated cases, including the Company, the Underwriter Defendants in the Company class action lawsuit, and the plaintiff class in the Company class action lawsuit, reached a settlement. The insurers for the issuer defendants in the coordinated cases will make the settlement payment on behalf of the issuers, including the Company. On October 6, 2009, the Court granted final approval to the settlement. The time to appeal the final approval decision will run on November 5, 2009. Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

the matter. The Company is unable at this time to determine whether the outcome of the litigation would have a material impact on our results of operations, financial condition or cash flows. The Company intends to continue to defend the action vigorously if the settlement is appealed and does not survive the appeal.

On August 22, 2008, a complaint was filed against the Company, certain former officers and directors of Pihana Pacific, Inc. (“Pihana”), certain investors in Pihana, and others. The lawsuit was filed in the First Circuit Court of the State of Hawaii, and arises out of December 2002 agreements pursuant to which the Company merged Pihana and i-STT (a subsidiary of Singapore Technologies Telemedia Pte Ltd) into the internet exchange services business of the Company. Plaintiffs, who were allegedly holders of Pihana common stock, allege that their rights as shareholders were violated, and the transaction was effectuated improperly, by Pihana’s majority shareholders, officers and directors, with the alleged assistance of the Company and others. Among other things, plaintiffs contend that they effectively had a right to block the transaction, that this supposed right was disregarded, and that they improperly received no consideration when the deal was completed. The complaint seeks to recover unspecified punitive damages, equitable relief, fees and costs, and compensatory damages in an amount that plaintiffs allegedly “believe may be all or a substantial portion of the approximately \$725,000,000 value of the Company held by Defendants” (a group that includes more than 30 individuals and entities). An amended complaint, which adds new plaintiffs (other alleged holders of Pihana common stock) but is otherwise substantially similar to the original pleading, was filed on September 29, 2008 (the “Amended Complaint”). On October 13, 2008, a complaint was filed in a separate action by another purported holder of Pihana common stock, naming the same defendants and asserting substantially similar allegations as the August 22, 2008 and September 29, 2008 pleadings. On December 12, 2008, the court entered a stipulated order, which consolidated the two actions under one case number and set January 22, 2009 as the last day for Defendants to move to dismiss or otherwise respond to the Amended Complaint, the operative complaint in this case. On January 22, 2009, motions to dismiss the Amended Complaint were filed by the Company and other Defendants. On April 24, 2009, plaintiffs filed a Second Amended Complaint (“SAC”) to correct the naming of certain parties. The SAC is otherwise substantively identical to the Amended Complaint, and all motions to dismiss the Amended Complaint have been treated as responsive to the SAC. On September 1, 2009, the Court heard Defendants’ motions to dismiss the SAC and ruled at the hearing that all claims against all Defendants are time-barred. The Court also considered whether there were further independent grounds for dismissing the claims, and supplemental briefing has been submitted with respect to claims against one defendant. The Court has not yet entered a final Order on the motions to dismiss. The Company believes that plaintiffs’ claims and alleged damages are without merit and it intends to defend the litigation vigorously.

Due to the inherent uncertainties of litigation, the Company cannot accurately predict the ultimate outcome of the matter. The Company is unable at this time to determine whether the outcome of the litigation would have a material impact on its results of operations, financial condition or cash flows.

The Company believes that while an unfavorable outcome to these litigation matters described above is reasonably possible, a range of potential loss cannot be determined at this time. As a result, the Company has not accrued for any amounts in connection with these legal matters as of September 30, 2009. The Company and its officers and directors intend to continue to defend the actions vigorously.

Other Purchase Commitments

Primarily as a result of the Company’s various IBX expansion projects, as of September 30, 2009, the Company was contractually committed for \$60,427,000 of unaccrued capital expenditures, primarily for IBX equipment not yet delivered and labor not yet provided, in connection with the work necessary to open these IBX centers and make them available to customers for installation. In addition, the Company had numerous other, non-capital purchase commitments in place as of September 30, 2009, such as commitments to purchase power in select locations, primarily in the U.S., Australia, Germany, Singapore and the United Kingdom, through the remainder of 2009 and thereafter, and other open purchase orders for goods or services to be delivered or provided during the remainder of 2009 and thereafter. Such other miscellaneous purchase commitments totaled \$86,302,000 as of September 30, 2009.

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NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

10. Other Comprehensive Income and Loss

The components of other comprehensive income (loss) are as follows (in thousands):

	Three months ended		Nine months ended	
	September 30,		September 30,	
	2009	2008	2009	2008
Net income	\$18,812	\$ 5,556	\$ 51,709	\$ 10,061
Unrealized gain (loss) on available for sale securities, net of tax of \$56, \$0, \$462 and \$0, respectively	78	(717)	635	(964)
Unrealized gain (loss) on interest rate swaps, net of tax of \$161, \$0, \$532 and \$0, respectively	221	(3,584)	660	(2,345)
Foreign currency translation gain (loss)	(5,665)	(64,097)	52,618	(57,361)
Comprehensive income (loss)	<u>\$13,446</u>	<u>\$(62,842)</u>	<u>\$105,622</u>	<u>\$(50,609)</u>

Changes in foreign currencies, particularly the British pound and Euro, can have a significant impact to the Company's consolidated balance sheets (as evidenced above in the Company's foreign currency translation gain or loss), as well as its consolidated results of operations, as amounts in foreign currencies are generally translating into more U.S. dollars when the U.S. dollar weakens or less U.S. dollars when the U.S. dollar strengthens.

11. Segment Information

While the Company has a single line of business, which is the design, build-out and operation of network-neutral IBX centers, it has determined that it has three reportable segments comprised of its U.S., Europe and Asia-Pacific geographic regions. The Company's chief operating decision-maker evaluates performance, makes operating decisions and allocates resources based on the Company's revenue and adjusted EBITDA performance both on a consolidated basis and based on these three geographic regions.

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

The Company provides the following segment disclosures as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Total revenues:				
United States	\$136,334	\$114,859	\$390,974	\$321,302
Europe	60,806	47,297	163,662	132,339
Asia-Pacific	30,418	21,579	85,321	60,356
	<u>\$227,558</u>	<u>\$183,735</u>	<u>\$639,957</u>	<u>\$513,997</u>
Total depreciation and amortization:				
United States	\$ 25,473	\$ 26,940	\$ 78,317	\$ 74,083
Europe	13,471	10,340	34,239	29,061
Asia-Pacific	5,547	4,355	18,502	12,298
	<u>\$ 44,491</u>	<u>\$ 41,635</u>	<u>\$131,058</u>	<u>\$115,442</u>
Income from operations:				
United States	\$ 31,571	\$ 16,210	\$ 94,260	\$ 44,744
Europe	7,095	3,164	20,408	69
Asia-Pacific	6,892	2,119	15,625	3,932
	<u>\$ 45,558</u>	<u>\$ 21,493</u>	<u>\$130,293</u>	<u>\$ 48,745</u>
Capital expenditures:				
United States	\$ 32,865	\$ 36,971	\$103,216	\$129,852
Europe	68,109(1)	25,453	114,623(1)	123,703(2)
Asia-Pacific	15,857	33,021	50,777	75,232
	<u>\$116,831</u>	<u>\$ 95,445</u>	<u>\$268,616</u>	<u>\$328,787</u>

- (1) Includes the purchase price for the Upminster Acquisition, net of cash acquired, which totaled \$28,176,000.
(2) Includes the purchase price for the Virtu Acquisition, net of cash acquired, which totaled \$23,241,000.

The Company's long-lived assets are located in the following geographic areas as of (in thousands):

	September 30, 2009	December 31, 2008
United States	\$ 1,073,221	\$ 1,043,504
Europe	446,787	309,655
Asia-Pacific	183,001	139,671
	<u>\$ 1,703,009</u>	<u>\$ 1,492,830</u>

Revenue information on a services basis is as follows (in thousands):

	Three months ended September 30,		Nine months ended September 30,	
	2009	2008	2009	2008
Colocation	\$ 183,784	\$ 141,938	\$ 514,042	\$ 396,261
Interconnection	27,235	24,115	78,566	68,478
Managed infrastructure	7,020	7,210	21,528	21,720
Rental	295	254	798	812
Recurring revenues	218,334	173,517	614,934	487,271
Non-recurring revenues	9,224	10,218	25,023	26,726
	<u>\$ 227,558</u>	<u>\$ 183,735</u>	<u>\$ 639,957</u>	<u>\$ 513,997</u>

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

No single customer accounted for 10% or greater of the Company's revenues for the three and nine months ended September 30, 2009 and 2008. No single customer accounted for 10% or greater of the Company's gross accounts receivable as of September 30, 2009 and December 31, 2008.

12. Restructuring Charges

In February 2009, the Company decided to utilize space it previously abandoned in order to expand its original Los Angeles IBX center. Accordingly, the Company reversed \$5,833,000 of accrued restructuring charges associated with a Los Angeles lease during the three months ended March 31, 2009. The Company's excess space in the New York metro area remains abandoned and continues to be an accrued restructuring charge. During the three months ended June 30, 2009, the Company recorded a reduction to the restructuring charge of \$220,000 in connection with its excess space in the New York metro area as a result of revised sublease assumptions.

A summary of the movement in the Company's accrued restructuring charges from December 31, 2008 to September 30, 2009 is outlined as follows (in thousands):

	Accrued restructuring charge as of December 31, 2008	Accretion expense	Restructuring charge adjustment	Cash payments	Accrued restructuring charge as of September 30, 2009
Estimated lease exit costs	\$ 13,311	\$ 339	\$ (6,053)	\$(1,359)	\$ 6,238
	13,311	\$ 339	\$ (6,053)	\$(1,359)	6,238
Less current portion	(6,023)				(1,967)
	\$ 7,288				\$ 4,271

As the Company currently has no plans to enter into a lease termination with the landlord associated with the excess space lease in the New York metro area, the Company has reflected its accrued restructuring liability as both a current and non-current liability. The Company reports accrued restructuring charges within other current liabilities and other liabilities on the accompanying condensed consolidated balance sheets as of September 30, 2009 and December 31, 2008. The Company is contractually committed to this excess space lease through 2015.

13. Subsequent Events

In October 2009, the Company announced that it had entered into an agreement with Switch & Data Facilities Company, Inc. ("Switch and Data") under which the Company will acquire Switch and Data ("the Switch and Data Acquisition"). Under the terms of the Switch and Data Acquisition, Switch and Data stockholders will have the opportunity to elect to receive either 0.19409 shares of Equinix common stock or \$19.06 in cash for each share of Switch and Data stock, valuing the equity of Switch and Data at approximately \$689,000,000 based on the closing price of Equinix common stock as of October 20, 2009. The overall consideration to be paid by the Company in the Switch and Data Acquisition will be 80% Equinix common stock and 20% cash. In the event that holders of more than 80% of Switch and Data's stock elect to receive Equinix common stock or holders of more than 20% of Switch and Data's stock elect to receive cash, the consideration of the Switch and Data Acquisition will be pro-rated to achieve these proportions. In addition, a portion of the cash consideration payable to Switch and Data stockholders may be replaced by an equivalent amount of Equinix common stock to the extent necessary to enable the Switch and Data Acquisition to qualify as a tax-free exchange. Switch and Data operates 34 data centers in the U.S. and Canada. The combined company will operate under the Equinix name. The Switch and Data Acquisition will be accounted for using the acquisition method of accounting in accordance with the

EQUINIX, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – (Continued)

accounting standard related to the accounting for business combinations. The Company anticipates closing the Switch and Data Acquisition in the first quarter of 2010; however, the closing and its timing are subject to the approval of Switch and Data's stockholders as well as the satisfaction or waiver of other closing conditions.

The Company has evaluated subsequent events through October 23, 2009, which is the date the consolidated financial statements were issued, and determined that there are no subsequent events that would impact the Company's condensed consolidated financial statements for the quarterly period ended September 30, 2009.

Item 2.

**MANAGEMENT'S DISCUSSION AND ANALYSIS
OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The information in this discussion contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based upon current expectations that involve risks and uncertainties. Any statements contained herein that are not statements of historical fact may be deemed to be forward-looking statements. For example, the words "believes," "anticipates," "plans," "expects," "intends" and similar expressions are intended to identify forward-looking statements. Our actual results and the timing of certain events may differ significantly from the results discussed in the forward-looking statements. Factors that might cause such a discrepancy include, but are not limited to, those discussed in "Liquidity and Capital Resources" below and "Risk Factors" in Item 1A of Part II of this Quarterly Report on Form 10-Q. All forward-looking statements in this document are based on information available to us as of the date of this Report and we assume no obligation to update any such forward-looking statements.

Our management's discussion and analysis of financial condition and results of operations is intended to assist readers in understanding our financial information from our management's perspective and is presented as follows:

- Overview
- Results of Operations
- Liquidity and Capital Resources
- Contractual Obligations and Off-Balance-Sheet Arrangements
- Critical Accounting Estimates
- Recent Accounting Pronouncements

In January 2009, we adopted a FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement) and a FASB amendment related to the accounting for instruments granted in share-based payment transactions that are considered participating securities and, therefore, should be included in the calculation of earnings per share, or EPS. These FASB amendments were applied retrospectively; as a result, we adjusted our previously issued comparative condensed consolidated financial statements. See Note 2 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q.

During the three months ended September 30, 2009, we assessed and changed the estimated useful lives of certain of our property, plant and equipment. This change is accounted for as a change in accounting estimate on a prospective basis from the three months ended September 30, 2009. See "Property, Plant and Equipment" in Note 1 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q.

In October 2009, as more fully described in Note 13 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q, we announced our offer to acquire Switch & Data Facilities Company, Inc., which operates 34 data centers in the U.S. and Canada. We refer to this transaction as the Switch and Data acquisition. The Switch and Data acquisition, which is expected to close in the first quarter of 2010, will have a significant impact to our financial position, results of operations and cash flows.

Overview

Equinix provides global data center services that protect and connect the world's most valued information assets. Global enterprises, financial services companies, and content and network service providers rely upon Equinix's leading insight and the company's 45 data centers in 18 markets around the world for the safeguarding of their critical IT equipment and the ability to directly connect to the networks that enable today's information-driven economy. Equinix offers the following data center services: premium data center colocation, interconnection and exchange services, and outsourced IT infrastructure services. As of September 30, 2009, we operated IBX centers in the Chicago, Dallas, Los Angeles, New York, Silicon

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Valley and Washington, D.C. metro areas in the United States; France, Germany, the Netherlands, Switzerland and the United Kingdom in the Europe region; and Australia, Hong Kong, Japan and Singapore in the Asia-Pacific region. In February 2008, we acquired Virtu Secure Webservices B.V., or Virtu, based in the Netherlands to supplement our European operations. We refer to this transaction as the Virtu acquisition. In July 2009, we acquired Upminster GmbH, or Upminster, based in Germany to supplement our European operations. We refer to this transaction as the Upminster acquisition.

Equinix leverages our global data centers in 18 markets around the world as a global service delivery platform which serve more than 90% of the world's Internet routes and allows our customers to increase information and application delivery performance while significantly reducing costs. Based on our global delivery platform and the quality of our IBX centers, we believe we have established a critical mass of customers. As more customers locate in our IBX centers, it benefits their suppliers and business partners to collocate as well in order to gain the full economic and performance benefits of our services. These partners, in turn, pull in their business partners, creating a "marketplace" for their services. Our global delivery platform enables scalable, reliable and cost-effective collocation, interconnection and traffic exchange thus lowering overall cost and increasing flexibility. Our focused business model is based on our critical mass of customers and the resulting "marketplace" effect. This global delivery platform, combined with our strong financial position, continue to drive new customer growth and bookings as we drive scale into our global business.

Historically, our market has been served by large telecommunications carriers who have bundled their telecommunications products and services with their collocation offerings. The data center services market landscape has evolved to include cloud computing/utility providers, application hosting providers and systems integrators, managed infrastructure hosting providers and collocation providers with over 350 companies providing data center services in the United States alone. Each of these data center services providers can bundle various collocation, interconnection and network services, and outsourced IT infrastructure services. We are able to offer our customers a global platform that supports global reach to 10 countries, proven operational reliability, improved application performance and network choice, and a highly scalable set of services. We believe this is a distinct and sustainable competitive advantage.

Our customer count increased to 2,966 as of September 30, 2009 versus 2,203 as of September 30, 2008, an increase of 35%. Our utilization rate represents the percentage of our cabinet space billing versus net sellable cabinet space available taking into account power limitations. Our utilization rate increased to 81% as of September 30, 2009 versus approximately 78% as of September 30, 2008; however, excluding the impact of our IBX center expansion projects that have opened during the last 12 months, our utilization rate would have been approximately 86% as of September 30, 2009. Our utilization rate varies from market to market among our IBX centers across the U.S., Europe and Asia-Pacific regions. We continue to monitor the available capacity in each of our selected markets. To the extent we have limited capacity available in a given market it may limit our ability for growth in that market. We perform demand studies on an ongoing basis to determine if future expansion is warranted in a market. In addition, power and cooling requirements for most customers are growing on a per unit basis. As a result, customers are consuming an increasing amount of power per cabinet. Although we generally do not control the amount of power our customers draw from installed circuits, we have negotiated power consumption limitations with certain of our high power demand customers. This increased power consumption has driven the requirement to build out our new IBX centers to support power and cooling needs twice that of previous IBX centers. We could face power limitations in our centers even though we may have additional physical cabinet capacity available within a specific IBX center. This could have a negative impact on the available utilization capacity of a given center, which could have a negative impact on our ability to grow revenues, affecting our financial performance, operating results and cash flows.

Strategically, we will continue to look at attractive opportunities to grow our market share and selectively improve our footprint and service offerings such as our recent announcement of the Switch and Data acquisition. As was the case with our recent expansions and acquisitions, our expansion criteria will be dependent on a number of factors such as demand from new and existing customers, quality of the design, power capacity, access to networks, capacity availability in the current market location, amount of incremental investment required by us in the targeted property, lead-time to break-even and in-place customers. Like our recent expansions and acquisitions, the right combination of these factors may be attractive to us. Depending on the circumstances, these transactions may require additional capital

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expenditures funded by upfront cash payments or through long-term financing arrangements in order to bring these properties up to Equinix standards. Property expansion may be in the form of purchases of real property, long-term leasing arrangements or acquisitions. Future purchases, construction or acquisitions may be completed by us or with partners or potential customers to minimize the outlay of cash, which can be significant.

Our business is based on a recurring revenue model comprised of colocation, interconnection and managed infrastructure services. We consider these services recurring as our customers are generally billed on a fixed and recurring basis each month for the duration of their contract, which is generally one to three years in length. Our recurring revenues comprise greater than 90% of our total revenues. Over the past few years, greater than half of our then existing customers ordered new services in any given quarter representing greater than half of the new orders received in each quarter, contributing to our revenue growth.

Our non-recurring revenues are primarily comprised of installation services related to a customer's initial deployment and professional services that we perform. These services are considered to be non-recurring as they are billed typically once and upon completion of the installation or professional services work performed. The majority of these non-recurring revenues are typically billed on the first invoice distributed to the customer in connection with their initial installation. However, revenues from installation services are deferred and recognized ratably over the longer of the term of the related contract or expected life of the services. As a percentage of total revenues, we expect non-recurring revenues to represent less than 10% of total revenues for the foreseeable future.

Our U.S. revenues are derived primarily from colocation and interconnection services while our Europe and Asia-Pacific revenues are derived primarily from colocation and managed infrastructure services.

The largest components of our cost of revenues are depreciation, rental payments related to our leased IBX centers, utility costs, including electricity and bandwidth, IBX center employees' salaries and benefits, including stock-based compensation, repairs and maintenance, supplies and equipment and security services. A substantial majority of our cost of revenues is fixed in nature and should not vary significantly from period to period, unless we expand our existing IBX centers or open new IBX centers. However, there are certain costs which are considered more variable in nature, including utilities and supplies, that are directly related to growth in our existing and new customer base. We expect the cost of our utilities, specifically electricity, will increase in the future on a per-unit or fixed basis in addition to the variable increase related to the growth of consumption by the customer. In addition, the cost of electricity is generally higher in the summer months as compared to other times of the year.

Sales and marketing expenses consist primarily of compensation and related costs for sales and marketing personnel, including stock-based compensation, sales commissions, marketing programs, public relations, promotional materials and travel, as well as bad debt expense and amortization of customer contract intangible assets.

General and administrative expenses consist primarily of salaries and related expenses, including stock-based compensation, accounting, legal and other professional service fees, and other general corporate expenses such as our corporate headquarters office lease and some depreciation expense.

Due to our recurring revenue model, and a cost structure which has a large base that is fixed in nature and generally does not grow in proportion to revenue growth, we expect our cost of revenues, sales and marketing expenses and general and administrative expenses to decline as a percentage of revenue over time, although we expect each of them to grow in absolute dollars in connection with our growth. This is evident in the trends noted below in our discussion on our results of operations. However, for cost of revenues, this trend may periodically be impacted when a large expansion project opens and before it starts generating any meaningful revenue.

Results of Operations

Our results of operations for the nine months ended September 30, 2008 include the operations of Virtu from February 5, 2008 to September 30, 2008. Our results of operations for the three and nine months ended September 30, 2009 include the operations of Upminster from July 22, 2009 to September 30, 2009.

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Three Months Ended September 30, 2009 and 2008

Revenues. Our revenues for the three months ended September 30, 2009 and 2008 were generated from the following revenue classifications and geographic regions (dollars in thousands):

	Three months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.:						
Recurring revenues	\$132,307	58%	\$109,422	60%	\$22,885	21%
Non-recurring revenues	4,027	2%	5,437	3%	(1,410)	(26)%
	<u>136,334</u>	<u>60%</u>	<u>114,859</u>	<u>63%</u>	<u>21,475</u>	<u>19%</u>
Europe:						
Recurring revenues	56,913	25%	44,174	23%	12,739	29%
Non-recurring revenues	3,893	2%	3,123	2%	770	25%
	<u>60,806</u>	<u>27%</u>	<u>47,297</u>	<u>25%</u>	<u>13,509</u>	<u>29%</u>
Asia-Pacific:						
Recurring revenues	29,114	13%	19,921	11%	9,193	46%
Non-recurring revenues	1,304	0%	1,658	1%	(354)	(21)%
	<u>30,418</u>	<u>13%</u>	<u>21,579</u>	<u>12%</u>	<u>8,839</u>	<u>41%</u>
Total:						
Recurring revenues	218,334	96%	173,517	94%	44,817	26%
Non-recurring revenues	9,224	4%	10,218	6%	(994)	(10)%
	<u>\$227,558</u>	<u>100%</u>	<u>\$183,735</u>	<u>100%</u>	<u>\$43,823</u>	<u>24%</u>

U.S. Revenues. The period over period growth in recurring revenues was primarily the result of an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers, as well as selective price increases in each of our IBX markets. During the three months ended September 30, 2009, we recorded approximately \$17.6 million of revenue generated from our recently-opened IBX centers or IBX center expansions in the Chicago, Los Angeles and New York metro areas. We expect that our U.S. revenues will continue to grow in future periods as a result of continued growth in these recently-opened IBX centers and additional expansions currently taking place in the Chicago, Los Angeles, New York, Silicon Valley and Washington, D.C. metro areas, all of which are expected to open in 2010.

Europe Revenues. Our revenues from the United Kingdom, the largest revenue contributor in the Europe region, represented approximately 36% and 37%, respectively, of the regional revenues for the three months ended September 30, 2009 and 2008. As in the U.S., Europe revenue growth was due to an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers. During the three months ended September 30, 2009, we recorded approximately \$2.5 million of revenue from our recently-opened IBX centers or IBX center expansions in the Amsterdam, Frankfurt and Paris metro areas. We expect that our Europe revenues will continue to grow in future periods as a result of continued growth in recently-opened IBX centers or IBX center expansions and additional expansions currently taking place in the Frankfurt, Geneva, London and Zurich metro areas, all of which are expected to open during the remainder of 2009 and the first half of 2010.

Asia-Pacific Revenues. Our revenues from Singapore, the largest revenue contributor in the Asia-Pacific region, represented approximately 37% and 38%, respectively, of the regional revenues for the three months ended September 30, 2009 and 2008. As in the U.S., Asia-Pacific revenue growth was due to an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers, as well as selective price increases in each of our IBX markets. During the three months ended September 30, 2009, we recorded approximately \$7.1 million of revenue generated from our IBX centers or IBX center expansions in the Hong Kong, Singapore and Sydney metro areas. We expect that our Asia-Pacific revenues will continue to grow in future periods as a result of continued growth in these recently-opened IBX centers or IBX center expansions.

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Cost of Revenues. Our cost of revenues for the three months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Three months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$ 69,223	55%	\$ 63,832	58%	\$ 5,391	8%
Europe	40,358	32%	32,727	30%	7,631	23%
Asia-Pacific	16,426	13%	13,346	12%	3,080	23%
Total	<u>\$126,007</u>	<u>100%</u>	<u>\$109,905</u>	<u>100%</u>	<u>\$16,102</u>	<u>15%</u>

	Three months ended September 30,	
	2009	2008
<i>Cost of revenues as a percentage of revenues:</i>		
U.S.	51%	56%
Europe	66%	69%
Asia-Pacific	54%	62%
Total	55%	60%

U.S. Cost of Revenues. U.S. cost of revenues for the three months ended September 30, 2009 and 2008 included \$24.4 million and \$24.9 million, respectively, of depreciation expense. During the three months ended September 30, 2009, we revised the estimated useful lives of certain of our property, plant and equipment. As a result, our U.S. depreciation expense decreased by \$2.3 million during the three months ended September 30, 2009; however, this decrease was mostly offset by additional depreciation expense of \$1.8 million due to our IBX center expansion activity. Excluding depreciation, the increase in U.S. cost of revenues was primarily due to overall growth related to our revenue growth and costs associated with our expansion projects, including an increase of \$3.2 million in rent and facility costs and an increase of \$1.8 million in utility costs as a result of increased customer installations. We expect U.S. cost of revenues to increase as we continue to grow our business.

Europe Cost of Revenues. Europe cost of revenues for the three months ended September 30, 2009 and 2008 included \$11.8 million and \$8.3 million, respectively, of depreciation expense. Growth in depreciation expense of \$3.8 million was primarily due to our IBX center expansion activity; however, this growth was partially offset by a \$307,000 decrease in depreciation expense as we revised the estimated useful lives of certain of our property, plant and equipment during the three months ended September 30, 2009. Excluding depreciation expense, the increase in Europe cost of revenues was primarily the result of costs associated with our expansion projects and overall growth in connection with revenue growth, such as \$2.2 million of higher utility costs arising from increased customer installations and revenues attributed to customer growth. We expect Europe cost of revenues to increase as we continue to grow our business.

Asia-Pacific Cost of Revenues. Asia-Pacific cost of revenues for the three months ended September 30, 2009 and 2008 included \$5.3 million and \$4.2 million, respectively, of depreciation expense. Growth in depreciation expense of \$3.3 million was primarily due to our IBX center expansion activity; however, this growth was partially offset by a \$2.2 million decrease in depreciation expense as we revised the estimated useful lives of certain of our property, plant and equipment during the three months ended September 30, 2009. Excluding depreciation expense, the increase in Asia-Pacific cost of revenues was primarily the result of costs associated with our expansion projects and overall growth in connection with revenue growth. We expect Asia-Pacific cost of revenues to increase as we continue to grow our business.

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Sales and Marketing Expenses. Our sales and marketing expenses for the three months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Three months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$ 8,833	57%	\$ 9,628	60%	\$(795)	(8)%
Europe	4,094	26%	4,181	26%	(87)	(2)%
Asia-Pacific	2,616	17%	2,200	14%	416	19%
Total	<u>\$15,543</u>	<u>100%</u>	<u>\$16,009</u>	<u>100%</u>	<u>\$(466)</u>	<u>(3)%</u>

	Three months ended September 30,	
	2009	2008
<i>Sales and marketing expenses as a percentage of revenues:</i>		
U.S.	6%	8%
Europe	7%	9%
Asia-Pacific	9%	10%
Total	7%	9%

U.S. Sales and Marketing Expenses. Our U.S. sales and marketing expenses did not change significantly. We generally expect U.S. sales and marketing expenses to increase as we continue to grow our business and invest further in various branding initiatives; however, as a percentage of revenues, we expect them to decrease.

Europe Sales and Marketing Expenses. Our Europe sales and marketing expenses did not change significantly. We generally expect Europe sales and marketing expenses to increase as we continue to grow our business; however, as a percentage of revenues, we expect them to decrease.

Asia-Pacific Sales and Marketing Expenses. The increase in our Asia-Pacific sales and marketing expenses was primarily due to higher compensation costs, including general salaries, bonuses and stock-based compensation expense. We expect Asia-Pacific sales and marketing expenses to increase as we continue to grow our business; however, as a percentage of revenues, we expect them to decrease.

General and Administrative Expenses. Our general and administrative expenses for the three months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Three months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$26,387	68%	\$24,390	69%	\$1,997	8%
Europe	8,200	21%	7,225	20%	975	13%
Asia-Pacific	4,484	11%	3,914	11%	570	15%
Total	<u>\$39,071</u>	<u>100%</u>	<u>\$35,529</u>	<u>100%</u>	<u>\$3,542</u>	<u>10%</u>

	Three months ended September 30,	
	2009	2008
<i>General and administrative expenses as a percentage of revenues:</i>		
U.S.	19%	21%
Europe	13%	15%
Asia-Pacific	15%	18%
Total	17%	19%

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U.S. General and Administrative Expenses. The increase in U.S. general and administrative expenses was primarily due to higher compensation costs, including general salaries, bonuses and headcount growth (295 U.S. general and administrative employees as of September 30, 2009 versus 251 as of September 30, 2008). Going forward, although we are carefully monitoring our spending given the current economic environment, we expect U.S. general and administrative expenses to increase as we continue to scale our operations to support our growth; however, as a percentage of revenues, we expect them to decrease.

Europe General and Administrative Expenses. The increase in Europe general and administrative expenses was primarily due to higher compensation costs, including general salaries, bonuses, stock-based compensation expense and headcount growth (105 Europe general and administrative employees as of September 30, 2009 versus 85 as of September 30, 2008). Going forward, although we are carefully monitoring our spending given the current economic environment, we expect our Europe general and administrative expenses to increase in future periods as we continue to scale our operations to support our growth and in connection with various ongoing integration initiatives related to investments in systems and internal control compliance; however, as a percentage of revenues, we expect them to decrease.

Asia-Pacific General and Administrative Expenses. The increase in our Asia-Pacific general and administrative expenses was primarily due to higher compensation costs, including stock-based compensation expense and headcount growth (105 Asia-Pacific general and administrative employees as of September 30, 2009 versus 83 as of September 30, 2008). Going forward, although we are carefully monitoring our spending given the current economic environment, we expect Asia-Pacific general and administrative expenses to increase as we continue to scale our operations to support our growth; however, as a percentage of revenues, we expect them to decrease.

Restructuring Charges. During the three months ended September 30, 2008, we recorded a restructuring charge adjustment of \$799,000 from revised sublease assumptions on our excess space lease in the Los Angeles metro area. During the three months ended September 30, 2009, no restructuring charge was recorded.

Acquisition Costs. During the three months ended September 30, 2009, we recorded acquisition costs totaling \$1.4 million, primarily related to the Upminster acquisition. During the three months ended September 30, 2008, no acquisition costs were recorded.

Interest Income. Interest income decreased to \$353,000 for the three months ended September 30, 2009 from \$2.0 million for the three months ended September 30, 2008. Interest income decreased primarily due to lower yields on invested balances. The average yield for the three months ended September 30, 2009 was 0.36% versus 2.23% for the three months ended September 30, 2008. We expect our interest income to remain at these low levels for the foreseeable future due to a low interest rate environment and as we continue to utilize our cash to finance our expansion activities.

Interest Expense. Interest expense increased to \$22.3 million for the three months ended September 30, 2009 from \$15.7 million for the three months ended September 30, 2008. The increase in interest expense was primarily due to higher loan balances as a result of loan drawdowns and new financings entered into during 2008 and 2009 consisting of (i) our \$373.8 million 4.75% convertible subordinated notes offering in June 2009, (ii) our Netherlands financing, of which \$10.2 million was outstanding as of September 30, 2009 with an approximate interest rate of 3.6% per annum as compared to \$6.1 million outstanding as of September 30, 2008 with an approximate interest rate of 6.5% per annum and (iii) our Asia-Pacific financing, of which \$73.0 million was outstanding as of September 30, 2009 with an approximate blended interest rate of 3.0% per annum as compared to \$65.4 million outstanding as of September 30, 2008 with an approximate blended interest rate of 4.28% per annum. The increase was partially offset by higher capitalized interest expense, repayment of some loans and the partial conversions of certain of our convertible subordinated debentures in November 2008 and June 2009. During the three months ended September 30, 2009 and 2008, we capitalized \$2.6 million and \$2.0 million, respectively, of interest expense to construction in progress. Going forward, we expect to incur higher interest expense as we fully utilize or recognize the full impact of our existing financings and as we complete expansion efforts and cease to capitalize interest expense.

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Other-Than-Temporary Impairment Loss On Investments. For the three months ended September 30, 2008, we recorded a \$1.5 million other-than-temporary impairment loss on one of our money market accounts as more fully described in Note 7 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report. During the three months ended September 30, 2009, we did not record any other-than-temporary impairment losses on our investments.

Other Income (Expense). For the three months ended September 30, 2009, we recorded \$2.5 million of other income, primarily attributable to foreign currency exchange gains during the period. For the three months ended September 30, 2008, we recorded \$520,000 of other expense, primarily attributable to foreign currency exchange losses during the period.

Income Taxes. For the three months ended September 30, 2009, we recorded \$7.3 million of income tax expense. The tax expense recorded in the three months ended September 30, 2009 was a result of applying the annual effective tax rates estimated for the year to the operating results of the period, partially offset by income tax benefits due to the release of valuation allowance of \$4.0 million associated with our Hong Kong operations. For the three months ended September 30, 2008, we recorded \$187,000 of income tax expense attributable to our foreign operations. Our effective tax rates were 28.0% and 3.3% for the three months ended September 30, 2009 and 2008, respectively. The increase in our effective tax rate is primarily a result of our domestic operations no longer carrying a valuation allowance against the net deferred tax assets of those operations which achieved sufficient profitability in the fourth quarter of 2008. We have not incurred any meaningful cash income tax expense since inception and we do not expect to incur any significant cash income tax expense during the remainder of 2009 because we still have a large amount of net operating loss carry-forwards in all of the jurisdictions in which we operate, which can be used to offset the taxable profit generated in 2009. The cash tax for 2009 is primarily for the U.S. Alternative Minimum Tax, the foreign income tax in the United Kingdom and the California state income tax as a result of California temporarily suspending the utilization of net operating loss carry-forwards. Additionally, we may recognize income tax benefits attributable to certain of our foreign operations in future periods as a result of the release of our remaining valuation allowances.

Nine Months Ended September 30, 2009 and 2008

Revenues. Our revenues for the nine months ended September 30, 2009 and 2008 were generated from the following revenue classifications and geographic regions (dollars in thousands):

	Nine months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S:						
Recurring revenues	\$380,490	59%	\$308,319	60%	\$ 72,171	23%
Non-recurring revenues	10,484	2%	12,983	2%	(2,499)	(19)%
	<u>390,974</u>	<u>61%</u>	<u>321,302</u>	<u>62%</u>	<u>69,672</u>	<u>22%</u>
Europe:						
Recurring revenues	153,328	24%	123,365	24%	29,963	24%
Non-recurring revenues	10,334	2%	8,974	2%	1,360	15%
	<u>163,662</u>	<u>26%</u>	<u>132,339</u>	<u>26%</u>	<u>31,323</u>	<u>24%</u>
Asia-Pacific:						
Recurring revenues	81,116	13%	55,587	11%	25,529	46%
Non-recurring revenues	4,205	0%	4,769	1%	(564)	(12)%
	<u>85,321</u>	<u>13%</u>	<u>60,356</u>	<u>12%</u>	<u>24,965</u>	<u>41%</u>
Total:						
Recurring revenues	614,934	96%	487,271	95%	127,663	26%
Non-recurring revenues	25,023	4%	26,726	5%	(1,703)	(6)%
	<u>\$639,957</u>	<u>100%</u>	<u>\$513,997</u>	<u>100%</u>	<u>\$125,960</u>	<u>25%</u>

U.S. Revenues. The period over period growth in recurring revenues was primarily the result of an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers, as well as selective price increases in each of our IBX markets. During the nine months ended September 30, 2009, we recorded approximately \$47.3 million of revenue generated from our recently-

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opened IBX centers or IBX center expansions in the Chicago, Los Angeles and New York metro areas. We expect that our U.S. revenues will continue to grow in future periods as a result of continued growth in these recently-opened IBX centers or IBX center expansions and additional expansions currently taking place in the Chicago, Los Angeles, New York, Silicon Valley and Washington, D.C. metro areas, all of which are expected to open during 2010.

Europe Revenues. Our revenues from the United Kingdom, the largest revenue contributor in the Europe region, represented approximately 37% and 39%, respectively, of the regional revenues for the nine months ended September 30, 2009 and 2008. As in the U.S., Europe revenue growth was due to an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers. During the nine months ended September 30, 2009, we recorded approximately \$28.2 million of revenue from our recently-opened IBX centers or IBX center expansions in the Amsterdam, Frankfurt, London and Paris metro areas. We expect that our Europe revenues will continue to grow in future periods as a result of continued growth in recently-opened IBX centers or IBX center expansions and additional expansions currently taking place in the Amsterdam, Geneva, Frankfurt, London and Zurich metro areas, all of which are expected to open during the remainder of 2009 and the first half of 2010.

Asia-Pacific Revenues. Our revenues from Singapore, the largest revenue contributor in the Asia-Pacific region, represented approximately 36% of the regional revenues for both the nine months ended September 30, 2009 and 2008. As in the U.S., Asia-Pacific revenue growth was due to an increase in orders from both our existing customers and new customers during the period as reflected in the growth in our customer count and utilization rate, as discussed above, in both our new and existing IBX centers, as well as selective price increases in each of our IBX markets. During the nine months ended September 30, 2009, we recorded approximately \$17.4 million of revenue generated from our IBX centers or IBX center expansions in the Hong Kong, Singapore and Sydney metro areas. We expect that our Asia-Pacific revenues will continue to grow in future periods as a result of continued growth in these recently-opened IBX centers or IBX center expansions.

Cost of Revenues. Our cost of revenues for the nine months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Nine months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$199,701	56%	\$175,721	57%	\$23,980	14%
Europe	106,798	30%	92,608	30%	14,190	15%
Asia-Pacific	49,847	14%	38,124	13%	11,723	31%
Total	<u>\$356,346</u>	<u>100%</u>	<u>\$306,453</u>	<u>100%</u>	<u>\$49,893</u>	<u>16%</u>

	Nine months ended September 30,	
	2009	2008
<i>Cost of revenues as a percentage of revenues:</i>		
U.S.	51%	55%
Europe	65%	70%
Asia-Pacific	58%	63%
Total	56%	60%

U.S. Cost of Revenues. U.S. cost of revenues for the nine months ended September 30, 2009 and 2008 included \$73.9 million and \$67.7 million, respectively, of depreciation expense. Growth in depreciation expense of \$8.5 million was due to our IBX center expansion activity; however, this growth was partially offset by a \$2.3 million decrease in depreciation expense as we revised the estimated useful lives of certain of our property, plant and equipment during the three months ended September 30, 2009. Excluding depreciation, the increase in U.S. cost of revenues was primarily due to overall growth related to our revenue growth and costs associated with our expansion projects, including (i) an increase of \$8.1 million in utility costs as a result of increased customer installations, (ii) an increase of \$6.7 million in rent and facility

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costs and (iii) \$3.9 million in higher compensation costs, primarily as a result of headcount growth (302 U.S. employees as of September 30, 2009 versus 275 as of September 30, 2008). We expect U.S. cost of revenues to increase as we continue to grow our business.

Europe Cost of Revenues. Europe cost of revenues for the nine months ended September 30, 2009 and 2008 included \$29.5 million and \$23.1 million, respectively, of depreciation expense. Growth in depreciation expense of \$6.7 million was primarily due to our IBX center expansion activity; however, this growth was partially offset by a \$307,000 decrease in depreciation expense as we revised the estimated useful lives of certain of our property, plant and equipment during the three months ended September 30, 2009. Excluding depreciation expense, the increase in Europe cost of revenues was primarily the result of costs associated with our expansion projects and overall growth in connection with revenue growth, such as \$6.5 million of higher utility costs arising from increased customer installations and revenues attributed to customer growth. We expect Europe cost of revenues to increase as we continue to grow our business.

Asia-Pacific Cost of Revenues. Asia-Pacific cost of revenues for the nine months ended September 30, 2009 and 2008 included \$18.0 million and \$11.9 million, respectively, of depreciation expense. Growth in depreciation expense of \$8.3 million was primarily due to our IBX center expansion activity; however, this growth was partially offset by a \$2.2 million decrease in depreciation expense as we revised the estimated useful lives of certain of our property, plant and equipment during the three months ended September 30, 2009. Excluding depreciation expense, the increase in Asia-Pacific cost of revenues was primarily the result of costs associated with our expansion projects and overall growth in connection with revenue growth, such as \$3.1 million of higher utility costs arising from increased customer installations and revenues attributed to customer growth. We expect Asia-Pacific cost of revenues to increase as we continue to grow our business.

Sales and Marketing Expenses. Our sales and marketing expenses for the nine months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Nine months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$26,297	57%	\$26,799	57%	\$(502)	(2)%
Europe	12,756	28%	13,361	29%	(605)	(5)%
Asia-Pacific	7,262	15%	6,490	14%	772	12%
Total	\$46,315	100%	\$46,650	100%	\$(335)	(1)%

	Nine months ended September 30,	
	2009	2008
<i>Sales and marketing expenses as a percentage of revenues:</i>		
U.S.	7%	8%
Europe	8%	10%
Asia-Pacific	9%	11%
Total	7%	9%

U.S. Sales and Marketing Expenses. Our U.S. sales and marketing expenses did not change significantly. We generally expect U.S. sales and marketing expenses to increase as we continue to grow our business and invest further in various branding initiatives; however, as a percentage of revenues, we expect them to decrease.

Europe Sales and Marketing Expenses. Our Europe sales and marketing expenses did not change significantly. We generally expect Europe sales and marketing expenses to increase as we continue to grow our business; however, as a percentage of revenues, we expect them to decrease.

Asia-Pacific Sales and Marketing Expenses. The increase in our Asia-Pacific sales and marketing expenses was primarily due to higher compensation costs, including general salaries, bonuses and stock-based compensation expense. We expect Asia-Pacific sales and marketing expenses to increase as we continue to grow our business; however, as a percentage of revenues, we expect them to decrease.

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General and Administrative Expenses. Our general and administrative expenses for the nine months ended September 30, 2009 and 2008 were split among the following geographic regions (dollars in thousands):

	Nine months ended September 30,				Change	
	2009	%	2008	%	\$	%
U.S.	\$ 76,449	69%	\$ 73,239	65%	\$ 3,210	4%
Europe	22,641	20%	26,301	24%	(3,660)	(14)%
Asia-Pacific	12,587	11%	11,810	11%	777	7%
Total	<u>\$111,677</u>	<u>100%</u>	<u>\$111,350</u>	<u>100%</u>	<u>\$ 327</u>	<u>0%</u>

	Nine months ended September 30,	
	2009	2008
<i>General and administrative expenses as a percentage of revenues:</i>		
U.S.	20%	23%
Europe	14%	20%
Asia-Pacific	15%	20%
Total	17%	22%

U.S. General and Administrative Expenses. The increase in our U.S. general and administrative expenses was primarily due to compensation costs, including general salaries, bonuses and headcount growth (295 U.S. general and administrative employees as of September 30, 2009 versus 251 as of September 30, 2008). Going forward, although we are carefully monitoring our spending given the current economic environment, we expect U.S. general and administrative expenses to increase as we continue to scale our operations to support our growth; however, as a percentage of revenues, we expect them to decrease.

Europe General and Administrative Expenses. The decrease in our Europe general and administrative expenses was primarily due to a \$3.1 million one-time stock-based compensation charge due to equity award modifications related to the resignation of two senior officers in Europe during the nine months ended September 30, 2008. Going forward, although we are carefully monitoring our spending given the current economic environment, we expect our Europe general and administrative expenses to increase in future periods as we continue to scale our operations to support our growth and in connection with various ongoing integration initiatives related to investments in systems and internal control compliance; however, as a percentage of revenues, we expect them to decrease.

Asia-Pacific General and Administrative Expenses. Our Asia-Pacific general and administrative expenses did not change significantly. Going forward, although we are carefully monitoring our spending given the current economic environment, we expect Asia-Pacific general and administrative expenses to increase as we continue to scale our operations to support our growth; however, as a percentage of revenues, we expect them to decrease.

Restructuring Charges. During the nine months ended September 30, 2009, we recorded reductions of restructuring charges totaling \$6.1 million, primarily due to a reversal of a restructuring charge accrual of \$5.8 million for our excess space in the Los Angeles metro area as a result of our decision to utilize this space to expand our original Los Angeles IBX center. Our excess space lease in the New York metro area remains abandoned and continues to carry a restructuring charge. During the nine months ended September 30, 2008, we recorded a restructuring charge adjustment of \$799,000 from revised sublease assumptions on our excess space lease in the Los Angeles metro area.

Acquisition Costs. During the nine months ended September 30, 2009, we recorded acquisition costs totaling \$1.4 million, primarily related to the Upminster acquisition. During the nine months ended September 30, 2008, we did not expense direct acquisition costs pursuant to the accounting standard applicable to that period.

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Interest Income. Interest income decreased to \$1.9 million for the nine months ended September 30, 2009 from \$7.8 million for the nine months ended September 30, 2008. Interest income decreased primarily due to lower yields on invested balances. The average yield for the nine months ended September 30, 2009 was 0.64% versus 3.0% for the nine months ended September 30, 2008. We expect our interest income to remain at these low levels for the foreseeable future due to a low interest rate environment and as we continue to utilize our cash to finance our expansion activities.

Interest Expense. Interest expense was \$51.6 million and \$45.2 million, respectively, for the nine months ended September 30, 2009 and 2008. The increase in interest expense was primarily due to higher loan balances as a result of loan drawdowns and new financings entered into during 2008 and 2009 consisting of (i) our \$373.8 million 4.75% convertible subordinated notes offering in June 2009, (ii) our Netherlands financing, of which \$10.2 million was outstanding as of September 30, 2009 with an approximate interest rate of 3.6% per annum as compared to \$6.1 million outstanding as of September 30, 2008 with an approximate interest rate of 6.5% per annum and (iii) our Asia-Pacific financing, of which \$73.0 million was outstanding as of September 30, 2009 with an approximate blended interest rate of 3.0% per annum as compared to \$65.4 million outstanding as of September 30, 2008 with an approximate blended interest rate of 4.28% per annum. The increase was partially offset by higher capitalized interest expense, repayment of some loans and the partial conversions of certain of our convertible subordinated debentures in November 2008 and June 2009. During the nine months ended September 30, 2009 and 2008, we capitalized \$10.4 million and \$6.7 million, respectively, of interest expense to construction in progress. Going forward, we expect to incur higher interest expense as we fully utilize or recognize the full impact of our existing financings, including the \$373.8 million 4.75% convertible subordinated notes offering and the Singapore financing, and as we complete expansion efforts and cease to capitalize interest expense.

Other-Than-Temporary Impairment Loss On Investments. For the nine months ended September 30, 2009 and 2008, we recorded \$2.7 million and \$1.5 million, respectively, of other-than-temporary impairment losses on one of our money market accounts as more fully described in Note 7 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report.

Other Income (Expense). For the nine months ended September 30, 2009 and 2008, we recorded \$3.7 million and \$602,000, respectively, of other income, primarily attributable to foreign currency exchange gains during the periods.

Income Taxes. For the nine months ended September 30, 2009 and 2008, we recorded \$29.9 million and \$400,000, respectively, of income tax expense. The tax expense recorded in the nine months ended September 30, 2009 was a result of applying the annual effective tax rates estimated for the year to the operating results of the period, partially offset by income tax benefits due to the release of valuation allowance of \$4.0 million associated with our Hong Kong operations. The income tax expense recorded in the nine months ended September 30, 2008 was attributable to our foreign operations. Our effective tax rates were 36.6% and 3.8% for the nine months ended September 30, 2009 and 2008, respectively. The increase in our effective tax rate is primarily a result of our domestic operations no longer carrying a valuation allowance against the net deferred tax assets of those operations which achieved sufficient profitability in the fourth quarter of 2008. We have not incurred any meaningful cash income tax expense since inception and we do not expect to incur any significant cash income tax expense during the remainder of 2009 because we still have a large amount of net operating loss carry-forwards in all the jurisdictions in which we operate, which can be used to offset the taxable profit generated in 2009. The cash tax for 2009 is primarily for the U.S. Alternative Minimum Tax, the foreign income tax in the United Kingdom and the California state income tax as a result of California temporarily suspending the utilization of net operating loss carry-forwards. Additionally, we may recognize income tax benefits attributable to certain of our foreign operations in future periods as a result of the release of our remaining valuation allowances.

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Liquidity and Capital Resources

As of September 30, 2009, our total indebtedness was comprised of (i) convertible debt principal totaling \$1.0 billion from our 2.50% convertible subordinated notes (gross of discount), our 3.00% convertible subordinated notes and our 4.75% convertible subordinated notes (gross of discount) and (ii) non-convertible debt and financing obligations totaling \$607.9 million of principal from our Washington D.C. metro area IBX capital lease, San Jose IBX equipment and fiber financing, Chicago IBX equipment financing, Los Angeles IBX financing, Paris metro area IBX capital lease, Ashburn campus mortgage payable, Chicago IBX financing, Asia-Pacific financing, European financing, Netherlands financing, Singapore financing and other financing obligations.

We believe we have sufficient cash, coupled with anticipated cash generated from operating activities, to meet our operating requirements, including repayment of our current portion of debt due, and to complete our publicly-announced expansion projects, as well as the Switch and Data acquisition, of which 20% of the total purchase price is payable in cash, for at least the next 12 months. As of September 30, 2009, we had \$627.4 million of cash, cash equivalents and short-term and long-term investments. Besides our investment portfolio and any financing activities we may pursue, customer collections are our primary source of cash. While we believe we have a strong customer base and have continued to experience relatively strong collections, if the current market conditions were to deteriorate further, some of our customers may have difficulty paying us and we may experience increased churn in our customer base, including reductions in their commitments to us, all of which could have a material adverse effect on our liquidity.

As of September 30, 2009, we had a total of approximately \$16.0 million of additional liquidity available to us, which consists of (i) \$3.2 million under the European financing for general working capital purposes, (ii) \$10.3 million under the \$25.0 million Bank of America revolving credit line and (iii) \$2.5 million under the Singapore financing. Our indebtedness as of September 30, 2009, as noted above, consisted of \$607.9 million of non-convertible senior debt. Although these are committed facilities, most of which are fully drawn or utilized and for which we are amortizing debt repayments of either principal and/or interest only, and we are in full compliance with all covenants related to them effective September 30, 2009, deteriorating market and liquidity conditions may give rise to issues which may impact the lenders' ability to hold these debt commitments to their full term.

While we believe we have sufficient liquidity and capital resources to meet our current operating requirements and to complete our publicly-announced IBX expansion plans, we may pursue additional expansion opportunities, primarily the build-out of new IBX centers, in certain of our existing markets which are at or near capacity within the next year, as well as potential acquisitions. While we will be able to fund some of these expansion plans with our existing resources, additional financing, either debt or equity, may be required to pursue certain of these additional expansion plans. However, if current market conditions were to deteriorate further, we may be unable to secure additional financing or any such additional financing may be available to us on unfavorable terms. An inability to pursue additional expansion opportunities will have a material adverse effect on our ability to maintain our desired level of revenue growth in future periods.

Sources and Uses of Cash

	Nine Months Ended September 30,	
	2009	2008
	(in thousands)	
Net cash provided by operating activities	\$ 272,982	\$ 191,263
Net cash used in investing activities	(542,494)	(434,850)
Net cash provided by financing activities	326,520	112,950

Operating Activities. The increase in net cash provided by operating activities was primarily due to improved operating results as discussed above, strong collections of accounts receivable and management of vendor payments. We expect that we will continue to generate cash from our operating activities during the remainder of 2009 and beyond.

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Investing Activities. The increase in net cash used in investing activities was primarily due to higher purchase of investments, partially offset by lower capital expenditures. We expect that our IBX expansion activity during 2009 will be less than in 2008 as we carefully manage investing activities during the current economic environment.

Financing Activities. Net cash provided by financing activities during the nine months ended September 30, 2009 was primarily the result of \$373.8 million in gross proceeds from our 4.75% convertible notes offering and proceeds from our Singapore financing and employee equity awards, partially offset by repayments of our debt facilities and the costs of our capped call transactions entered into in connection with our \$373.8 million 4.75% convertible subordinated notes offering. Net cash provided by financing activities during the nine months ended September 30, 2008 was primarily due to loan drawdowns for ongoing expansion projects. We expect that our financing activities will consist primarily of repayment of our debt during the remainder of 2009.

Debt Obligations

4.75% Convertible Subordinated Notes. In June 2009, we issued \$373.8 million aggregate principal amount of 4.75% convertible subordinated notes due June 15, 2016. Interest is payable semi-annually on June 15 and December 15 of each year, beginning December 15, 2009. The initial conversion rate is 11.8599 shares of common stock per \$1,000 principal amount of 4.75% convertible subordinated notes, subject to adjustment. This represents an initial conversion price of approximately \$84.32 per share of common stock. Upon conversion, holders will receive, at our election, cash, shares of our common stock or a combination of cash and shares of our common stock. As of September 30, 2009, the 4.75% convertible subordinated notes were convertible into 4.4 million shares of our common stock.

Holders of the 4.75% convertible subordinated notes may convert their notes under certain defined circumstances, including during any fiscal quarter (and only during that fiscal quarter) ending after September 30, 2009, if the sale price of our common stock, for at least 20 trading days during the period of 30 consecutive trading days ending on the last trading day of the previous fiscal quarter, is greater than 130% of the conversion price per share of common stock on such last trading day, which was \$119.60 per share as of September 30, 2009 or at any time on or after March 15, 2016.

Upon conversion, if we elected to pay a sufficiently large portion of the conversion obligation in cash, additional consideration beyond the \$373.8 million of gross proceeds received would be required. However, to minimize the impact of potential dilution upon conversion of the 4.75% convertible subordinated notes, we entered into capped call transactions, which are referred to as the capped call, separate from the issuance of the 4.75% convertible subordinated notes, for which we paid a premium of \$49.7 million. The capped call covers a total of approximately 4.4 million shares of our common stock, subject to adjustment. Under the capped call, we effectively raised the conversion price of the 4.75% convertible subordinated notes from \$84.32 to \$114.82. Depending upon our stock price at the time the 4.75% convertible subordinated notes are converted, the capped call will return up to 1.2 million shares of our common stock to us; however, we will receive no benefit from the capped call if our stock price is \$84.32 or lower at the time of conversion and will receive less shares for share prices in excess of \$114.82 at the time of conversion than we would have received at a share price of \$114.82 (our benefit from the capped call is capped at \$114.82 and no additional benefit is received beyond this price).

We do not have the right to redeem the 4.75% convertible subordinated notes at our option.

2.50% Convertible Subordinated Notes. In January 2009, we adopted a FASB amendment related to the accounting for convertible debt instruments that may be settled in cash upon conversion (including partial cash settlement). As a result, we have separately accounted for the liability and equity components of our 2.50% convertible subordinated notes. See "2.50% Convertible Subordinated Notes" in Note 8 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q.

Convertible Subordinated Debentures. In June 2009, we entered into agreements with the holders of the remaining \$19.2 million of these convertible subordinated debentures to exchange an aggregate of 484,809 newly issued shares of our common stock to settle the convertible subordinated debentures. The number of shares of common stock issued equals the amount issuable upon conversion of the convertible subordinated debentures in accordance with their original terms. As of September 30, 2009, there were no convertible subordinated debentures outstanding.

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Singapore Financing. In September 2009, our wholly-owned subsidiary in Singapore entered into a 37.0 million Singapore dollar, or approximately \$26.2 million (using the exchange rate as of September 30, 2009) credit facility agreement, which is referred to as the Singapore financing. The Singapore financing is comprised of two tranches: (i) Facility A, which is available for drawing upon through March 18, 2010, provides a term loan of up to 34.5 million Singapore dollars and (ii) Facility B, which is available for drawing upon through September 12, 2010, provides a term loan of up to 2.5 million Singapore dollars. The loans payable under the Singapore financing bear interest at a floating rate (Swap offer rate plus 3.65% per annum). Facility A will be repaid in nine semi-annual installments beginning August 2010 and Facility B will be repaid in eight semi-annual installments beginning February 2011. The Singapore financing has a final maturity date of August 31, 2014 and interest is payable in periods of one, three or six months at the election of our Singaporean subsidiary. The Singapore financing is guaranteed by the parent, Equinix, and is secured by the assets of our second IBX center in Singapore. The Singapore financing has several financial covenants specific to our operations in Singapore, with which we must comply periodically. As of September 30, 2009, we had borrowings under the Facility A tranche of 33.5 million Singapore dollars, or approximately \$23.8, at an approximate interest rate per annum of 4.15%, leaving 3.5 million Singapore dollars, or approximately \$2.5 million, available for future borrowings under the Singapore financing.

Netherlands Financing. In June 2009, our wholly-owned subsidiary in the Netherlands amended a 5.5 million Euro senior credit facility, which is referred to as the Netherlands financing, which was assumed as a result of the Virtu acquisition, by entering into a 7.0 million Euro term loan to replace the previously outstanding senior credit facility. The Netherlands financing contains several financial covenants, which we must comply with annually, is guaranteed by us and is collateralized by substantially all of our operations in the Netherlands. The Netherlands financing has a final maturity date of June 30, 2016 with repayment to occur over the remaining seven years in 28 equal quarterly installments starting September 30, 2009. The Netherlands financing bears interest at a floating rate (three month EURIBOR plus 3.60% per annum). As of September 30, 2009, a total of 7.0 million Euros, or approximately \$10.2 million, was outstanding under the Netherlands financing.

\$25.0 Million Bank of America Revolving Credit Line. In February 2009, we entered into a \$25.0 million one-year revolving credit facility with Bank of America, which is referred to as the \$25.0 million Bank of America revolving credit line. The \$25.0 million Bank of America revolving credit line will be used primarily to fund our working capital and to enable us to issue letters of credit. The effect of issuing letters of credit under the \$25.0 million Bank of America revolving credit line will be to reduce the amount available for borrowing under the \$25.0 million Bank of America revolving credit line. We may borrow, repay and reborrow under the \$25.0 million Bank of America revolving credit line at either the prime rate or at a borrowing margin of 2.75% over one, three or six month LIBOR, subject to a minimum borrowing cost of 3.00%. The \$25.0 million Bank of America revolving credit line contains three financial covenants, which we must comply with quarterly, consisting of a tangible net worth ratio, a debt service ratio and a senior leverage ratio and is collateralized by our domestic accounts receivable balances. As of September 30, 2009, we were in compliance with all financial covenants in connection with the Bank of America revolving credit line. The \$25.0 million Bank of America revolving credit line is available for renewal subject to mutual agreement by both parties. During the nine months ended September 30, 2009, we entered into nine irrevocable letters of credit totaling \$14.7 million under the \$25.0 million Bank of America revolving credit line, which resulted in our release of restricted cash to unrestricted cash. As a result, the amount available to borrow was \$10.3 million as of September 30, 2009.

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Contractual Obligations and Off-Balance Sheet Arrangements

We lease a majority of our IBX centers and certain equipment under non-cancelable lease agreements expiring through 2027. The following represents our debt maturities, financings, leases and other contractual commitments as of September 30, 2009 (in thousands):

	2009 (3 months)	2010	2011	2012	2013	2014 and thereafter	Total
Convertible debt (1)	\$ —	\$ —	\$ —	\$ 250,000	\$ —	\$ 769,736	\$ 1,019,736
Chicago IBX financing (1)	—	—	—	109,991(5)	—	—	109,991
Asia-Pacific financing (1)	8,116	32,463	28,379	4,032	—	—	72,990
European financing (1)	4,403	15,923	17,685	21,243	25,646	50,555	135,455
Netherlands financing (1)	732	1,464	1,464	1,464	1,464	3,659	10,247
Singapore financing (1)	—	1,188	5,941	5,941	5,941	4,753	23,764
Interest (2)	13,254	52,184	44,952	34,090	31,298	53,793	229,571
Mortgage payable (3)	2,541	10,164	10,164	10,164	10,165	123,339	166,537
Other note payable (3)	2,500	—	—	—	—	—	2,500
Capital lease and other financing obligations (3)	4,317	17,596	19,605	19,486	19,587	182,801	263,392
Operating leases under accrued restructuring charges (3)	642	2,193	2,266	2,455	2,471	3,946	13,973
Operating leases (4)	14,613	64,368	62,539	61,503	62,563	322,627	588,213
Other contractual commitments (4)	94,482	34,464	17,011	771	—	—	146,728
	<u>\$ 145,600</u>	<u>\$ 232,007</u>	<u>\$ 210,006</u>	<u>\$ 521,140</u>	<u>\$ 159,135</u>	<u>\$ 1,515,209</u>	<u>\$ 2,783,097</u>

- (1) Represents principal only.
- (2) Represents interest on convertible debt, Chicago IBX financing, Asia-Pacific financing, European financing and Netherlands financing based on their approximate interest rates as of September 30, 2009.
- (3) Represents principal and interest.
- (4) Represents off-balance sheet arrangements. Other contractual commitments are described below.
- (5) The loan payable under the Chicago IBX financing has a maturity date of January 31, 2010, with options to extend for up to an additional two years, in one-year increments, upon satisfaction of certain extension conditions. We intend to extend the maturity of the loan payable under the Chicago IBX financing.

In connection with six of our IBX leases, we entered into nine irrevocable letters of credit totaling \$14.7 million with Bank of America. These letters of credit were provided in lieu of cash deposits under the \$25.0 million Bank of America revolving credit line and automatically renew in successive one-year periods until the final lease expiration date. If the landlords for these IBX leases decide to drawdown on these letters of credit triggered by an event of default under the lease, we will be required to fund these letters of credit either through cash collateral or borrowing under the \$25.0 million Bank of America revolving credit line. These contingent commitments are not reflected in the table above.

Primarily as a result of our various IBX expansion projects, as of September 30, 2009, we were contractually committed for \$60.4 million of unaccrued capital expenditures, primarily for IBX equipment not yet delivered and labor not yet provided, in connection with the work necessary to complete construction and open these IBX centers prior to making them available to customers for installation. This amount, which is expected to be paid during the remainder of 2009 and 2010, is reflected in the table above as "other contractual commitments."

We have other non-capital purchase commitments in place as of September 30, 2009, such as commitments to purchase power in select locations, primarily in the U.S., Australia, Germany, Singapore and the United Kingdom, through the remainder of 2009 and thereafter, and other open purchase orders, which contractually bind us for goods or services to be delivered or provided during the remainder of 2009 and beyond. Such other purchase commitments as of September 30, 2009, which total \$86.3 million, are also reflected in the table above as "other contractual commitments."

In addition, although we are not contractually obligated to do so, we expect to incur additional capital expenditures of approximately \$380.0 million to \$420.0 million, in addition to the \$60.4 million in contractual commitments discussed above as of September 30, 2009, in our various IBX expansion projects during the remainder of 2009 and 2010 in order to complete the work needed to open these IBX centers. These non-contractual capital expenditures are not reflected in the table above. If the current economic environment persists, we could delay these non-contractual capital expenditure commitments to preserve liquidity.

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Critical Accounting Estimates

Equinix's financial statements and accompanying notes are prepared in accordance with generally accepted accounting principles in the United States of America. Preparing financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. These estimates and assumptions are affected by management's application of accounting policies. During the three months ended September 30, 2009, we revised the estimated useful lives of certain of our property, plant and equipment. This change resulted in higher income from operations, net income and basic and diluted earnings per share. See "Property, Plant and Equipment" in Note 1 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q. On an on-going basis, management evaluates its estimates and judgments. Critical accounting policies for Equinix that affect our more significant judgments and estimates used in the preparation of our condensed consolidated financial statements include accounting for income taxes, accounting for impairment of goodwill and accounting for property, plant and equipment, which are discussed in more detail under the caption "Critical Accounting Estimates" in Management's Discussion and Analysis of Financial Condition and Results of Operations included in our report on Form 8-K as filed with the SEC on June 8, 2009.

Recent Accounting Pronouncements

See Note 1 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

As more fully described in Cash, Cash Equivalents and Short-Term and Long-Term Investments in Note 7 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q, during the nine months ended September 30, 2009, we incurred an additional \$2.7 million of other-than-temporary impairment loss from our investment portfolio (consisting of a single money market account) in the Reserve Primary Fund. We issued additional convertible debt in June 2009, the fair value of which is subject to interest rate risk. The fair value of our convertible debt is disclosed in Note 1 of Notes to Condensed Consolidated Financial Statements in Item 1 of this Quarterly Report on Form 10-Q. There have been no other significant changes in our market risk, investment portfolio risk, interest rate risk, foreign currency risk and commodity price risk exposures and procedures during the nine months ended September 30, 2009 as compared to the respective risk exposures and procedures disclosed in Quantitative and Qualitative Disclosures About Market Risk, set forth in Part II Item 7A, of our Annual Report on Form 10-K for the year ended December 31, 2008.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures. Our Chief Executive Officer and our Chief Financial Officer, after evaluating the effectiveness of our "disclosure controls and procedures" (as defined in the Securities Exchange Act of 1934 (the "Exchange Act") Rules 13a-15(e) or 15d-15(e)) as of the end of the period covered by this quarterly report, have concluded that our disclosure controls and procedures are effective based on their evaluation of these controls and procedures required by paragraph (b) of Exchange Act Rules 13a-15 or 15d-15.

Changes in Internal Control over Financial Reporting. There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter to which this report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations on the Effectiveness of Controls. Our management, including our Chief Executive Officer and Chief Financial Officer, believes that our disclosure controls and procedures and internal control over financial reporting are designed and operated to be effective at the reasonable assurance level.

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However, our management does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent all errors and all fraud. A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, have been detected. These inherent limitations include the realities that judgments in decision making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost effective control system, misstatements due to error or fraud may occur and not be detected.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings

On July 30, 2001 and August 8, 2001, putative shareholder class action lawsuits were filed against us, certain of our officers and directors (the “Individual Defendants”), and several investment banks that were underwriters of our initial public offering (the “Underwriter Defendants”). The cases were filed in the United States District Court for the Southern District of New York. Similar lawsuits were filed against approximately 300 other issuers and related parties. These lawsuits have been coordinated before a single judge. The purported class action alleges violations of Sections 11 and 15 of the Securities Act of 1933 and Sections 10(b), Rule 10b-5 and 20(a) of the Securities Exchange Act of 1934 against us and the Individual Defendants. The plaintiffs have since dismissed the Individual Defendants without prejudice. The suits allege that the Underwriter Defendants agreed to allocate stock in our initial public offering to certain investors in exchange for excessive and undisclosed commissions and agreements by those investors to make additional purchases in the aftermarket at pre-determined prices. The plaintiffs allege that the prospectus for our initial public offering was false and misleading and in violation of the securities laws because it did not disclose these arrangements. The action seeks damages in an unspecified amount. On February 19, 2003, the court dismissed the Section 10(b) claim against us, but denied the motion to dismiss the Section 11 claim.

The parties in the approximately 300 coordinated cases, including Equinix, the Underwriter Defendants in the Equinix class action lawsuit, and the plaintiff class in the Equinix class action lawsuit, reached a settlement. The insurers for the issuer defendants in the coordinated cases will make the settlement payment on behalf of the issuers, including Equinix. On October 6, 2009, the Court granted final approval to the settlement. The time to appeal the final approval decision will run on November 5, 2009. Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of the matter. We are unable at this time to determine whether the outcome of the litigation would have a material impact on our results of operations, financial condition or cash flows. We intend to continue to defend the action vigorously if the settlement is appealed and does not survive the appeal.

On August 22, 2008, a complaint was filed against Equinix, certain former officers and directors of Pihana Pacific, Inc. (“Pihana”), certain investors in Pihana, and others. The lawsuit was filed in the First Circuit Court of the State of Hawaii, and arises out of December 2002 agreements pursuant to which Equinix merged Pihana and i-STT (a subsidiary of Singapore Technologies Telemedia Pte Ltd) into the internet exchange services business of Equinix. Plaintiffs, who were allegedly holders of Pihana common stock, allege that their rights as shareholders were violated, and the transaction was effectuated improperly, by Pihana’s majority shareholders, officers and directors, with the alleged assistance of Equinix and others. Among other things, plaintiffs contend that they effectively had a right to block the transaction, that this supposed right was disregarded, and that they improperly received no consideration when the deal was completed. The complaint seeks to recover unspecified punitive damages, equitable relief, fees and costs, and compensatory damages in an amount that plaintiffs allegedly “believe may be all or a substantial portion of the approximately \$725.0 million value of Equinix held by Defendants” (a group that includes

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more than 30 individuals and entities). An amended complaint, which adds new plaintiffs (other alleged holders of Pihana common stock) but is otherwise substantially similar to the original pleading, was filed on September 29, 2008 (the "Amended Complaint"). On October 13, 2008, a complaint was filed in a separate action by another purported holder of Pihana common stock, naming the same defendants and asserting substantially similar allegations as the August 22, 2008 and September 29, 2008 pleadings. On December 12, 2008, the court entered a stipulated order, which consolidated the two actions under one case number and set January 22, 2009 as the last day for Defendants to move to dismiss or otherwise respond to the Amended Complaint, the operative complaint in this case. On January 22, 2009, motions to dismiss the Amended Complaint were filed by Equinix and other Defendants. On April 24, 2009, plaintiffs filed a Second Amended Complaint ("SAC") to correct the naming of certain parties. The SAC is otherwise substantively identical to the Amended Complaint, and all motions to dismiss the Amended Complaint have been treated as responsive to the SAC. On September 1, 2009, the Court heard Defendants' motions to dismiss the SAC and ruled at the hearing that all claims against all Defendants are time-barred. The Court also considered whether there were further independent grounds for dismissing the claims, and supplemental briefing has been submitted with respect to claims against one defendant. The Court has not yet entered a final Order on the motions to dismiss. We believe that plaintiffs' claims and alleged damages are without merit and we intend to defend the litigation vigorously.

Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of the matter. We are unable at this time to determine whether the outcome of the litigation would have a material impact on our results of operations, financial condition or cash flows.

Item 1A. Risk Factors

In addition to the other information contained in this report, the following risk factors should be considered carefully in evaluating our business and us:

Our substantial debt could adversely affect our cash flows and limit our flexibility to raise additional capital.

We have a significant amount of debt. As of September 30, 2009, our total indebtedness was approximately \$1.5 billion, our stockholders' equity was \$1.1 billion and our cash and investments totaled \$627.4 million.

Our substantial amount of debt could have important consequences. For example, it could:

- require us to dedicate a substantial portion of our cash flow from operations to make interest and principal payments on our debt, reducing the availability of our cash flow to fund future capital expenditures, working capital, execution of our expansion strategy and other general corporate requirements;
- make it more difficult for us to satisfy our obligations under our various debt instruments;
- increase our vulnerability to general adverse economic and industry conditions and adverse changes in governmental regulations;
- limit our flexibility in planning for, or reacting to, changes in our business and industry, which may place us at a competitive disadvantage compared with our competitors;
- limit our ability to borrow additional funds, even when necessary to maintain adequate liquidity, which would also limit our ability to further expand our business; and
- make us more vulnerable to increases in interest rates because of the variable interest rates on some of our borrowings to the extent we have not entirely hedged such variable rate debt.

The occurrence of any of the foregoing factors could have a material adverse effect on our business, results of operations and financial condition. In addition, the performance of our stock price may trigger events that would require the write-off of a significant portion of our debt issuance costs related to our convertible debt, which may have a material adverse effect on our results of operations and financial condition.

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In addition, of our total indebtedness as of September 30, 2009, \$607.9 million was non-convertible senior debt. These are committed facilities, virtually all of which are fully drawn or advanced, for which we are amortizing debt repayments of either principal and/or interest only, and we were in compliance with the covenants related to this debt effective September 30, 2009. However, deteriorating market and liquidity conditions may give rise to issues which may impact the lenders' ability to hold these debt commitments to maturity. Accordingly, these lenders of committed and drawn facilities may refuse to fund advances under the undrawn facilities or attempt to call outstanding amounts, even though no call provisions exist absent a default. Loss of these facilities would have an adverse effect on our liquidity.

We may also need to refinance a portion of our outstanding debt as it matures. There is a risk that we may not be able to refinance existing debt or that the terms of any refinancing may not be as favorable as the terms of our existing debt. Furthermore, if prevailing interest rates or other factors at the time of refinancing result in higher interest rates upon refinancing, then the interest expense relating to that refinanced indebtedness would increase. These risks could materially adversely affect our financial condition, cash flows and results of operations.

Acquisitions present many risks, and we may not realize the financial or strategic goals that were contemplated at the time of any transaction.

In October 2009, we announced that we had entered into an agreement to acquire Switch and Data in a transaction valued at approximately \$689.0 million. Over the last several years, we have completed several other acquisitions (including our acquisitions of IXEurope plc in 2007, Virtu Secure Webservices B.V. in 2008 and Upminster GmbH in 2009). We may make additional acquisitions in the future, which may include acquisitions of businesses, products, services or technologies that we believe to be complementary, as well as acquisitions of new IBX centers or real estate for development of new IBX centers. We may pay for future acquisitions by using our existing cash resources (which may limit other potential uses of our cash), incurring additional debt (which may increase our interest expense, leverage and debt service requirements) and/or issuing shares (which may dilute our existing stockholders and have a negative effect on our earnings per share). Acquisitions expose us to several potential risks, including:

- the possible disruption of our ongoing business and diversion of management's attention by acquisition, transition and integration activities;
- our potential inability to successfully pursue or realize some or all of the anticipated revenue opportunities associated with an acquisition;
- the possibility that we may not be able to successfully integrate acquired businesses or achieve anticipated operating efficiencies or cost savings;
- the possibility that announced acquisitions may not be completed, due to failure to satisfy the conditions to closing or for other reasons;
- the dilution of our existing stockholders as a result of our issuing stock in transactions such as our acquisition of Switch and Data, where 80% of the consideration payable to Switch and Data's stockholders will consist of our common stock;
- the possibility of customer dissatisfaction if we are unable to achieve levels of quality and stability on par with past practices;
- the possibility that our customers may not accept either the existing equipment infrastructure or the "look-and-feel" of a new or different IBX center;
- the possibility that additional capital expenditures may be required or that transaction expenses associated with acquisitions may be higher than anticipated;
- the possible loss or reduction in value of acquired businesses;

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- the possibility that carriers may find it cost-prohibitive or impractical to bring fiber and networks into a new IBX center;
- the possibility of litigation or other claims in connection with or as a result of an acquisition, including claims from terminated employees, customers, former stockholders or other third parties; and
- the possibility of pre-existing undisclosed liabilities, including but not limited to environmental or asbestos liability, for which insurance coverage may be insufficient or unavailable.

The occurrence of any of these risks could have a material adverse effect on our business, results of operations, financial condition or cash flows.

We cannot assure you that the price for any future acquisitions of IBX centers will be similar to prior IBX center acquisitions. In fact, we expect acquisition costs, including capital expenditures required to build or render new IBX centers operational, to increase in the future. If our revenue does not keep pace with these potential acquisition and expansion costs, we may not be able to maintain our current or expected margins as we absorb these additional expenses. There is no assurance we would successfully overcome these risks or any other problems encountered with these acquisitions.

If we are not able to generate sufficient operating cash flows or obtain external financing, our ability to fund incremental expansion plans may be limited.

Our capital expenditures, together with ongoing operating expenses and obligations to service our debt, will be a substantial drain on our cash flow and may decrease our cash balances. The capital markets are currently limited for external financing opportunities. Additional debt or equity financing, especially in the current credit-constrained climate, may not be available when needed or, if available, may not be available on satisfactory terms. Our inability to obtain needed debt and/or equity financing or to generate sufficient cash from operations may require us to prioritize projects or curtail capital expenditures which could adversely affect our results of operations.

The global financial crisis may continue to have an impact on our business and financial condition.

The continued credit crisis and related turmoil in the global financial markets could continue to have an adverse effect on our liquidity. Customer collections are our primary source of cash. While we believe we have a strong customer base and have continued to experience relatively strong collections, if the current market conditions continue to deteriorate, some of our customers may continue to have difficulty paying us and we may continue to experience increased churn in our customer base, including reductions in their commitments to us. We may also be required to further increase our allowance for doubtful accounts and our results would be negatively impacted. Our sales cycle could also continue to be lengthened as customers slow spending, or delay decision-making, on our products and services, which could adversely affect our revenue growth. Finally, we could also experience pricing pressure as a result of economic conditions if our competitors lower prices and attempt to lure away our customers with lower cost solutions.

The credit crisis could also have an impact on our foreign exchange forward contract and interest rate swap hedging contracts if our counterparties' credit deteriorates further or they are otherwise unable to perform their obligations.

Finally, our ability to access the capital markets may be severely restricted at a time when we would like, or need, to do so, which could have an impact on our flexibility to pursue additional expansion opportunities and maintain our desired level of revenue growth in the future.

Fluctuations in foreign currency exchange rates in the markets in which we operate internationally could harm our results of operations.

We may experience gains and losses resulting from fluctuations in foreign currency exchange rates. To date, the majority of our revenues and costs are denominated in U.S. dollars; however, the majority of revenues and costs in our international operations are denominated in foreign currencies. Where our prices are denominated in U.S. dollars, our sales could be adversely affected by declines in foreign currencies relative to the U.S. dollar, thereby making our products and services more expensive in local currencies.

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We are also exposed to risks resulting from fluctuations in foreign currency exchange rates in connection with our international expansions. To the extent we are paying contractors in foreign currencies, our expansions could cost more than anticipated as a result of declines in the U.S. dollar relative to foreign currencies. In addition, fluctuating foreign currency exchange rates have a direct impact on how our international results of operations translate into U.S. dollars.

Although we have in the past, and may decide in the future, to undertake foreign exchange hedging transactions to reduce foreign currency transaction exposure, we do not currently intend to eliminate all foreign currency transaction exposure. For example, while we hedge certain of our foreign currency assets and liabilities on our balance sheet, we do not hedge revenue. During fiscal 2007 and the first half of 2008, the U.S. dollar had been generally weaker relative to certain of the currencies of the foreign countries in which we operate. This overall weakness of the U.S. dollar had a positive impact on our consolidated results of operations because the foreign denominations translated into more U.S. dollars. However, during the second half of 2008 and through the first quarter of 2009, the U.S. dollar strengthened relative to certain of the currencies of the foreign countries in which we operate. This significantly impacted our consolidated financial position and results of operations as amounts in foreign currencies are generally translating into less U.S. dollars. Overall, during the nine months ended September 30, 2009, the U.S. dollar weakened relative to certain of the currencies of the foreign countries in which we operate, which had a positive impact to our results of operations. In future periods, strengthening of the U.S. dollar could have a significant impact on our consolidated financial position and results of operations including the amount of revenue that we report in future periods. For additional information on foreign currency risk, refer to our discussion of foreign currency risk in "Quantitative and Qualitative Disclosures About Market Risk" included in Part I, Item 3 of this Quarterly Report.

Our products and services have a long sales cycle that may harm our revenues and operating results.

A customer's decision to license cabinet space in one of our IBX centers and to purchase additional services typically involves a significant commitment of resources. In addition, some customers will be reluctant to commit to locating in our IBX centers until they are confident that the IBX center has adequate carrier connections. As a result, we have a long sales cycle. Furthermore, we may expend significant time and resources in pursuing a particular sale or customer that does not result in revenue.

The current economic downturn may further impact this long sales cycle by making it extremely difficult for customers to accurately forecast and plan future business activities. This could cause customers to slow spending, or delay decision-making, on our products and services, which would delay and lengthen our sales cycle.

Delays due to the length of our sales cycle may materially and adversely affect our revenues and operating results, which could harm our ability to meet our forecasts for a given quarter and cause volatility in our stock price.

We have incurred substantial losses in the past and may incur additional losses in the future.

As of September 30, 2009 our accumulated deficit was \$403.7 million. Although we generated net income during 2008, our first full year of net income since our inception, and during the first, second and third quarters of 2009, we are also currently investing heavily in our future growth through the build-out of several additional IBX centers and IBX center expansions. As a result, we will incur higher depreciation and other operating expenses, as well as interest expense, that may negatively impact our ability to sustain profitability in future periods unless and until these new IBX centers generate enough revenue to exceed their operating costs and cover our additional overhead needed to scale our business for this anticipated growth. The current global financial crisis may also impact our ability to sustain profitability if we cannot generate sufficient revenue to offset the increased costs of our recently-opened IBX centers or IBX centers currently under construction. In addition, costs associated with the acquisition and integration of any acquired companies, as well as the additional interest expense associated with debt financing we have undertaken to fund our growth initiatives, may also negatively impact our ability to sustain profitability. Finally, given the competitive and evolving nature of the industry in which we operate, we may not be able to sustain or increase profitability on a quarterly or annual basis.

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We are continuing to invest in our expansion efforts but may not have sufficient customer demand in the future to realize expected returns on these investments.

We are considering the acquisition or lease of additional properties and the construction of new IBX centers beyond those expansion projects already announced. We will be required to commit substantial operational and financial resources to these IBX centers, generally 12 to 18 months in advance of securing customer contracts, and we may not have sufficient customer demand in those markets to support these centers once they are built. In addition, unanticipated technological changes could affect customer requirements for data centers and we may not have built such requirements into our new IBX centers. Either of these contingencies, if they were to occur, could make it difficult for us to realize expected or reasonable returns on these investments.

Our construction of additional new IBX centers could involve significant risks to our business.

In order to sustain our growth in certain of our existing and new markets, we must acquire suitable land with or without structures to build new IBX centers from the ground up. We call these “greenfield builds.” Greenfield builds are currently underway, or being contemplated, in several key markets. A greenfield build involves substantial planning and lead-time, much longer time to completion than an IBX retrofit of an existing data center, and significantly higher costs of construction, equipment and materials, which could have a negative impact on our returns. A greenfield build also requires us to carefully select and rely on the experience of one or more general contractors and associated subcontractors during the construction process. Should a general contractor or significant subcontractor experience financial or other problems during the construction process, we could experience significant delays, increased costs to complete the project and other negative impacts to our expected returns. Site selection is also a critical factor in our expansion plans, and there may not be suitable properties available in our markets with the necessary combination of high power capacity and fiber connectivity.

While we may prefer to locate new IBX centers adjacent to our existing locations, we may be limited by the inventory and location of suitable properties, as well as by the need for adequate power and fiber to the site. In the event we decide to build new IBX centers separate from our existing IBX centers, we may provide services to interconnect these two centers. Should these services not provide the necessary reliability to sustain service, this could result in lower interconnection revenue and lower margins and could have a negative impact on customer retention over time.

Any failure of our physical infrastructure or services could lead to significant costs and disruptions that could reduce our revenue and harm our business reputation and financial results.

Our business depends on providing customers with highly reliable service. We must protect our customers’ IBX infrastructure and their equipment located in our IBX centers. Furthermore, we continue to acquire IBX centers not built by us. If we discover that these IBX centers and their infrastructure assets are not in the condition we expected when they were acquired, we may be required to incur substantial additional costs to repair or upgrade the centers. The services we provide in each of our IBX centers are subject to failure resulting from numerous factors, including:

- human error;
- equipment failure;
- physical, electronic and cybersecurity breaches;
- fire, earthquake, flood, tornados and other natural disasters;
- extreme temperatures;
- water damage;
- fiber cuts;
- power loss;

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- terrorist acts;
- sabotage and vandalism; and
- failure of business partners who provide our resale products.

Problems at one or more of our IBX centers, whether or not within our control, could result in service interruptions or significant equipment damage. We have service level commitment obligations to certain of our customers, including our significant customers. As a result, service interruptions or significant equipment damage in our IBX centers could result in difficulty maintaining service level commitments to these customers and potential claims related to such failures. Because our IBX centers are critical to many of our customers' businesses, service interruptions or significant equipment damage in our IBX centers could also result in lost profits or other indirect or consequential damages to our customers. We cannot guarantee that a court would enforce any contractual limitations on our liability in the event that one of our customers brings a lawsuit against us as the result of a problem at one of our IBX centers.

We may incur significant liability to our customers in connection with a loss of power or our failure to meet other service level commitment obligations, or if we are held liable for a substantial damage award. In addition, any loss of service, equipment damage or inability to meet our service level commitment obligations could reduce the confidence of our customers and could consequently impair our ability to obtain and retain customers, which would adversely affect both our ability to generate revenues and our operating results.

Furthermore, we are dependent upon Internet service providers, telecommunications carriers and other website operators in the U.S., Asia-Pacific region, Europe and elsewhere, some of which have experienced significant system failures and electrical outages in the past. Users of our services may in the future experience difficulties due to system failures unrelated to our systems and services. If for any reason, these providers fail to provide the required services, our business, financial condition and results of operations could be materially and adversely impacted.

Environmental regulations may impose upon us new or unexpected costs.

We are subject to various federal, state, local and foreign environmental and health and safety laws and regulations, including those relating to the generation, storage, handling and disposal of hazardous substances and wastes. Certain of these laws and regulations also impose joint and several liability, without regard to fault, for investigation and cleanup costs on current and former owners and operators of real property and persons who have disposed of or released hazardous substances into the environment. Our operations involve the use of hazardous substances and materials such as petroleum fuel for emergency generators, as well as batteries, cleaning solutions and other materials. In addition, we lease, own or operate real property at which hazardous substances and regulated materials have been used in the past. At some of our locations, hazardous substances or regulated materials are known to be present in soil or groundwater and there may be additional unknown hazardous substances or regulated materials present at sites we own, operate or lease. At some of our locations, there are land use restrictions in place relating to earlier environmental cleanups that do not materially limit our use of the sites. To the extent any hazardous substances or any other substance or material must be cleaned up or removed from our property, we may be responsible under applicable laws, regulations or leases for the removal or cleanup of such substances or materials, the cost of which could be substantial.

In addition, we are subject to environmental, health and safety laws regulating air emissions, storm water management and other issues arising in our business. While these obligations do not normally impose material costs upon our operations, unexpected events, equipment malfunctions and human error, among other factors, can lead to violations of environmental laws, regulations or permits. Furthermore, environmental laws and regulations change frequently and may require additional investment to maintain compliance. Noncompliance with existing, or adoption of more stringent, environmental or health and safety laws and regulations or the discovery of previously unknown contamination could require us to incur costs or become the basis of new or increased liabilities that could be material.

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Fossil fuel combustion creates greenhouse gas emissions that are linked to global climate change. Regulations to limit greenhouse gas emissions are in force in the European Union in an effort to prevent or reduce climate change. In the United States, federal legislative proposals are being actively considered that would, if adopted, implement some form of regulation or taxation to reduce or mitigate greenhouse gas emissions. In addition, it is possible that the U.S. Environmental Protection Agency (“EPA”) will use its existing authority under the Clean Air Act to regulate greenhouse gas emissions.

Several states within the United States have adopted laws intended to limit fossil fuel consumption and/or encourage renewable energy development for the same purpose. For example, California enacted AB-32, the Global Warming Solutions Act of 2006 (“GWSA”), prescribing a statewide cap on global warming pollution with a goal of reaching 1990 greenhouse gas emission levels by 2020 and 80% below 1990 levels by 2050 and establishing a mandatory emissions reporting program.

Federal, regional and state regulatory programs are still developing. In their final form, they may include a tax on carbon, a carbon “cap-and-trade” market, and/or other restrictions on carbon and greenhouse gas emissions. The area of greenhouse gas limitations and regulation is rapidly changing and will continue to change as additional legislation is considered and adopted, and regulations are finalized that implement existing law.

We do not anticipate that climate change-related laws and regulations would directly limit the emissions of greenhouse gases by our operations. We could, however, be directly subject to taxes, fees or costs, or could indirectly be required to reimburse electricity providers for such costs that would represent the amount of greenhouse gases we emit. The expected controls on greenhouse gas emissions are likely to increase the costs of electricity or fossil fuels, and these cost increases could materially increase our costs of operation or limit the availability of electricity or emergency generator fuels. To the extent any environmental laws enacted or regulations passed by the United States, or any domestic or foreign jurisdiction we perform business in, impose new or unexpected costs, our business, results of operations or financial condition may be adversely affected.

The market price of our stock may continue to be highly volatile, and the value of an investment in our common stock may decline.

Since January 1, 2008, the closing sale price of our common stock on the NASDAQ Global Select Market has ranged from \$35.14 to \$100.75 per share. The market price of the shares of our common stock has been and may continue to be highly volatile. General economic and market conditions, and market conditions for telecommunications stocks in general, may affect the market price of our common stock.

Announcements by others or us may also have a significant impact on the market price of our common stock. These announcements may relate to:

- our operating results or forecasts;
- new issuances of equity, debt or convertible debt by us;
- developments in our relationships with corporate customers;
- announcements by our customers or competitors;
- changes in regulatory policy or interpretation;
- governmental investigations;
- changes in the ratings of our stock by securities analysts;
- our purchase or development of real estate and/or additional IBX centers;
- acquisitions by us of complementary businesses; or
- the operational performance of our IBX centers.

The stock market has from time to time experienced extreme price and volume fluctuations, which have particularly affected the market prices for emerging telecommunications companies, and which have often been unrelated to their operating performance. These broad market fluctuations may adversely affect the market price of our common stock.

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We expect our operating results to fluctuate.

We have experienced fluctuations in our results of operations on a quarterly and annual basis. The fluctuations in our operating results may cause the market price of our common stock to be volatile. We expect to experience significant fluctuations in our operating results in the foreseeable future due to a variety of factors, including, but not limited to:

- fluctuations of foreign currencies in the markets in which we operate;
- the timing and magnitude of capital expenditures, financing or other expenses related to the acquisition, purchase or construction of additional IBX centers or the upgrade of existing IBX centers;
- demand for space, power and services at our IBX centers;
- changes in general economic conditions, such as the current economic downturn, and specific market conditions in the telecommunications and Internet industries, both of which may have an impact on our customer base;
- costs associated with the write-off or exit of unimproved or underutilized property, or the reversal of prior exit costs due to a change in strategy;
- charges to earnings resulting from past acquisitions due to, among other things, impairment of goodwill or intangible assets, reduction in the useful lives of intangible assets acquired, identification of additional assumed contingent liabilities or revised estimates to restructure an acquired company's operations;
- the duration of the sales cycle for our services;
- restructuring charges or reversals of existing restructuring charges, which may be necessary due to revised sublease assumptions, changes in strategy or otherwise;
- acquisitions or dispositions we may make;
- the financial condition and credit risk of our customers;
- the provision of customer discounts and credits;
- the mix of current and proposed products and services and the gross margins associated with our products and services;
- the timing required for new and future centers to open or become fully utilized;
- competition in the markets in which we operate;
- conditions related to international operations;
- increasing repair and maintenance expenses in connection with aging IBX centers;
- lack of available capacity in our existing IBX centers to generate new revenue or delays in opening up new or acquired IBX centers that delay our ability to generate new revenue in markets which have otherwise reached capacity;
- changes in rent expense as we amend our IBX center leases in connection with extending their lease terms when their initial lease term expiration dates approach;

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- the timing and magnitude of other operating expenses, including taxes, expenses related to the expansion of sales, marketing, operations and acquisitions, if any, of complementary businesses and assets;
- the cost and availability of adequate public utilities, including power;
- changes in employee stock-based compensation;
- changes in income tax benefit or expense; and
- changes in or new generally accepted accounting principles (GAAP) in the U.S. as periodically released by the Financial Accounting Standards Board (FASB).

Any of the foregoing factors, or other factors discussed elsewhere in this report, could have a material adverse effect on our business, results of operations and financial condition. Although we have experienced growth in revenues in recent quarters, this growth rate is not necessarily indicative of future operating results. Prior to 2008, we had generated net losses every fiscal year since inception. It is possible that we may not be able to generate net income on a quarterly or annual basis in the future. In addition, a relatively large portion of our expenses are fixed in the short-term, particularly with respect to lease and personnel expenses, depreciation and amortization and interest expenses. Therefore, our results of operations are particularly sensitive to fluctuations in revenues. As such, comparisons to prior reporting periods should not be relied upon as indications of our future performance. In addition, our operating results in one or more future quarters may fail to meet the expectations of securities analysts or investors. If this occurs, we could experience an immediate and significant decline in the trading price of our stock.

We are exposed to potential risks from legislation requiring companies to evaluate controls under Section 404 of the Sarbanes-Oxley Act of 2002.

Although we received an unqualified opinion regarding the effectiveness of our internal controls over financial reporting as of December 31, 2008, in the course of our ongoing evaluation of our internal controls over financial reporting we have identified certain areas which we would like to improve and are in the process of evaluating and designing enhanced processes and controls to address these areas identified during our evaluation, none of which we believe constitutes a material change. However, we cannot be certain that our efforts will be effective or sufficient for us, or our independent registered public accounting firm, to issue unqualified reports in the future, especially as our business continues to grow and evolve.

Our ability to manage our operations and growth will require us to improve our operational, financial and management controls, as well as our internal reporting systems and controls. We may not be able to implement improvements to our internal reporting systems and controls in an efficient and timely manner and may discover deficiencies in existing systems and controls. Any such deficiencies could result in material misstatements in our consolidated financial statements.

If we cannot effectively manage our international operations, and successfully implement our international expansion plans, our revenues may not increase and our business and results of operations would be harmed.

For the years ended December 31, 2008, 2007 and 2006, we recognized 37%, 23% and 14%, respectively, of our revenues outside the U.S. For the nine months ended September 30, 2009, we recognized 39% of our revenues outside the U.S.

To date, the network neutrality of our IBX centers and the variety of networks available to our customers has often been a competitive advantage for us. In certain of our acquired IBX centers in the Asia-Pacific region the limited number of carriers available reduces that advantage. As a result, we may need to adapt our key revenue-generating services and pricing to be competitive in those markets. In addition, we are currently undergoing expansions or evaluating expansion opportunities in Europe and in the Asia-Pacific region. Undertaking and managing expansions in foreign jurisdictions may present unanticipated challenges to us.

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Our international operations are generally subject to a number of additional risks, including:

- the costs of customizing IBX centers for foreign countries;
- protectionist laws and business practices favoring local competition;
- greater difficulty or delay in accounts receivable collection;
- difficulties in staffing and managing foreign operations, including negotiating with foreign labor unions or workers' councils;
- political and economic instability;
- fluctuations in currency exchange rates;
- difficulties in repatriating funds from certain countries;
- our ability to obtain, transfer, or maintain licenses required by governmental entities with respect to our business;
- compliance with the Foreign Corrupt Practices Act; and
- compliance with evolving governmental regulation with which we have little experience.

In addition, compliance with international and U.S. laws and regulations that apply to our international operations increases our cost of doing business in foreign jurisdictions. These laws and regulations include data privacy requirements, labor relations laws, tax laws, anti-competition regulations, import and trade restrictions, export requirements, U.S. laws such as the Foreign Corrupt Practices Act, and local laws which also prohibit corrupt payments to governmental officials. Violations of these laws and regulations could result in fines, criminal sanctions against us, our officers or our employees, and prohibitions on the conduct of our business. Any such violations could include prohibitions on our ability to offer our services in one or more countries, could delay or prevent potential acquisitions, and could also materially damage our reputation, our brand, our international expansion efforts, our ability to attract and retain employees, our business and our operating results. Our success depends, in part, on our ability to anticipate these risks and manage these difficulties.

The increased use of high power density equipment may limit our ability to fully utilize our IBX centers.

Customers are increasing their use of high-density electrical power equipment, such as blade servers, in our IBX centers which has significantly increased the demand for power on a per cabinet basis. Because many of our IBX centers were built a number of years ago, the current demand for electrical power may exceed the designed electrical capacity in these centers. As electrical power, not space, is typically the limiting factor in our IBX centers, our ability to fully utilize those IBX centers may be limited. The availability of sufficient power may also pose a risk to the successful operation of our new IBX centers. The ability to increase the power capacity of an IBX center, should we decide to, is dependent on several factors including, but not limited to, the local utility's ability to provide additional power; the length of time required to provide such power; and/or whether it is feasible to upgrade the electrical infrastructure of an IBX center to deliver additional power to customers. Although we are currently designing and building to a much higher power specification, there is a risk that demand will continue to increase and our IBX centers could become obsolete sooner than expected.

Our business could be harmed by prolonged electrical power outages or shortages, increased costs of energy or general lack of availability of electrical resources.

Our IBX centers are susceptible to regional costs of power, electrical power shortages, planned or unplanned power outages and limitations, especially internationally, on the availability of adequate power resources.

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Power outages, such as those that occurred in California during 2001, the Northeast in 2003, and from the tornados on the U.S. east coast in 2004, could harm our customers and our business. We attempt to limit exposure to system downtime by using backup generators and power supplies; however, we may not be able to limit our exposure entirely even with these protections in place, as was the case with the power outages we experienced in our Chicago and Washington, D.C. metro area IBX centers in 2005 and London metro area IBX centers in 2007.

In addition, global fluctuations in the price of power can increase the cost of energy, and although contractual price increase clauses exist in the majority of our customer agreements, we may not always choose to pass these increased costs on to our customers.

In each of our markets, we rely on third parties to provide a sufficient amount of power for current and future customers. At the same time, power and cooling requirements are growing on a per unit basis. As a result, some customers are consuming an increasing amount of power per cabinet. We generally do not control the amount of electric power our customers draw from their installed circuits. This means that we could face power limitations in our centers. This could have a negative impact on the effective available capacity of a given center and limit our ability to grow our business, which could have a negative impact on our financial performance, operating results and cash flows.

We may also have difficulty obtaining sufficient power capacity for potential expansion sites in new or existing markets. We may experience significant delays and substantial increased costs demanded by the utilities to provide the level of electrical service required by our current IBX center designs.

Increases in property taxes could adversely affect our business, financial condition and results of operations.

Our IBX centers are subject to state and local real property taxes in the U.S. and certain of our foreign jurisdictions. The state and local real property taxes on our IBX centers may increase as property tax rates change and as the value of the properties are assessed or reassessed by taxing authorities. Many state and local governments are facing budget deficits, which may cause them to increase assessments or taxes. If property taxes increase, our business, financial condition and operating results could be adversely affected.

A small number of our stockholders has voting control over a substantial portion of our stock and has influence over matters requiring stockholder consent.

Certain of our stockholders each hold voting control over greater than 5% of our outstanding common stock. In addition, these stockholders are not prohibited from buying shares of our stock in public or private transactions. As a result, these stockholders are able to exercise significant control over all matters requiring stockholder approval, including the election of directors and approval of significant corporate transactions, which could prevent or delay a third party from acquiring or merging with us.

We have various mechanisms in place that may discourage takeover attempts.

Certain provisions of our certificate of incorporation and bylaws may discourage, delay or prevent a third party from acquiring control of us in a merger, acquisition or similar transaction that a stockholder may consider favorable. Such provisions include:

- authorization for the issuance of “blank check” preferred stock;
- the prohibition of cumulative voting in the election of directors;
- a super-majority voting requirement to effect business combinations or certain amendments to our certificate of incorporation and bylaws;
- limits on the persons who may call special meetings of stockholders;
- the prohibition of stockholder action by written consent; and

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- advance notice requirements for nominations to the Board or for proposing matters that can be acted on by stockholders at stockholder meetings.

In addition, Section 203 of the Delaware General Corporation Law, which restricts certain business combinations with interested stockholders in certain situations, may also discourage, delay or prevent someone from acquiring or merging with us.

We depend on a number of third parties to provide Internet connectivity to our IBX centers; if connectivity is interrupted or terminated, our operating results and cash flow could be materially and adversely affected.

The presence of diverse telecommunications carriers' fiber networks in our IBX centers is critical to our ability to retain and attract new customers. We are not a telecommunications carrier, and as such we rely on third parties to provide our customers with carrier services. We believe that the availability of carrier capacity will directly affect our ability to achieve our projected results. We rely primarily on revenue opportunities from the telecommunications carriers' customers to encourage them to invest the capital and operating resources required to connect from their centers to our IBX centers. Carriers will likely evaluate the revenue opportunity of an IBX center based on the assumption that the environment will be highly competitive. We cannot provide assurance that each and every carrier will elect to offer its services within our IBX centers or that once a carrier has decided to provide Internet connectivity to our IBX centers that it will continue to do so for any period of time. Further, many carriers are experiencing business difficulties or announcing consolidations. As a result, some carriers may be forced to downsize or terminate connectivity within our IBX centers, which could have an adverse effect on our operating results.

Our new IBX centers require construction and operation of a sophisticated redundant fiber network. The construction required to connect multiple carrier facilities to our IBX centers is complex and involves factors outside of our control, including regulatory processes and the availability of construction resources. If the establishment of highly diverse Internet connectivity to our IBX centers does not occur, is materially delayed or is discontinued, or is subject to failure, our operating results and cash flow will be adversely affected. Any hardware or fiber failures on this network may result in significant loss of connectivity to our new IBX center expansions. This could affect our ability to attract new customers to these IBX centers or retain existing customers.

We may be vulnerable to security breaches which could disrupt our operations and have a material adverse effect on our financial performance and operating results.

A party who is able to compromise the security measures on our networks or the security of our infrastructure could misappropriate either our proprietary information or the personal information of our customers, or cause interruptions or malfunctions in our operations. We may be required to expend significant capital and resources to protect against such threats or to alleviate problems caused by breaches in security. As techniques used to breach security change frequently, and are generally not recognized until launched against a target, we may not be able to implement security measures in a timely manner or, if and when implemented, we may not be certain whether these measures could be circumvented. Any breaches that may occur could expose us to increased risk of lawsuits, regulatory penalties, loss of existing or potential customers, harm to our reputation and increases in our security costs, which could have a material adverse effect on our financial performance and operating results.

A small number of customers account for a significant portion of our revenues, and the loss of any of these customers could significantly harm our business, financial condition and results of operations.

While no single customer accounted for 10% or more of our revenues for the nine months ended September 30, 2009 and 2008, our top 10 customers accounted for approximately 20% of our revenues during these periods. We expect that a small percentage of our customers will continue to account for a significant portion of our revenues for the foreseeable future. We cannot guarantee that we will retain these customers or that they will maintain their commitments in our IBX centers at current levels. If we lose any of these key customers, or if any of them decide to reduce the level of their commitment to us, our business, financial condition and results of operations could be adversely affected.

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We resell products and services of third parties that may require us to pay for such products and services even if our customers fail to pay us for them, which may have a negative impact on our operating results.

In order to provide resale services such as bandwidth, managed services and other network management services, we contract with third-party service providers. These services require us to enter into fixed term contracts for services with third-party suppliers of products and services. If we experience the loss of a customer who has purchased a resale product, we may remain obligated to continue to pay our suppliers for the term of the underlying contracts. The payment of these obligations without a corresponding payment from customers will reduce our financial resources and may have a material adverse effect on our operating and financial results and cash flows.

We have government customers, which subjects us to risks including early termination, audits, investigations, sanctions and penalties.

We derive some revenues from contracts with the U.S. government, state and local governments and their respective agencies. Some of these customers may terminate all or part of their contracts at any time, without cause.

There is increased pressure for governments and their agencies, both domestically and internationally, to reduce spending. Some of our federal government contracts are subject to the approval of appropriations being made by the U.S. Congress to fund the expenditures under these contracts. Similarly, some of our contracts at the state and local levels are subject to government funding authorizations.

Additionally, government contracts are generally subject to audits and investigations which could result in various civil and criminal penalties and administrative sanctions, including termination of contracts, refund of a portion of fees received, forfeiture of profits, suspension of payments, fines and suspensions or debarment from future government business.

We may not be able to compete successfully against current and future competitors.

Our IBX centers and other products and services must be able to differentiate themselves from those of other providers of space and services for telecommunications companies, webhosting companies and other colocation providers. In addition to competing with neutral colocation providers, we must compete with traditional colocation providers, including telecom companies, carriers, Internet service providers and webhosting facilities. Similarly, with respect to our other products and services, including managed services, bandwidth services and security services, we must compete with more established providers of similar services. Most of these companies have longer operating histories and significantly greater financial, technical, marketing and other resources than us.

Because of their greater financial resources, some of our competitors have the ability to adopt aggressive pricing policies, especially if they have been able to restructure their debt or other obligations. As a result, in the future, we may suffer from pricing pressure that would adversely affect our ability to generate revenues and adversely affect our operating results. In addition, these competitors could offer colocation on neutral terms, and may start doing so in the same metropolitan areas in which we have IBX centers. Some of these competitors may also provide our target customers with additional benefits, including bundled communication services, and may do so in a manner that is more attractive to our potential customers than obtaining space in our IBX centers. If these competitors were able to adopt aggressive pricing policies together with offering colocation space, our ability to generate revenues may be materially and adversely affected.

We may also face competition from persons seeking to replicate our IBX center concept by building new IBX centers or converting existing IBX centers that some of our competitors are in the process of divesting. We may continue to see increased competition for data center space and customers from large REITS who also operate in our market. We may experience competition from our landlords, some of which are REITS, in this regard. Rather than leasing available space in our buildings to large single tenants, they may decide to convert the space instead to smaller square foot units designed for multi-tenant colocation use. Landlords/REITS may enjoy a cost effective advantage in providing services similar to those provided by our IBX centers, and in addition to the risk of losing customers to these parties, this could also reduce

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the amount of space available to us for expansion in the future. Competitors may operate more successfully or form alliances to acquire significant market share. Furthermore, enterprises that have already invested substantial resources in outsourcing arrangements may be reluctant or slow to replace, limit or compete with their existing systems by becoming a customer. Customers may also decide it is cost-effective for them to build out their own data centers, which could have a negative impact on our results of operations. In addition, other companies may be able to attract the same potential customers that we are targeting. Once customers are located in competitors' facilities, it may be extremely difficult to convince them to relocate to our IBX centers.

Because we depend on the retention of key employees, failure to maintain competitive compensation packages, including equity incentives, may be disruptive to our business.

Our success in retaining key employees and discouraging them from moving to a competitor is an important factor in our ability to remain competitive. As is common in our industry, our employees are typically compensated through grants of equity awards in addition to their regular salaries. In addition to granting equity awards to selected new hires, we periodically grant new equity awards to certain employees as an incentive to remain with us. To the extent we are unable to offer competitive compensation packages to our employees and adequately maintain equity incentives due to equity expensing or otherwise, and should employees decide to leave us, this may be disruptive to our business and may adversely affect our business, financial condition and results of operations.

Because we depend on the development and growth of a balanced customer base, failure to attract and retain this base of customers could harm our business and operating results.

Our ability to maximize revenues depends on our ability to develop and grow a balanced customer base, consisting of a variety of companies, including global enterprises, content providers, financial companies, and network service providers. The more balanced the customer base within each IBX center, the better we will be able to generate significant interconnection revenues, which in turn increases our overall revenues. Our ability to attract customers to our IBX centers will depend on a variety of factors, including the presence of multiple carriers, the mix of products and services offered by us, the overall mix of customers, the IBX center's operating reliability and security and our ability to effectively market our services. However, some of our customers are, and are likely to continue to be, Internet companies that face many competitive pressures and that may not ultimately be successful. If these customers do not succeed, they will not continue to use the IBX centers which may be disruptive to our business. Finally, the current economic downturn may harm our ability to attract and retain customers if customers slow spending, or delay decision-making, on our products and services or if customers begin to have difficulty paying us and we experience increased churn in our customer base. Any of these factors may hinder the development and growth of a balanced customer base and adversely affect our business, financial condition and results of operations.

The failure to obtain favorable terms when we renew our IBX center leases could harm our business and results of operations.

While we own certain of our IBX centers, others are leased under long-term arrangements with lease terms expiring at various dates ranging from 2009 to 2027. These leased centers have all been subject to significant development by us in order to convert them from, in most cases, vacant buildings or warehouses into IBX centers. All of our IBX center leases have renewal options available to us. However, these renewal options provide for rent set at then-prevailing market rates. To the extent that then-prevailing market rates are higher than present rates, these higher costs may adversely impact our business and results of operations.

We are subject to securities class action and other litigation, which may harm our business and results of operations.

During the quarter ended September 30, 2001, putative shareholder class action lawsuits were filed against us, a number of our officers and directors, and several investment banks that were underwriters of our initial public offering. Similar complaints were filed against more than 300 other issuers, their officers and directors, and investment banks. The suits allege that the underwriter defendants agreed to allocate stock in our initial public offering to certain investors in exchange for excessive and undisclosed

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commissions and agreements by those investors to make additional purchases in the aftermarket at pre-determined prices. Plaintiffs allege that the prospectus for our initial public offering was false and misleading and in violation of the securities laws because it did not disclose these arrangements. The parties in the approximately 300 coordinated cases, including Equinix, the underwriter defendants in the Equinix class action lawsuit, and the plaintiff class in the Equinix class action lawsuit, have reached a settlement. The insurers for the issuer defendants in the coordinated cases will make the settlement payment on behalf of the issuers, including Equinix. On October 6, 2009, the Court granted final approval to the settlement. The time to appeal the final approval decision will run on November 5, 2009.

On August 22, 2008, a complaint was filed against Equinix, certain former officers and directors of Pihana Pacific, Inc. (“Pihana”), certain investors in Pihana, and others. The lawsuit was filed in the First Circuit Court of the State of Hawaii, and arises out of December 2002 agreements pursuant to which Equinix merged Pihana and i-STT (a subsidiary of Singapore Technologies Telemedia Pte Ltd) into the internet exchange services business of Equinix. Plaintiffs, who were allegedly holders of Pihana common stock, allege that their rights as shareholders were violated, and the transaction was effectuated improperly, by Pihana’s majority shareholders, officers and directors, with the alleged assistance of Equinix and others. Among other things, plaintiffs contend that they effectively had a right to block the transaction, that this supposed right was disregarded, and that they improperly received no consideration when the deal was completed. The complaint seeks to recover unspecified punitive damages, equitable relief, fees and costs, and compensatory damages in an amount that plaintiffs allegedly “believe may be all or a substantial portion of the approximately \$725 million value of Equinix held by Defendants” (a group that includes more than 30 individuals and entities). An amended complaint, which adds new plaintiffs (other alleged holders of Pihana common stock), but is otherwise substantially similar to the original pleading, was filed on September 29, 2008 (the “Amended Complaint”). On October 13, 2008, a complaint was filed by another purported holder of Pihana common stock, naming the same defendants and asserting substantially similar allegations as the August 22, 2008 and September 29, 2008 pleadings. On December 12, 2008, the court entered a stipulated order, which consolidated the two actions under one case number and set January 22, 2009 as the last day for Defendants to move to dismiss or otherwise respond to the Amended Complaint, the operative complaint in this case. On January 22, 2009, motions to dismiss the Amended Complaint were filed by Equinix and other Defendants. On April 24, 2009, plaintiffs filed a Second Amended Complaint (“SAC”) to correct the naming of certain parties. The SAC is otherwise substantively identical to the Amended Complaint, and all motions to dismiss the Amended Complaint have been treated as responsive to the SAC. On September 1, 2009, the Court heard Defendants’ motions to dismiss the SAC and ruled at the hearing that all claims against all Defendants are time-barred. The Court also considered whether there were further independent grounds for dismissing the claims, and supplemental briefing has been submitted with respect to claims against one defendant. The Court has not yet entered a final Order on the motions to dismiss. We believe that plaintiffs’ claims and alleged damages are without merit and we intend to defend the litigation vigorously.

Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcomes of the above matters or whether such outcomes would have a material impact on our business, results of operations, financial condition or cash flows.

We continue to participate in the defense of the above matters, which may increase our expenses and divert management’s attention and resources. In addition, we may, in the future, be subject to other litigation. For example, securities class action litigation has often been brought against a company following periods of volatility in the market price of its securities. Any adverse outcome in litigation could seriously harm our business, results of operations, financial condition or cash flows.

We may not be able to protect our intellectual property rights.

We cannot assure that the steps taken by us to protect our intellectual property rights will be adequate to deter misappropriation of proprietary information or that we will be able to detect unauthorized use and take appropriate steps to enforce our intellectual property rights. We also are subject to the risk of litigation alleging infringement of third-party intellectual property rights. Any such claims could require us to spend significant sums in litigation, pay damages, develop non-infringing intellectual property, or acquire licenses to the intellectual property that is the subject of the alleged infringement.

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If the use of the Internet does not continue to grow, our revenues may not grow.

Acceptance and use of the Internet may not continue to develop at historical rates. Demand for Internet services and products are subject to a high level of uncertainty and are subject to significant pricing pressure. As a result, we cannot be certain that a viable market for our IBX centers will be sustained. If the market for our IBX centers grows more slowly than we anticipate, our revenues may not grow and our operating results could suffer.

Government regulation may adversely affect the use of the Internet and our business.

Various laws and governmental regulations governing Internet related services, related communications services and information technologies and electronic commerce remain largely unsettled, even in areas where there has been some legislative action. This is true both in the U.S. and the various foreign countries in which we operate. It may take years to determine whether and how existing laws, such as those governing intellectual property, privacy, libel, telecommunications services and taxation, apply to the Internet and to related services such as ours. We have limited experience with such international regulatory issues and substantial resources may be required to comply with regulations or bring any non-compliant business practices into compliance with such regulations. In addition, the development of the market for online commerce and the displacement of traditional telephony service by the Internet and related communications services may prompt an increased call for more stringent consumer protection laws or other regulation both in the U.S. and abroad that may impose additional burdens on companies conducting business online and their service providers. The compliance with, adoption or modification of, laws or regulations relating to the Internet, or interpretations of existing laws, could have a material adverse effect on our business, financial condition and results of operations.

Industry consolidation may have a negative impact on our business model.

The telecommunications industry is currently undergoing consolidation. As customers combine businesses, they may require less colocation space, and there may be fewer networks available to choose from. Given the competitive and evolving nature of this industry, further consolidation of our customers and/or our competitors may present a risk to our network-neutral business model and have a negative impact on our revenues. In addition, increased utilization levels industry-wide could lead to a reduced amount of attractive expansion opportunities available to us.

Terrorist activity throughout the world and military action to counter terrorism could adversely impact our business.

The September 11, 2001 terrorist attacks in the U.S., the ensuing declaration of war on terrorism and the continued threat of terrorist activity and other acts of war or hostility contribute to a climate of political and economic uncertainty. Due to existing or developing circumstances, we may need to incur additional costs in the future to provide enhanced security, including cybersecurity, which would have a material adverse effect on our business and results of operations. These circumstances may also adversely affect our ability to attract and retain customers, our ability to raise capital and the operation and maintenance of our IBX centers. We may not have adequate property and liability insurance to cover catastrophic events or attacks.

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

None.

Item 3. Defaults Upon Senior Securities

None.

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

None.

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Item 5. Other Information

None.

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Item 6. Exhibits

<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	<u>Filed Herewith</u>
2.1	Combination Agreement, dated as of October 2, 2002, by and among Equinix, Inc., Eagle Panther Acquisition Corp., Eagle Jaguar Acquisition Corp., i-STT Pte Ltd, STT Communications Ltd., Pihana Pacific, Inc. and Jane Dietze, as representative of the stockholders of Pihana Pacific, Inc.	Def. Proxy 14A	12/12/02		
2.2	Agreement and Plan of Merger dated October 21, 2009, by and among Equinix, Inc., Switch & Data Facilities Company, Inc. and Sundance Acquisition Corporation.	8-K	10/22/09	2.1	
2.3	Voting Agreement dated October 21, 2009, by and among Equinix, Inc. and certain directors, executive officers and significant stockholders of Switch & Data Facilities Company, Inc.	8-K	10/22/09	2.2	
3.1	Amended and Restated Certificate of Incorporation of the Registrant, as amended to date.	10-K/A	12/31/02	3.1	
3.2	Certificate of Designation of Series A and Series A-1 Convertible Preferred Stock.	10-K/A	12/31/02	3.3	
3.3	Amended and Restated Bylaws of the Registrant.	8-K	12/22/08	3.2	
4.1	Reference is made to Exhibits 3.1, 3.2 and 3.3.				
4.2	Indenture dated March 30, 2007 by and between Equinix, Inc. and U.S. Bank National Association, as trustee.	8-K	3/30/07	4.4	
4.3	Form of 2.50% Convertible Subordinated Note Due 2012 (see Exhibit 4.2).				
4.4	Indenture dated September 26, 2007 by and between Equinix, Inc. and U.S. Bank National Association, as trustee.	8-K	9/26/07	4.4	
4.5	Form of 3.00% Convertible Subordinated Note Due 2014 (see Exhibit 4.4).				
4.6	Indenture dated June 12, 2009 by and between Equinix, Inc. and U.S. Bank National Association, as trustee.	8-K	6/12/09	4.1	

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<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			<u>Filed Herewith</u>
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	
4.7	Form of 4.75% Convertible Subordinated Note Due 2016 (see Exhibit 4.6).				
10.1	Form of Indemnification Agreement between the Registrant and each of its officers and directors.	S-4 (File No. 333- 93749)	12/29/99	10.5	
10.2	2000 Equity Incentive Plan, as amended.	10-K	12/31/07	10.3	
10.3	2000 Director Option Plan, as amended.	10-K	12/31/07	10.4	
10.4	2001 Supplemental Stock Plan, as amended.	10-K	12/31/07	10.5	
10.5+	Lease Agreement dated as of April 21, 2004 between Eden Ventures LLC and Equinix, Inc.	10-Q	6/30/04	10.103	
10.6	Equinix, Inc. 2004 International Employee Stock Purchase Plan effective as of June 3, 2004.	10-Q	6/30/04	10.105	
10.7	Equinix, Inc. Employee Stock Purchase Plan effective as of June 3, 2004.	10-Q	6/30/04	10.106	
10.8	Form of Restricted Stock Agreement for Equinix's executive officers under the Company's 2000 Equity Incentive Plan.	10-K	12/31/05	10.115	
10.9	Letter Agreement dated October 6, 2005 among Equinix, Inc., STT Communications Ltd. and I-STT Investments Pte. Ltd.	8-K	10/6/05	99.1	
10.10	Lease Agreement dated December 21, 2005 between Equinix Operating Co., Inc. and iStar El Segundo, LLC and associated Guaranty of Equinix, Inc.	10-K	12/31/05	10.126	
10.11+	Loan and Security Agreement and Note between Equinix RP II, LLC and SFT I, Inc. dated December 21, 2005 and associated Guaranty of Equinix, Inc.	10-K	12/31/05	10.127	
10.12	Lease Agreement dated as of December 21, 2005 between Equinix RP II, LLC and Equinix, Inc.	10-K	12/31/05	10.128	
10.13	First Omnibus Modification Agreement dated December 27, 2006 by and among SFT I, Inc. ("SFT I"), Equinix RP II, LLC ("RP II") and Equinix, Inc. ("Equinix"), Amended and Restated Promissory Note dated December 27, 2006 by RP II in favor of SFT I and Reaffirmation of Guaranty dated December 27, 2006 by RP II and Equinix in favor of SFT I.	10-K	12/31/06	10.37	

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<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			<u>Filed Herewith</u>
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	
10.14	First Amendment to Deed of Lease dated December 27, 2006 by and between Equinix RP II, LLC and Equinix Operating Co., Inc.	10-K	12/31/06	10.38	
10.15	Development Loan and Security Agreement dated February 2, 2007 by and between CHI 3, LLC and SFT I, Inc. and related Promissory Notes One through Four.	10-Q	3/31/07	10.37	
10.16	Guaranty dated February 2, 2007 by and between Equinix, Inc. and SFT I, Inc.	10-Q	3/31/07	10.38	
10.17	Completion and Payment Guaranty dated February 2, 2007 by and between Equinix, Inc. and SFT I, Inc.	10-Q	3/31/07	10.39	
10.18	Master Lease dated February 2, 2007 by and between CHI 3, LLC and Equinix Operating Co., Inc. and associated Guaranty of Lease by Equinix, Inc.	10-Q	3/31/07	10.40	
10.19	Form of Restricted Stock Agreements for Stephen M. Smith under the Equinix, Inc. 2000 Equity Incentive Plan.	10-Q	3/31/07	10.45	
10.20	Facility Agreement dated August 31, 2007 by and among Equinix Singapore Pte. Ltd., Equinix Japan K.K., the Additional Borrowers (as defined therein), the Lenders (as defined therein), and ABN AMRO BANK N.V., and related Guarantee dated August 31, 2007 by Equinix, Inc.	10-Q	9/30/07	10.47	
10.21	£82,000,000 Senior Facilities Agreement dated June 29, 2007 by and among IXEurope plc, CIT Bank Limited, as arranger, CIT Capital Finance (UK) Limited, as administrative agent and security trustee and the Lenders (as defined therein).	10-Q	9/30/07	10.49	

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<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	<u>Filed Herewith</u>
10.22	Amendment and Accession Agreement, dated as of January 31, 2008, by and among Equinix Singapore Pte. Ltd., Equinix Japan K.K. and Equinix Australia Pty. Limited, as Borrowers, ABN AMRO Bank N.V., Singapore Branch, ABN AMRO Bank N.V., Japan Branch and ABN AMRO Australia Pty Limited, as Lenders and ABN AMRO Bank N.V., as Facility Agent, Arranger and Collateral Agent and related Amendment No. 1 to Guarantee by Equinix, Inc.	10-K	12/31/07	10.32	
10.23	Equinix, Inc. Sub-Plan to the 2004 International Employee Stock Purchase Plan for Participants Located in the European Economic Area.	10-Q	3/31/08	10.32	
10.24	Letter Agreement, dated April 22, 2008, by and between Eric Schwartz and Equinix, Inc.	10-Q	6/30/08	10.34	
10.25	Letter Amendment, dated May 6, 2008, to £82,000,000 Senior Facilities Agreement dated June 29, 2007, by and among Equinix Group Limited, CIT Bank Limited, as arranger, CIT Capital Finance (UK) Limited, as administrative agent and security trustee and the Lenders (as defined therein).	10-Q	6/30/08	10.37	
10.26	Second Amendment and Accession Agreement, dated as of June 6, 2008, by and among Equinix Singapore Pte. Ltd., Equinix Japan K.K., Equinix Australia Pty. Limited and Equinix Hong Kong Limited, as Borrowers, ABN AMRO Bank N.V. and Coöperatieve Centrale Raiffeisen-Boerenleenbank B.A., Hong Kong Branch, as Lenders and ABN AMRO Bank N.V., as Facility Agent, Arranger and Collateral Agent and related Amendment No. 2 to Guarantee by Equinix, Inc.	10-Q	6/30/08	10.38	
10.27	Lease Agreement, dated September 30, 2008, by and between Equinix Paris SAS and Digital Realty (Paris 2) SCI, and related guarantee by Equinix, Inc.	10-Q	9/30/08	10.40	
10.28	Agreement for Lease, dated October 21, 2008, by and between Equinix (London) Limited and Slough Trading Estate Limited, and related guarantee by Equinix, Inc.	10-K	12/31/08	10.29	

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<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	<u>Filed Herewith</u>
10.29	Letter of Approval & Consent, dated January 15, 2009, to £82,000,000 Senior Facilities Agreement dated June 29, 2007, by and among Equinix Group Limited, CIT Bank Limited, as arranger, CIT Capital Finance (UK) Limited, as administrative agent and security trustee and the Lenders (as defined therein).	10-K	12/31/08	10.30	
10.30	Severance Agreement by and between Stephen Smith and Equinix, Inc. dated December 18, 2008.	10-K	12/31/08	10.31	
10.31	Severance Agreement by and between Peter Van Camp and Equinix, Inc. dated December 10, 2008.	10-K	12/31/08	10.32	
10.32	Severance Agreement by and between Keith Taylor and Equinix, Inc. dated December 19, 2008.	10-K	12/31/08	10.33	
10.33	Severance Agreement by and between Peter Ferris and Equinix, Inc. dated December 17, 2008.	10-K	12/31/08	10.34	
10.34	Change in Control Severance Agreement by and between Eric Schwartz and Equinix, Inc. dated December 19, 2008.	10-K	12/31/08	10.35	
10.35	Change in Control Severance Agreement by and between Jarrett Appleby and Equinix, Inc. dated December 11, 2008.	10-K	12/31/08	10.36	
10.36	Offer Letter from Equinix, Inc. to Jarrett Appleby dated November 6, 2008.	10-K	12/31/08	10.37	
10.37	Restricted Stock Unit Agreement for Jarrett Appleby under the Equinix, Inc. 2000 Equity Incentive Plan.	10-K	12/31/08	10.38	
10.38	Form of Restricted Stock Unit Agreement for CEO and CFO.	10-Q	3/31/09	10.39	
10.39	Form of Restricted Stock Unit Agreement for all other executive officers.	10-Q	3/31/09	10.40	
10.40	Equinix, Inc. 2009 Incentive Plan.	10-Q	3/31/09	10.41	
10.41	Confirmation for Base Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and Deutsche Bank AG, London Branch.	8-K	6/12/09	10.1	

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		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	
10.42	Confirmation for Additional Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and Deutsche Bank AG, London Branch.	8-K	6/12/09	10.2	
10.43	Master Terms and Conditions for Capped Call Transactions dated as of June 9, 2009 between Equinix, Inc. and Deutsche Bank AG, London Branch.	8-K	6/12/09	10.3	
10.44	Confirmation for Base Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and JPMorgan Chase Bank, National Association, London Branch.	8-K	6/12/09	10.4	
10.45	Confirmation for Base Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and JPMorgan Chase Bank, National Association, London Branch.	8-K	6/12/09	10.5	
10.46	Master Terms and Conditions for Capped Call Transactions dated as of June 9, 2009 between Equinix, Inc. and JPMorgan Chase Bank, National Association, London Branch.	8-K	6/12/09	10.6	
10.47	Confirmation for Base Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and Goldman, Sachs & Co.	8-K	6/12/09	10.7	
10.48	Confirmation for Additional Capped Call Transaction dated as of June 9, 2009 between Equinix, Inc. and Goldman, Sachs & Co.	8-K	6/12/09	10.8	
10.49	Master Terms and Conditions for Capped Call Transactions dated as of June 9, 2009 between Equinix, Inc. and Goldman, Sachs & Co.	8-K	6/12/09	10.9	
10.50	Turn Key Data Center Lease by and between Digital Lakeside, LLC and Equinix Operating Co., Inc., dated as of July 10, 2009.				X
21.1	Subsidiaries of Equinix, Inc.				X
31.1	Chief Executive Officer Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X
31.2	Chief Financial Officer Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.				X

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<u>Exhibit Number</u>	<u>Exhibit Description</u>	<u>Incorporated by Reference</u>			<u>Filed Herewith</u>
		<u>Form</u>	<u>Filing Date/ Period End Date</u>	<u>Exhibit</u>	
32.1	Chief Executive Officer Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X
32.2	Chief Financial Officer Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.				X

+ Confidential treatment has been requested for certain portions which are omitted in the copy of the exhibit electronically filed with the Securities and Exchange Commission. The omitted information has been filed separately with the Securities and Exchange Commission pursuant to Equinix's application for confidential treatment.

INDEX TO EXHIBITS

<u>Exhibit Number</u>	<u>Description of Document</u>
10.50	Turn Key Data Center Lease by and between Digital Lakeside, LLC and Equinix Operating Co., Inc., dated as of July 10, 2009.
21.1	Subsidiaries of Equinix, Inc.
31.1	Chief Executive Officer Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Chief Financial Officer Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Chief Executive Officer Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Chief Financial Officer Certification pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

350 EAST CERMAK ROAD

TURN KEY DATACENTER LEASE

Between

DIGITAL LAKESIDE, LLC
as Landlord

and

EQUINIX OPERATING CO., INC.
as Tenant

Dated

July 10, 2009

350 EAST CERMAK ROAD
TURN KEY DATACENTER LEASE

This Turn Key Datacenter Lease (this "**Lease**") is entered into as of the Effective Date specified in Item 4 of the Basic Lease Information (the "**Effective Date**"), by and between Landlord (defined in Item 1 of the Basic Lease Information, below) and Tenant (defined in Item 2 of the Basic Lease Information, below):

RECITALS

A. Landlord is the owner of the Land (defined in Item 20 of the Basic Lease Information, below). The Land is improved with, among other things, the Building (defined in Item 21 of the Basic Lease Information, below). The Land, the Building, and Landlord's personal property thereon or therein may be referred to herein as the "**Property**."

B. Tenant desires to lease (i) certain Premises (defined in Item 7(a) of the Basic Lease Information, below) and (ii) certain Pathway (defined in Item 7(b) of the Basic Lease Information, below) between the Premises and the Meet-Me Room (defined in Item 23 of the Basic Lease Information, below), for the purpose of connection to other communications networks during the Term (as defined in Section 2.1 of the Standard Lease Provisions, below).

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, Landlord and Tenant agree as follows:

BASIC LEASE INFORMATION

1. Landlord: **Digital Lakeside, LLC, a Delaware limited liability company** ("**Landlord**")
Landlord represents that it has been validly formed or incorporated under the laws of the State of Delaware.
2. Tenant: **Equinix Operating Co., Inc., a Delaware corporation** ("**Tenant**")
Tenant represents that it has been validly formed or incorporated under the laws of the State of Delaware.
3. Tenant Addresses:
Tenant Address for Notices:
Equinix Operating Co., Inc.
Attn: Real Estate
11180 Sunrise Valley Drive, Suite 220
Reston, VA 20191
Facsimile No: 703.860.0215

With a copy to:
Equinix Operating Co., Inc.
Attn: General Counsel (Real Estate)
301 Velocity Way, 5th Floor
Foster City, CA 94404
Facsimile No: 650.513.7913

Tenant Address for Invoice of Rent:
Equinix Operating Co., Inc.
Attn: Accounts Payable
301 Velocity Way, 5th Floor
Foster City, CA 94404
Facsimile No: 650.513.7913

4. Effective Date/

Commencement Date:

Effective Date:
(Sign Date)

July 10, 2009 (being the latest date of the parties' execution dates, as set forth on the signature page of this Lease)

Commencement Date:
(Lease Start)

Subject to the terms of Section 2.3.3 of the Standard Lease Provisions, the "**Commencement Date**" shall be the later of the Target Commencement Date and the date on which all of the following three (3) events have occurred: (i) Landlord has delivered the Tenant Space to Tenant; (ii) Landlord has completed, at Landlord's expense, the installations set forth on **Exhibit "E"**, attached hereto (such installations, collectively, "**Landlord's Installations**") (Items (i) and (ii) being, collectively, "**Landlord's Commencement Date Conditions**"); and (iii) Tenant has provided Landlord with a copy of a fully executed agreement between Tenant and tel (defined in Section 1.3 of the Standard Lease Provisions) related to Tenant's Permitted Use (defined in Section 6.1 of the Standard Lease Provisions) (such agreement, the "**Proposed tel's Agreement**") (Item (iii) being "**Tenant's Commencement Date Condition**" and, together with Landlord's Commencement Date Conditions, collectively, the "**Commencement Date Conditions**"). Upon completion of the Commencement Date Conditions, Landlord shall deliver a notice to Tenant, substantially in the form attached hereto as **Exhibit "K"** (the "**Commencement Date Notice**"), memorializing Landlord's delivery of the Tenant Space to Tenant and confirming the actual Commencement Date. Landlord and Tenant each agrees to use commercially reasonable efforts to cause the Commencement Date to occur by the Target Commencement Date (as defined below).

Landlord and Tenant acknowledge and agree that Landlord's obligation to provide the services required under Article 7 of the Standard Lease Provisions shall commence on the Commencement Date.

Target Commencement
Date:
Outside Completion
Date:

July 1, 2009 (the "**Target Commencement Date**"), subject to the terms of Section 2.2.3 of the Standard Lease Provisions, below.

July 31, 2009 (the "**Outside Completion Date**").

5. Term:

Approximately one hundred forty-four (144) months (commencing on the Commencement Date and expiring on the last day of the one hundred forty-fourth (144th) full calendar month thereafter) (the "**Term**").

For the avoidance of doubt, Landlord and Tenant acknowledge and agree that, in the event that the Commencement Date occurs on a date that is other than the first (1st) day of a calendar month, the Term of this Lease shall be deemed to have been automatically extended by the number of calendar days in the month in which the Commencement Date occurs, such that the Term of the Lease shall be equal to the number of months described above, plus the number of days (including the Commencement Date) contained in the partial calendar month in which the Commencement Date occurs.

For example:

a. In the event that the Commencement Date occurs on **July 1, 2009**, then the **one hundred forty-four (144)** full calendar month Term of this Lease would commence on **July 1, 2009**, and expire on **June 30, 2021**.

b. In the event that the Commencement Date occurs on **July 18, 2009**, then the **one hundred forty-four (144)** full calendar month Term of this Lease would commence on **July 18, 2009**, and expire on **July 31, 2021**. In this example, the period occurring from **July 18, 2009** through **July 31, 2009** is referred to herein as the **"Partial Month"**. The Base Rent payable by Tenant hereunder during such Partial Month shall be payable on a pro-rated basis, in accordance with Section 3.1 of the Standard Lease Provisions, at a rate equal to the rate of Base Rent that would otherwise be due and payable by Tenant hereunder with regard to the first (1st) month of the Term of this Lease (pro-rated on a per diem basis). However, in this example, the first (1st) month of the **one hundred forty-four (144)** month Term would, for the purposes of calculating the expiration of the Term of the Lease, be deemed to be the month of **August 2009**.

6. Extension Terms:

Three (3) Extension Options (defined in Section 2.3.1 of the Standard Lease Provisions, below), each to extend the Term for an Extension Term (defined in Section 2.3.1 of the Standard Lease Provisions, below) of **sixty (60)** months pursuant to Section 2.3, below.

7. Tenant Space:

The Premises described in Item 7(a), below, and the Pathway described in Item 7(b), below

(a) Premises:

Approximately 10,000 square feet of area known as **Suite 880**, as set forth on **Exhibit "A"** ("**Suite 880**").

Approximately 9,400 square feet of area known as **Suite 890**, as set forth on **Exhibit "A"** ("**Suite 890**"; together, with Suite 880, collectively, the "**Premises**").

(b) Pathway:

As described on **Exhibit "C"** (the "**Pathway**").

Tenant shall be permitted to pull and/or install fiber and/or copper cables in the Pathway. Tenant shall be limited in the number of fiber and/or copper cables that Tenant may pull through said Pathway only by Applicable Law (as defined hereinafter) and by the physical constructs of such Pathway (all such cables being referred to, collectively, as the "**Cables**"). Tenant is responsible for the costs of Tenant's installation of all such Cables, but Landlord shall not be entitled to any additional fees or other additional charges for Tenant's installation and use of such Cables and Pathway.

8. Intentionally Deleted

Intentionally Deleted.

9. Base Rent:

A. **Suite 880 Base Rent ("Suite 880 Base Rent"):**

\$138,375.00 per month for months 1 – 3 of the Term.*

\$276,750.00 per month for months 4 – 12 of the Term.*

\$285,052.00 per month for months 13 – 24 of the Term.

\$293,604.00 per month for months 25 – 36 of the Term.
\$302,412.00 per month for months 37 – 48 of the Term.
\$311,485.00 per month for months 49 – 60 of the Term.
\$320,829.00 per month for months 61 – 72 of the Term.
\$330,454.00 per month for months 73 – 84 of the Term.
\$340,368.00 per month for months 85 – 96 of the Term.
\$350,579.00 per month for months 97 – 108 of the Term.
\$361,096.00 per month for months 109 – 120 of the Term.
\$371,929.00 per month for months 121 – 132 of the Term.
\$383,087.00 per month for months 133 – 144 of the Term.

* Plus any Partial Month. Landlord and Tenant acknowledge and agree that it is their mutual intent that Tenant’s Suite 880 Base Rent shall be **\$138,375.00**, hereunder, during the *first (1st) full three (3) months* following the Commencement Date *plus any Partial Month*.

B. Suite 890 Base Rent (the “Suite 890 Base Rent**”; together with the Suite 880 Base Rent, collectively, “**Base Rent**”):**

\$0.00 per month for months 1 – 6 of the Term.**
\$276,750.00 per month for months 7 – 12 of the Term.**
\$285,052.00 per month for months 13 – 24 of the Term.
\$293,604.00 per month for months 25 – 36 of the Term.
\$302,412.00 per month for months 37 – 48 of the Term.
\$311,485.00 per month for months 49 – 60 of the Term.
\$320,829.00 per month for months 61 – 72 of the Term.
\$330,454.00 per month for months 73 – 84 of the Term.
\$340,368.00 per month for months 85 – 96 of the Term.
\$350,579.00 per month for months 97 – 108 of the Term.
\$361,096.00 per month for months 109 – 120 of the Term.
\$371,929.00 per month for months 121 – 132 of the Term.
\$383,087.00 per month for months 133 – 144 of the Term.

** Plus any Partial Month. Landlord and Tenant acknowledge and agree that it is their mutual intent that Tenant’s Suite 890 Base Rent shall be **\$0.00**, hereunder, during the *first (1st) six (6) months* following the Commencement Date *plus any Partial Month*.

10. Intentionally Deleted: Intentionally Deleted.
11. Prepaid Rent: **\$415,125.00** due and payable no later than five (5) business days following the Effective Date, consisting of the sum of the first full month's Base Rent for Suite 880 (i.e., \$138,375.00) and Suite 890 (i.e., \$276,750.00) (the "**Prepaid Rent**").
12. Datacenter Rules and Regulations: This term shall mean Landlord's rules and regulations for the Premises (the "**Datacenter Rules and Regulations**"), as such Datacenter Rules and Regulations may be amended from time to time by Landlord in accordance with Section 6.2 of the Standard Lease Provisions. The current version of the Datacenter Rules and Regulations is attached hereto as **Exhibit "H"**.
13. Intentionally Deleted: Intentionally Deleted.
14. Intentionally Deleted: Intentionally Deleted.
15. Eligibility Period: The Eligibility Period is equal to "any part of any twenty-four (24) consecutive hour period".
For example, if the Interruption of Landlord's Service continues for one (1) minute, one day's Base Rent shall be abated; and if such interruption continues for a consecutive period of 24 hours and 3 minutes, two days' Base Rent shall be abated.
Additionally, for the avoidance of doubt, in the event that the Interruption of Landlord's Service affects only **Suite 880** or **Suite 890**, the equitable Base Rent abatement to which Tenant would be entitled shall be an equitable abatement against the Base Rent applicable only to the Suite in which the Interruption of Landlord's Service occurred.
For example, if Tenant experiences an Interruption of Landlord's Service in the nature of a power failure in Suite 880 (i.e., no corresponding Interruption of Landlord's Service in Suite 890), then the abatement to which Tenant would be entitled will be equal to an equitable abatement against the **Suite 880 Base Rent**, with no abatement related to the **Suite 890 Base Rent** being applicable.
The foregoing notwithstanding, the maximum Base Rent abatement for any twenty-four (24) hour period regardless of the number or length of interruptions in such twenty-four (24) hour period shall not exceed one day's Base Rent for the applicable Suite(s). For example, if such interruption occurs for 53 minutes, service is restored but such interruption occurs again within the same twenty-four (24) hour period, the Base Rent abatement for such twenty-four (24) hour period shall be one day's Base Rent related to the applicable Suite(s).
16. Landlord's Address for Notices:
Digital Lakeside, LLC
c/o Digital Realty Trust, L.P.
350 E. Cermak Road
Suite 800
Chicago, IL 60616
Attention: Property Manager
Facsimile No. (312) 326-4510
- With copies to:
Digital Realty Trust, L.P.
2323 Bryan Street, Suite 1800
Dallas, TX 75201
Attn: Glenn Benoist
Facsimile No. (214) 231-1345

E-mail:
leaseadministration@digitalrealtytrust.com

E-mail: gbenoist@digitalrealtytrust.com

And:

Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation
2323 Bryan Street, Suite 2200
Dallas, TX 75201
Attention: Noah K. Hansford
Facsimile No. (214) 969-4999
E-mail: hansford@sbep-law.com

17. Landlord's Address
for Payment of Rent:

ACH Payments:

Bank of America NT & SA
1850 Gateway Blvd.
Concord, CA 94520-3282

Routing Number: 121000358
Account Number:
Account Name: Digital Lakeside, LLC
Regarding/Reference: Tenant Account/Invoice Number

Wire Payments:

Bank of America NT&SA
100 West 33rd St.
New York, NY 10001

Routing Number: 026009593
Account Number:
SWIFT: BOFAUS3N
Account Name: Digital Lakeside, LLC
Regarding/Reference: Tenant Account/Invoice Number

Check Payments:

Digital Lakeside, LLC
13757 Collections Center Drive
Chicago, IL 60693

Contact Information

Director of Cash Management
Digital Realty Trust
560 Mission Street, Suite 2900
San Francisco, CA 94105
P: (415) 738-6509
F: (415) 495-3687

18. Brokers:

(a) Landlord's Broker:

None.

(b) Tenant's Broker:

None.

19. Common Area: That part of the Property lying outside of the Tenant Space designated by Landlord from time to time for the common use of all tenants of the Building, including among other facilities, the sidewalks, service corridors, curbs, truckways, loading areas, private streets and alleys, lighting facilities, janitors' closets, halls, lobbies, delivery passages, elevators, drinking fountains, meeting rooms, public toilets, parking areas and garages, decks and other parking facilities, landscaping and other common rooms and common facilities (the "**Common Area**").
20. Land: The land ("**Land**") located at:
350 East Cermak Road, Chicago, Illinois
21. Building: 350 East Cermak Road: An eight (8)-story building consisting of approximately *1,133,739* rentable square feet (the "**Building**").
22. Intentionally Deleted: Intentionally Deleted.
23. Meet-Me Room: **Suite 255/260** of the Building located on the second (2nd) floor of the Building serves as the common interconnection area for Building tenants (the "**Meet-Me Room**").
24. Landlord Group: Landlord, Digital Lakeside Holding Company, LLC, Digital Realty Trust, L.P., Digital Realty Trust, Inc., and their respective directors, officers, shareholders, members, employees, agents, constituent partners, affiliates, beneficiaries, trustees and representatives (the "**Landlord Group**").
25. Tenant's Proportionate Share: *1.77%* ("**Tenant's Proportionate Share—Suite 880**").
1.77% ("**Tenant's Proportionate Share—Suite 890**"; together, with Tenant's Proportionate Share—Suite 880, collectively, "**Tenant's Proportionate Share**" (*i.e.*, *3.54%*)).
Landlord and Tenant acknowledge that Tenant's Proportionate Share is a "deemed" share, which has been calculated by taking into consideration the rentable square feet of all space that is included collectively in and/or serving the Premises.
26. Tenant Group: Tenant, and its directors, officers, shareholders, members, employees, agents, constituent partners, affiliates, beneficiaries, trustees and representatives (the "**Tenant Group**").
27. Added IR Scan Costs: The "**Added IR Scan Costs**" represent the sum of the additional costs of conducting quarterly, rather than annual, IR scans of the Premises' uninterruptible power supply systems, in connection with item 2 of **Exhibit "I-1"** attached hereto. Landlord and Tenant acknowledge that the Additional IR Scan Costs during the first three years of the Term have been quoted by the vendor as follows: Year 1 (\$24,294.00); Year 2 (\$26,854.00); and Year 3 (\$26,854.00).
28. Improvement Allowance: An amount not to exceed **\$500,000.00**, subject to the terms and conditions of **Exhibit "O"**, attached hereto (the "**Improvement Allowance**").

This Lease shall consist of the foregoing Basic Lease Information, and the provisions of the Standard Lease Provisions (the "**Standard Lease Provisions**") (consisting of Sections 1 through 17 which follow) and **Exhibits "A"** through "**P**", inclusive, all of which are incorporated herein by this reference as of the Effective Date. In the event of any conflict between the provisions of the Basic Lease Information and the provisions of the Standard Lease Provisions, the Basic Lease Information shall control. Any initially capitalized terms used herein and not otherwise defined in the Basic Lease Information shall have the meanings set forth in the Standard Lease Provisions.

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STANDARD LEASE PROVISIONS

1. LEASE OF TENANT SPACE.

1.1 **Tenant Space.** In consideration of the covenants and agreements to be performed by Tenant, and upon and subject to the terms and conditions of this Lease, Landlord hereby leases to Tenant for the Term (defined in Section 2.1, below), (i) the Premises (as defined in Item 7(a) of the Basic Lease Information) and (ii) the Pathway (as defined in Item 7(b) of the Basic Lease Information). The Premises and the Pathway are referred to herein collectively as the “**Tenant Space.**” Suite 880 and Suite 890 are generally referred to, individually, as a “**Suite.**”

1.2 **Condition of Tenant Space.** Tenant has inspected the Tenant Space and, subject to Landlord’s completion of Landlord’s Commencement Date Conditions, Tenant accepts the Tenant Space in its “AS IS, WHERE IS” condition. Tenant acknowledges and agrees that (i) no representation or warranty (express or implied) has been made by Landlord as to the condition of the Property, the Building or the Tenant Space or their suitability or fitness for the conduct of Tenant’s Permitted Use, its business or for any other purpose and (ii) except as specifically set forth herein (including, without limitation, Landlord’s Commencement Date Conditions), Landlord shall have no obligation to construct or install any improvements in or to make any other alterations or modifications to the Tenant Space. The taking of possession of the Tenant Space by Tenant shall conclusively establish that the Tenant Space and the Building were at such time in good order and clean condition.

1.3 **Interconnections.** Tenant acknowledges and agrees that all interconnections between the systems of Tenant and those of other tenants of the Building must be made in the Meet-Me Room, except for those interconnections made via the Additional Direct Conduits and the Conditioned Additional Direct Conduits (as described on **Exhibit “E-1”** attached hereto). The foregoing notwithstanding, Tenant acknowledges that the Meet-Me Room is operated by an entity (not an affiliate of Landlord) named tel – Chicago Lakeside, LLC (together with its successors, assigns, and any subsequent third party Meet-Me Room operator, “**tel.**”). As such, all operations in the Meet-Me Room, and all Tenant presence, including pathway, in the Meet-Me Room (other than connections made in Landlord’s Meet-Me Room interconnection rack) are governed and controlled by tel.; each and all of which is subject to such agreements and costs as are required, from time to time, by tel.

1.4 **No Rights to Relocate.** Landlord shall have no right to relocate the Tenant Space.

1.5 **Quiet Enjoyment; Access.** Subject to all of the terms and conditions of this Lease, Tenant shall quietly have, hold and enjoy the Tenant Space in conformity with the Permitted Use without hindrance from Landlord or any person or entity claiming by, through or under Landlord. Subject to the terms and conditions of this Lease (including, without limitation, the Datacenter Rules and Regulations (defined in Item 12 of the Basic Lease Information)) and Landlord’s Access Control Systems (defined in Section 7.1, below) and Force Majeure (as defined in Section 17.14 below), Tenant shall have access to the Tenant Space twenty-four (24) hours per day, seven (7) days per week.

1.6 **Common Area.** The Common Area, as defined in Item 19 of the Basic Lease Information hereof, shall be subject to Landlord’s sole management and control and shall be operated and maintained in a safe and good order and clean condition and consistent with Institutional Owner Practices. As used in this Lease, “**Institutional Owner Practices**” shall mean practices that are consistent with the practices of the majority of the institutional owners of institutional grade, first-class datacenter or telecommunications projects in the United States of America. Landlord reserves the right to change from time to time the dimensions and location of the Common Area, to construct additional stories on the Building and to place, construct or erect new structures or other improvements on any part of the Land without the consent of Tenant (but with prior written notice to Tenant). Tenant, and Tenant’s employees, invitees and permitted assignees shall have the nonexclusive right to use the Common Area as constituted from time to time, such use to be in common with Landlord, other tenants of the Building and other persons entitled to use the same, and subject to such reasonable rules and regulations governing use of the Common

Areas as Landlord may from time to time prescribe. Tenant shall not solicit business or display merchandise within the Common Area, or distribute handbills therein, or take any action which would interfere with the rights of other persons to use the Common Area. Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to prevent the public from obtaining prescriptive rights or to make repairs or alterations. Landlord shall exercise its rights under this Section 1.6 so as not to materially impair Tenant's access to or use of the Tenant Space.

2. TERM.

2.1 **Term.** The term of this Lease, and Tenant's obligation to pay Rent under this Lease, shall commence on the Commencement Date and shall continue in effect for the Term specified in Item 5 of the Basic Lease Information, unless this Lease is earlier terminated as provided herein.

2.2 **Delivery of Tenant Space.** Landlord shall use commercially reasonable efforts to cause Landlord's Commencement Date Conditions to occur prior to the Target Commencement Date (as defined in Item 4 of the Basic Lease Information).

2.2.1 Intentionally Deleted.

2.2.2 In the event that Landlord's Commencement Date Conditions have not been completed by the Target Commencement Date, Landlord shall not be deemed in default hereunder, and the Commencement Date shall be postponed, as Tenant's sole and exclusive remedy, until the date on which all the Commencement Date Conditions have occurred. Notwithstanding the foregoing, in the event that Landlord's Commencement Date Conditions have not occurred prior to the Outside Completion Date (as defined in Item 4 of the Basic Lease Information), subject to extension related to Tenant Delay (defined below), Tenant shall have the right, as its sole and exclusive remedy, to terminate this Lease; provided that (a) Tenant notifies Landlord of such termination prior to the completion of Landlord's Commencement Date Conditions; and (b) Landlord has not caused Landlord's Commencement Date Conditions to have been completed within ten (10) days after its receipt of such notice of termination from Tenant. If (aa) Landlord's Commencement Date Conditions are completed prior to Tenant's exercise of the foregoing termination right, or (bb) Landlord's Commencement Date Conditions are completed within ten (10) days after Tenant's exercise of the foregoing termination right, then such termination right shall, in either such event, be deemed to have expired and shall, thereafter, be of no further force or effect. For the purposes of this Lease, "**Tenant Delay**" shall mean a delay in Landlord's completion of Landlord's Commencement Date Conditions, which is attributable to or caused by any change order by Tenant. The foregoing notwithstanding, Landlord and Tenant agree that Tenant shall have no express right hereunder to request or demand that a change in the Tenant Space specifications be made. As such, in order for any Tenant-requested change to have any effect, all such change requests (if acceptable to Landlord) must be documented in an amendment to this Lease, which shall account for the "Deemed Commencement Date" effect described below in Section 2.2.4 of this Lease.

2.2.3 Tenant shall use commercially reasonable efforts to cause Tenant's Commencement Date Condition to occur prior to the Target Commencement Date.

2.2.3.1 In the event that Tenant is unable to cause the full execution of the Proposed tel Agreement (in accordance with such terms as are determined by Tenant in Tenant's sole and absolute discretion) prior to the Outside Completion Date, Tenant shall not be deemed to be in default hereunder, and Tenant shall have the right, as its sole and exclusive remedy, to terminate this Lease (the "**tel-Related Termination Right**"), provided that Tenant notifies Landlord of such termination on or before August 10, 2009 (the "**tel-Related Termination Date**"). If Tenant does not cause Tenant's Commencement Date Condition to occur prior to the Target Commencement Date and fails to exercise the tel-Related Termination Right on or before the tel-Related Termination Date, then (i) such tel-Related Termination Right shall be deemed null and void and, notwithstanding anything to the contrary in this Lease, the Commencement Date shall be deemed to have occurred on August 11, 2009, and (ii) from and after August 11, 2009, until the date on which Tenant provides Landlord with a fully executed copy of the Proposed tel Agreement (such period being the "**Conditioned Use Period**"), Sections 1.3, 6.1 and 10.5 and **Exhibit "E-1"** of this Lease shall be deemed to have been modified by the derogation clauses attached hereto as **Exhibit "N"**.

2.3 Early Access.

2.3.1 Sections 2.2 & 2.2.2, above, notwithstanding, Landlord agrees, subject to the terms and conditions of this Section 2.3.1, to permit Tenant and its contractors, subcontractors, space planner/interior architect, engineers, consultants, vendors, suppliers and other representatives, and their respective employees to enter the Premises, from and after the Effective Date (“**Early Access**”), for the purposes of inspecting same and for performing installations of fixtures and equipment (e.g., telephone, communications and computer equipment and the wiring and cabling for same) (the period between the Effective Date and the Commencement Date is referred to herein as the “**Early Access Period**”).

2.3.2 Tenant’s Early Access shall be subject to (and, during such period, Tenant must comply with) all of the terms and provisions of this Lease, excepting only the payment of Rent, except as otherwise expressly stated in this Section 2.3.2. Additionally, and notwithstanding the foregoing, Tenant agrees that (a) Landlord’s obligations to provide services to the Tenant Space and/or the equipment serving the Tenant Space shall commence on the Commencement Date and shall **not** apply during the Early Access Period, and (b) while Tenant shall not be required to pay Base Rent or other forms of Additional Rent during the Early Access Period, Tenant shall be required to pay as Additional Rent any and all electricity charges that accrue to the Premises during the Early Access Period, except that so long (during the Early Access Period) as Tenant utilizes only ceiling lighting and convenience power, Tenant’s obligation to pay for the electricity charges shall not commence until the Commencement Date (i.e., in the event that the power or cooling infrastructure is engaged during the Early Access Period, Tenant’s obligation to pay for all electricity consumption in the Premises shall commence upon the date that any such infrastructure is first engaged).

2.3.3 Tenant agrees that, in the event that the date of Landlord’s completion of Landlord’s Commencement Date Conditions is, in effect, pushed back due to delays caused by Tenant Delay, the Commencement Date shall, upon delivery of the Commencement Date Notice, be deemed (for the purpose of determining the first day of the Term and the first day of Rent accrual hereunder) to have been moved up, day for day, by the number of days of delay in Landlord’s completion of Landlord’s Commencement Date Conditions caused by all such Tenant Delays (i.e., if Landlord’s delivery of the Commencement Date Notice does not occur until **July 5, 2009**, but there were five (5) days of delay related to Tenant Delay, the Commencement Date shall be deemed to have occurred on **July 1, 2009** (the foregoing is referred to herein as a “**Deemed Commencement Date**”). The foregoing notwithstanding, Landlord and Tenant agree that Landlord’s post-Commencement Date obligations hereunder shall, in the event of a Deemed Commencement Date, be deemed to have commenced as of the actual date that the Commencement Date Notice is delivered to Tenant. For clarification purposes, in no event shall the Deemed Commencement Date be earlier than the Target Commencement Date.

2.4 Extension Options.

2.4.1 Subject to and in accordance with the terms and conditions of this Section 2.3, Tenant shall have the number of options (each, an “**Extension Option**”) specified in Item 6 of the Basic Lease Information to extend the Term of this Lease with respect to the entire Tenant Space, each for an additional term of **sixty (60) calendar months** (collectively the “**Extension Terms**”, each an “**Extension Term**”), upon the same terms, conditions and provisions applicable to the then current Term of this Lease (except as provided otherwise herein). The monthly Base Rent payable with respect to the Tenant Space for each year of the Extension Term (the “**Option Rent**”) shall be increased hereunder as of the first (1st) day of each such year to be equal to one hundred three percent (103%) of the Base Rent payable for the immediately preceding month of the Term of the Lease, as extended.

2.3.1 Tenant may exercise each Extension Option only by delivering to Landlord a written notice (an “**Option Exercise Notice**”) at least **six (6) calendar months** (and not more than **twelve (12) calendar months**) prior to the then applicable expiration date of the Term, specifying that Tenant is

irrevocably exercising its Extension Option so as to extend the Term of this Lease by an Extension Term on the terms set forth in this Section 2.3. In the event that Tenant shall duly exercise an Extension Option, the Term shall be extended to include the applicable Extension Term (and all references to the Term in this Lease shall be deemed to refer to the Term specified in Item 5 of the Basic Lease Information, plus all duly exercised Extension Terms). In the event that Tenant shall fail to deliver an Option Exercise Notice within the applicable time period specified herein for the delivery thereof, time being of the essence, at the election of Landlord, Tenant shall be deemed to have forever waived and relinquished such Extension Option, and any other options or rights to renew or extend the Term effective after the then applicable expiration date of the Term shall terminate and shall be of no further force or effect.

2.4.2 Tenant shall have the right to exercise any Extension Option only with respect to the entire Tenant Space leased by Tenant at the time that Tenant delivers an Option Exercise Notice. If Tenant duly exercises an Extension Option, Landlord and Tenant shall execute an amendment reflecting such exercise. Notwithstanding anything to the contrary herein, any attempted exercise by Tenant of an Extension Option shall, at the election of Landlord, be invalid, ineffective, and of no force or effect if, on the date on which Tenant delivers an Option Exercise Notice or on the date on which the Extension Term is scheduled to commence there shall be an uncured Event of Default by Tenant under this Lease.

3. BASE RENT AND OTHER CHARGES.

3.1 **Base Rent.** Commencing on the Commencement Date, Tenant shall pay to Landlord base rent (the "**Base Rent**") for the Tenant Space in the cumulative amounts set forth in the schedules contained in Item 9 of the Basic Lease Information. All such Base Rent shall be paid to Landlord in monthly installments in advance on the first day of each and every month throughout the Term of this Lease; provided, however, that (a) the Prepaid Rent shall be payable no later than five (5) business days following the Effective Date, and (b) if the Term of this Lease does not commence on the first day of a calendar month, the Base Rent for such partial calendar month shall (i) be calculated on a per diem basis determined by dividing the Base Rent above by the total number of calendar days in such partial month and multiplying such amount by the number of days remaining in such calendar month from and after (and including) the Commencement Date, and (ii) Landlord shall apply the Prepaid Rent to such Partial Month (and shall apply the remainder of the Prepaid Rent to the following full calendar month, with Tenant paying any difference in advance on the first day of such full calendar month). Except as set forth in this Section 3.1, Tenant shall not pay any installment of Rent (defined in Section 3.3, below) more than one (1) month in advance.

3.2 Intentionally Deleted.

3.3 **Payments Generally.** Base Rent, all forms of Additional Rent (defined in this Section 3.3, below) payable hereunder by Tenant and all other amounts, fees, payments or charges payable hereunder by Tenant shall (i) each constitute rent payable hereunder (and shall sometimes collectively be referred to herein as "**Rent**"), (ii) be payable to Landlord when due without any prior notice or demand therefor in lawful money of the United States without any abatement, offset or deduction whatsoever (except as specifically provided otherwise herein), and (iii) be payable to Landlord at the address of Landlord specified in Item 17 of the Basic Lease Information (or to such other person or to such other place as Landlord may from time to time designate in writing to Tenant). No receipt of money by Landlord from Tenant after the termination of this Lease, the service of any notice, the commencement of any suit, or a final judgment for possession shall reinstate, continue or extend the Term of this Lease or affect any such notice, demand, suit or judgment. No partial payment by Tenant shall be deemed to be other than on account of the full amount otherwise due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord shall be entitled to accept such payment without compromise or prejudice to any of the rights of Landlord hereunder or under any Applicable Laws (defined in Section 6.3.1, below). In the event that the Commencement Date or the expiration of the Term (or the date of any earlier termination of this Lease) falls on a date other than the first or last day of a calendar month, respectively, the Rent payable for such partial calendar month shall be prorated based on a per diem basis. For purposes of this Lease, all amounts (other than Base Rent) payable by Tenant to Landlord pursuant to this Lease, whether or not denominated as such, shall constitute "**Additional Rent.**"

3.4 **Late Payments.** Tenant hereby acknowledges and agrees that the late payment by Tenant to Landlord of Base Rent or Additional Rent (or any other sums due hereunder) will cause Landlord to incur administrative costs not contemplated under this Lease and other damages, the exact amount of which would be extremely difficult or impractical to fix. Landlord and Tenant agree that if Landlord does not receive any such payment on or before the date that is five (5) days after the date on which such payment is due (a "**Late Charge Delinquency**"), Tenant shall pay to Landlord, as Additional Rent, (i) a late charge ("**Late Charge**") equal to five percent (5%) of the amount overdue to cover such additional administrative costs and damages, and (ii) interest on all such delinquent amounts at an interest rate (the "**Default Rate**") equal to the lesser of (a) one and one-half percent (1 1/2 %) per month or (b) the maximum lawful rate from the date of the Late Charge Delinquency until the date the same are paid. In no event, however, shall the charges permitted under this Article 3 or elsewhere in this Lease, to the extent the same are considered to be interest under applicable law, exceed the maximum lawful rate of interest. Landlord's acceptance of any Late Charge, or interest pursuant to this Section 3.4, shall not be deemed to constitute a waiver of Tenant's default with respect to the overdue amount, nor prevent Landlord from exercising any of the other rights and remedies available to Landlord hereunder or under any Applicable Laws. Notwithstanding anything herein to the contrary, Landlord agrees to waive the default interest and late charges for one (1) late payment hereunder during any consecutive twelve (12) calendar month period during the Term, provided such late payment is paid in full within five (5) business days after written notice to Tenant of such failure.

3.5 **Electrical Power and Chilled Water.** Tenant shall pay for all electricity and chilled water provided to and/or used in Suite 880 and Suite 890. Landlord shall bill Tenant monthly for (i) the actual cost (without addition of management fees or other markup) of all electricity and chilled water provided to and/or used in Suite 880 (including, for the avoidance of doubt, the actual cost of all electricity and chilled water provided to and/or used in that certain UPS room which serves (but is located outside of) Suite 880), based upon, respectively, the Suite 880 Electrical Metering Equipment and the Suite 880 Chilled Water Metering Equipment, each as defined in **Exhibit "E"** (the "**Actual Suite 880 Utility Costs**"), and (ii) the actual cost (without addition of management fees or other markup) of all electricity and chilled water provided to and/or used in Suite 890 (including, for the avoidance of doubt, the actual cost of all electricity and chilled water provided to and/or used in that certain UPS room which serves (but is located outside of) Suite 890), based upon, respectively, the Suite 890 Electrical Metering Equipment and the Suite 890 Chilled Water Metering Equipment, each as defined in **Exhibit "E"** (the "**Actual Suite 890 Utility Costs**"; together, with the Actual Suite 880 Utility Costs, collectively, the "**Actual Utility Costs**").

3.5.1 **Intentionally Deleted.**

3.5.2 **Intentionally Deleted.**

3.5.3 **Generator Fuel.** Additionally, Tenant shall pay the cost of all fuel used by the Back-up Power (defined in Section 7.2) systems serving, providing electricity to, and/or generating electricity which is used in, for or serving, the Tenant Space, except to the extent that such fuel is used (i) for and during the course of the performance of Landlord's maintenance obligations hereunder (such fuel usage is referred to herein as "**Non-Maintenance BUP Fuel Usage**"), or (ii) as a result of the gross negligence or willful misconduct of Landlord or any other member of the Landlord Group. Landlord shall bill Tenant not more frequently than monthly for the actual cost of all Non-Maintenance BUP Fuel Usage (the "**BUP Fuel Payment**"). Tenant shall pay the BUP Fuel Payment to Landlord, as Additional Rent, within thirty (30) days of delivery of such BUP Fuel Payment invoice. For the avoidance of doubt, it is the intent of the parties that this Section 3.5.3 represents a mechanism only for Landlord's cost recovery with regard to fuel provided to and/or used by or for the Back-up Power systems serving the Tenant Space, and that there is no intent for Tenant's BUP Fuel Payment to include any element of profit to the Landlord in connection therewith.

4. TAX ON PERSONAL PROPERTY; REAL PROPERTY TAXES

4.1 **Personal Property.** Tenant shall be liable and shall pay before delinquency any and all government fees, taxes, tariffs and other charges levied, separately assessed or imposed upon or against, directly or indirectly, any of Tenant's Personal Property (defined in Section 8.4, below). If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property, and if Landlord elects to pay the same, Tenant shall pay to Landlord as Additional Rent, within thirty (30) days of Landlord's demand therefor, such demand to be accompanied by reasonably detailed supporting documentation, that part of such taxes for which Tenant is liable hereunder.

4.2 **Additional Taxes.** Tenant shall pay to Landlord, as Additional Rent and within thirty (30) days of Landlord's demand therefor, and in such manner and at such times as Landlord shall direct from time to time by written notice to Tenant, any excise, sales, privilege or other tax, assessment or other charge (other than income taxes) imposed, assessed or levied by any governmental or quasi-governmental authority or agency upon Landlord on account of (i) the Rent (and other amounts) payable by Tenant hereunder (or any other benefit received by Landlord hereunder), including, without limitation, any gross receipts tax, license fee or excise tax levied by any governmental authority, (ii) this Lease, Landlord's business as a lessor hereunder, and the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy of any portion of the Tenant Space (including, without limitation, any applicable possessory interest taxes), (iii) this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Tenant Space, or (iv) otherwise in respect of or as a result of the agreement or relationship of Landlord and Tenant hereunder (collectively, the "**Section 4.2 Taxes**"); provided however that, if there is any tax, assessment or charge, which would otherwise be included within the foregoing definition of Section 4.2 Taxes that is, wholly or in part, imposed as a substitute tax, assessment or charge for a Real Property Tax, defined below, such Section 4.2 Tax will be considered a Real Property Tax to the extent that such tax, assessment or charge is imposed as a substitute for any Real Property Tax.

4.2.1 Landlord hereby represents and warrants that, to the best of Landlord's Actual Knowledge (defined in Section 6.3.2.1, below), there are no Section 4.2 Taxes assessed against Landlord as of the Effective Date.

4.3 Real Property Taxes.

4.3.1 **Real Property Taxes.** The term "**Real Property Taxes**" shall mean all taxes, assessments and governmental charges (foreseen or unforeseen, general or special, ordinary or extraordinary) whether federal, state, county or municipal and whether levied by taxing districts or authorities presently taxing the Property or by others subsequently created or otherwise, and any other taxes and assessments attributable to the Property or its operation, including but not limited to ad valorem real property taxes, and all taxes of whatsoever nature that are imposed in substitution for or in lieu of any of the taxes, assessments or other charges herein defined; provided, however, Real Property Taxes shall not include Section 4.2 Taxes or any taxes paid by tenants of the Property as a separate charge on the value of their leasehold improvements, death taxes, excess profits taxes, franchise taxes and state and federal income taxes, except to the extent imposed in substitution for or in lieu of all or any portion of Real Property Taxes.

4.3.2 The term "**Real Property Tax Base Year**" is stipulated to be the *2010 calendar year*.

4.3.3 The term "**Actual Real Property Taxes**" shall mean, with respect to each calendar year during the Term of the Lease, the actual Real Property Taxes for such year. The term "**Tenant's Proportionate Share of Actual Real Property Taxes**" shall mean, with respect to each calendar year during the Term of this Lease, an amount equal to the product of (i) the positive difference (if any) obtained by subtracting the Actual Real Property Taxes applicable to the Real Property Tax Base Year from the Actual Real Property Taxes applicable to such calendar year, multiplied by (ii) Tenant's Proportionate Share, as described in Item 25 of the Basic Lease Information.

4.3.4 If the Actual Real Property Taxes during any calendar year are greater than the Actual Real Property Taxes applicable to the Real Property Tax Base Year, Tenant shall be obligated to pay to Landlord as Additional Rent an amount equal to Tenant's Proportionate Share of Actual Real Property Taxes.

4.3.5 On or before December 1, 2010 (or as soon thereafter as reasonably possible), Landlord shall provide to Tenant a statement of the reasonably projected annual Real Property Taxes for the Property (the "**Projected Real Property Taxes**"). Tenant shall pay to Landlord on the first day of each month commencing January 1, 2011 and continuing during the Term of the Lease an amount (each, a "**Projected Real Property Tax Installment**") equal to one-twelfth (1/12) of the product of (i) the positive difference (if any) obtained by subtracting the Actual Real Property Taxes applicable to the Real Property Tax Base Year from the Projected Real Property Taxes for such calendar year, multiplied by (ii) Tenant's Proportionate Share. Until Tenant has received the statement of the Projected Real Property Taxes from Landlord, Tenant shall continue to pay Projected Real Property Tax Installments to Landlord in the same amount (if any) as required for the last month of the prior calendar year. Upon Tenant's receipt of such statement of the Projected Real Property Taxes, Tenant shall pay to Landlord, or Landlord shall pay to Tenant (whichever is appropriate), the difference between the amount paid by Tenant as Projected Real Property Tax Installments prior to receiving such statement and the amount payable by Tenant therefor as set forth in such statement. Landlord shall provide Tenant a statement with reasonably detailed supporting documentation on or before June 15 (or as soon thereafter as reasonably possible) after the end of each calendar year, showing Tenant's Proportionate Share of Actual Real Property Taxes applicable to such calendar year, as compared to the total of the Projected Real Property Tax Installments for such calendar year. If Tenant's Proportionate Share of Actual Real Property Taxes for such calendar year exceeds the aggregate of the Projected Real Property Tax Installments collected by Landlord from Tenant with regard to such calendar year, Tenant shall pay to Landlord, within thirty (30) days following Tenant's receipt of such statement with reasonably detailed supporting documentation, the amount of such excess. However, if Tenant's Proportionate Share of Actual Real Property Taxes for such calendar year is less than the aggregate of the Projected Real Property Tax Installments collected by Landlord from Tenant with regard to such calendar year, Landlord shall pay to Tenant, within thirty (30) days following Tenant's receipt of such statement, the amount of such excess. Landlord shall have the right from time to time during each calendar year (but not more than twice in any given calendar year) to revise the Projected Real Property Taxes and provide Tenant with a revised statement thereof; and, thereafter, Tenant shall pay Projected Real Property Tax Installments on the basis of the revised statement. If the Commencement Date is not the first day of a calendar year, or the expiration or termination date of this Lease is not the last day of a calendar year, then Tenant's Proportionate Share of Actual Real Property Taxes shall be prorated. The foregoing adjustment provisions shall survive the expiration or termination of the Term of this Lease.

4.3.6 Notwithstanding any other provision herein to the contrary, in no event shall the aggregate amount of Real Property Taxes collected by Landlord from all tenants in the Building exceed the Actual Real Property Taxes for said year. Additionally, an adjustment shall be made by Landlord in computing Real Property Taxes (and Tenant's share thereof) to account for any refund received by Landlord as a rebate of Real Property Taxes actually paid by Tenant to Landlord, less all costs and fees, if any, including professional, incurred by Landlord in connection with obtaining any such refund.

5. **NO OPERATING EXPENSES.** Tenant's payment of Base Rent (and increases in such Base Rent) set forth in this Lease is (except as otherwise expressly set forth herein) intended to cover the expenses (and increases in such expenses) incurred in the operation, maintenance, management, repair and replacement of the Common Areas of the Building, including, without limitation, utility charges attributed to the Common Areas, premiums and other charges for insurance, costs incurred in connection with service and maintenance contracts, and any administrative or management fees or charges (collectively, the "**Operating Expenses**"). Accordingly, except as otherwise expressly set forth herein, and subject to the terms of Article 14 hereof with respect to Tenant's indemnification obligations, Tenant shall not be liable for and shall not be required to pay or reimburse Landlord for any additional charges hereunder for Operating Expenses (or any increases in such Operating Expenses).

6. USE.

6.1 **Permitted Use.** Subject to Section 1.3, Tenant shall use the Tenant Space only for (i) general office use within the “security area” as shown on Exhibit “E-4”, (ii) the placement, maintenance and operation of computer, switch and/or communications equipment and connections (in accordance with Section 1.3, above) with the communications cable and facilities of other tenants in the Building, and (iii) other uses subject to Landlord’s prior written consent, such consent not to be unreasonably withheld, conditioned or delayed (collectively, the “**Permitted Use**”). The foregoing notwithstanding, Tenant shall not operate nor permit any third party (other than a Customer (defined in Section 10.5, below)) to operate optical multiplexing equipment in the Premises. For the avoidance of doubt, Landlord and Tenant hereby acknowledge and agree that Customers are permitted to operate optical multiplexing equipment in the Premises.

6.2 **Datacenter Rules and Regulations.** Tenant’s use shall be subject to, and Tenant, and Tenant’s agents, employees and invitees shall comply fully with all requirements of the Datacenter Rules and Regulations, however, Tenant shall not be required to comply with any such Datacenter Rules and Regulation if it shall unreasonably interfere with access to or the beneficial use of the Tenant Space for the Permitted Use. Landlord shall at all times have the right to change such rules and regulations or to amend or supplement them in such commercially reasonable manner as may be deemed by Landlord in the exercise of its sole but good faith discretion advisable for the safety, care and cleanliness of the Tenant Space, the Building and the Property and for preservation of good order therein, all of which Datacenter Rules and Regulations, as changed, amended, and/or supplemented from time to time, shall be fully carried out and strictly observed by Tenant; provided, however, that such changes to the Datacenter Rules and Regulations may not increase Tenant’s monetary obligations under this Lease or unreasonably interfere with access to or the beneficial use of the Tenant Space for the Permitted Use. In the event of a conflict between the Datacenter Rules and Regulations and the terms of this Lease, the terms of this Lease shall govern (including, without limitation, the provisions of Section 8.3 hereof). Without limiting the foregoing, for clarification purposes, if under Section 8.3 of this Lease Tenant is not required to obtain Landlord’s consent (or if Landlord’s consent is deemed given) for Alterations, then no consent or approval by the Landlord will be required for such Alterations (or any element of such Alterations) regardless of what is stated in the Datacenter Rules and Regulations as to required consents or approvals. Tenant shall further be responsible for the compliance with such Datacenter Rules and Regulations (as the same may be changed, amended and/or supplemented from time to time) by the employees, agents and invitees of Tenant. Landlord shall apply the Datacenter Rules and Regulations uniformly to the tenants of the Building.

6.3 Compliance with Laws; Hazardous Materials.

6.3.1. **Compliance with Laws.** Tenant, at Tenant’s sole cost and expense, shall timely take all action required to cause Tenant’s use and Alterations of the Tenant Space to comply at all times during the Term of this Lease in all respects with all laws, ordinances, building codes, rules, regulations (including the Americans with Disabilities Act), orders and directives of any governmental authority having jurisdiction (including without limitation any certificate of occupancy), and all covenants, conditions and restrictions affecting the Property now or in the future applicable to the Tenant Space and with all rules, orders, regulations and requirements of any applicable fire rating bureau or other organization performing a similar function (collectively, “**Applicable Laws**”) (i) regarding the physical condition of the Premises, but only to the extent the Applicable Laws pertain to the particular manner in which Tenant uses and/or configures equipment within the Premises, or (ii) that do not relate to the physical condition of the Premises but relate to the lawful use of the Premises. Additionally, Tenant shall not use the Tenant Space, or permit the Tenant Space to be used, in any manner, or do or suffer any act in or about the Tenant Space which: (i) violates or conflicts with any Applicable Law; (ii) causes or is reasonably likely to cause damage to the Property, the Building, the Tenant Space or the Building and/or Property systems and equipment, including, without limitation, all fire/life safety, electrical, HVAC, plumbing or sprinkler, access control (including, without limitation, Landlord’s Access Control Systems), mechanical, and telecommunications systems and equipment (collectively, the “**Building Systems**”); (iii) will invalidate or otherwise violates a requirement or condition of any fire, extended coverage or any other insurance policy covering the Property, the Building, and/or the Tenant Space, or the property located therein, or will increase the cost of any of the same (unless, at Landlord’s election, Landlord permits an

activity which will cause an increase in any such insurance rates on the condition that Tenant shall agree in writing to pay any such increase to Landlord immediately upon demand as Additional Rent); (iv) constitutes or is reasonably likely to constitute a material nuisance to other tenants or occupants of the Building or the Property, or any equipment, facilities or systems of any such tenant; (v) interferes with, or is reasonably likely to interfere with, the transmission or reception of microwave, television, radio, telephone, or other communication signals by antennae or other facilities located at the Property; (vi) amounts to (or results in) the commission of waste in the Tenant Space, the Building or the Property; (vii) intentionally deleted; or (viii) is other than the Permitted Use. Tenant shall be responsible for any losses, costs or damages in the event that unauthorized parties gain access to the Tenant Space or the Building through access cards, keys or other access devices provided to Tenant by Landlord. Tenant shall promptly upon demand reimburse Landlord as Additional Rent for any additional premium charged for any insurance policy by reason of Tenant's failure to comply with the provisions of this Section 6.3.1.

During the Term, Landlord shall comply with all Applicable Laws regarding the Premises and the Building except to the extent Tenant must comply under Section 6.3.1(a).

6.3.1.1 Landlord hereby represents and warrants that, to the best of Landlord's Actual Knowledge (defined in Section 6.3.2.1, below), as of the Effective Date, neither the Building nor the Tenant Space are in violation of any Applicable Law or of the rules, orders, regulations and requirements of any applicable fire rating bureau or other organization performing a similar function that govern the Building and/or the Tenant Space.

6.3.2 **Hazardous Materials.** No Hazardous Materials (defined below) shall be Handled (defined below) upon, about, in, at, above or beneath the Tenant Space or any portion of the Building or the Property by or on behalf of Tenant, its Transferees (defined in Section 10.1, below) or partners, or their respective contractors, clients, officers, directors, partners, employees, servants, representatives, licensees, agents, or invitees (collectively, the "**Tenant Parties**"). Additionally, Tenant shall not use the Tenant Space, or permit the Tenant Space to be used, in any manner which may directly or indirectly lead to any non-compliance with any Environmental Law. Notwithstanding the foregoing, normal quantities of those Hazardous Materials customarily used in the conduct of the Permitted Use may be used at the Tenant Space without Landlord's prior written consent, but only in compliance with all applicable Environmental Laws (defined below). Notwithstanding the foregoing, Tenant shall not have any liability (and shall not be required to remediate any condition) relating to Hazardous Materials which existed in, upon or under the Premises as of the Commencement Date, except for any of same that were placed (and/or resulted from conditions caused) by Tenant or any other Tenant Party.

No Hazardous Materials (defined below) shall be Handled upon, about, in, at, above or beneath the Tenant Space or any portion of the Building or the Property by or on behalf of Landlord or Landlord's partners, or their respective contractors, clients, officers, directors, partners, employees, servants, representatives, licensees, agents, or invitees (collectively, the "**Landlord Parties**"). Additionally, Landlord shall not use the Building, or permit the Building or portions thereof to be used, in any manner which may directly or indirectly lead to any non-compliance with any Environmental Law. Notwithstanding the foregoing, normal quantities of those Hazardous Materials customarily used in the operation of the Building and/or otherwise by occupants and/or owners of the Building, and/or that would otherwise be consistent with Institutional Owner Practices (defined below in Section 8.3,) may be used at the Building, but only in compliance with all applicable Environmental Laws. "**Environmental Laws**" shall mean and include all now and hereafter existing Applicable Laws regulating, relating to, or imposing liability or standards of conduct concerning public health and safety or the environment. "**Hazardous Materials**" shall mean and include: (1) any material or substance: (i) which is defined or becomes defined as a "hazardous substance," "hazardous waste," "infectious waste," "chemical mixture or substance," or "air pollutant" under Environmental Laws; (ii) containing petroleum, crude oil or any fraction thereof; (iii) containing polychlorinated biphenyls (PCB's); (iv) asbestos, asbestos-containing materials or presumed asbestos-containing materials (collectively, "**ACM**"); (v) which is radioactive; (vi) which is infectious; or (2) any other material or substance displaying toxic, reactive, ignitable, explosive or corrosive characteristics, and are defined, or become defined by any Environmental Law. "**Handle**," "**Handled**," or "**Handling**" shall mean any installation, handling, generation, storage, treatment, use, disposal, discharge, release, manufacture, refinement, presence, migration, emission, abatement, removal, transportation, or any other activity of any type in connection with or involving Hazardous Materials.

6.4 Electricity Consumption Threshold. Tenant's actual electricity consumption for the Premises, as reasonably determined by Landlord pursuant to such measurement method or methods as Landlord shall employ from time to time acting consistently with Institutional Owner Practices (including, without limitation, the use of submeters and/or pulse meters, electrical surveys and/or engineer's estimates), shall not at any time, exceed the number of watts for the Premises (a) specified in Item 1 of **Exhibit "F"**, as it relates to Suite 880 (the "**Suite 880 Electricity Consumption Threshold**"), and (b) specified in Item 1 of **Exhibit "F-1"**, as it relates to Suite 890 (the "**Suite 890 Electricity Consumption Threshold**"); the Suite 880 Electricity Consumption Threshold and the Suite 890 Electricity Consumption Threshold are referred to herein, in general, as the "**Electricity Consumption Threshold**". All equipment (belonging to Tenant or otherwise) located within the Premises shall be included in the calculation of Tenant's actual electricity consumption for the Premises. For the avoidance of doubt, Landlord and Tenant acknowledge that the Electricity Consumption Threshold exists, so that Landlord is better able to (a) budget the amount of power available at the Building among the existing and future tenants of the Building, (b) enhance the safeguarding, in accordance with National Electrical Code Guidelines, of person and property in the Premises, and (c) operate the Premises consistent with Institutional Owner Practices. In the event that the electricity consumption in the Premises does exceed the Electricity Consumption Threshold (each such event, an "**ECT Overage**"), Tenant agrees to take immediate action (after Tenant has received notice of such ECT Overage from Landlord) to power down items of equipment in the Tenant Space in order to cause power consumption in the Premises to be at or below the Electricity Consumption Threshold. Additionally, in the event that (i) Tenant receives a notice from Landlord related to any ECT Overage, and (ii) Tenant has not remedied such ECT Overage within seventy-two (72) hours after its receipt of such notice from Landlord, then Landlord may deliver to Tenant a notice (an "**ECT Default Notice**") of such default. Tenant's failure to remedy such ECT Overage within forty-eight (48) hours after its receipt of an ECT Default Notice shall be considered an Event of Default hereunder. Additionally, (a) if, despite Tenant's attempt at remedying the ECT Overage, the Tenant Space exceeds the Electricity Consumption Threshold three (3) times in any thirty (30) day period (about which Tenant receives written notice each time from Landlord), then such third (3rd) occurrence shall be considered an Event of Default hereunder; and (b) Tenant's rights related to Interruptions of Landlord's Services shall not be in effect for any Interruptions of Landlord's Services which occur during, or because of, an ECT Overage. Landlord hereby agrees that, upon receipt of Tenant's reasonable request therefor (such requests not to exceed one (1) per calendar month), Landlord will provide Tenant with the opportunity to observe the Suite 880 Electrical Metering Equipment and the Suite 890 Electrical Metering Equipment for the sole purpose of determining Tenant's then-current electricity consumption at the Premises, provided that a representative of Landlord is available to accompany Tenant during such observation.

6.5 Structural Load. Tenant shall not place a load upon the Premises exceeding the number of pounds of live load per square foot (a) specified in Item 5 of **Exhibit "F"**, as it relates to Suite 880, and (b) specified in Item 5 of **Exhibit "F-1"**, as it relates to Suite 890.

7. SERVICES TO BE PROVIDED TO THE TENANT SPACE

7.1 Access Control. Landlord will provide access control as follows: (i) Landlord will operate a check-in desk at the Building's main entrance twenty-four (24) hours per day, seven (7) days per week, (ii) Landlord has installed a video surveillance system in Suite 880 inside the Premises surveilling only the points of egress and the EPO button, (iii) Landlord has installed a video surveillance system in Suite 890 inside the Premises surveilling only the points of egress and the EPO button, and (iv) Landlord has installed video surveillance system in the Common Area of the Building (collectively, "**Landlord's Access Control Systems**"). Landlord hereby agrees not to install any video surveillance inside the Premises other than that which is included in Landlord's Access Control Systems. Landlord disclaims any and all other responsibility or obligation to provide additional access control (or any security) to the Building, the Tenant Space, or any portion of any of the above. Landlord shall not, under any circumstances, be responsible for providing or supplying security services to the Tenant Space or any part of the Building in excess of the Landlord's Access Control Systems expressly set forth in this Section 7.1

(and Landlord shall not under any circumstances be deemed to have agreed to provide any services in excess of the above specified Landlord's Access Control Systems). Subject to Landlord's approval of the plans and specifications therefor and the contractors who will perform such work, Tenant shall install, at its sole cost and expense, its own security system ("**Tenant's Security System**") for the Premises. Tenant shall furnish Landlord with a copy of all key codes, access cards or other entry means and ensure that Landlord shall have access to the Premises at all times, subject to the terms of Section 17.16, below. Additionally, Tenant shall ensure that Tenant's Security System shall comply with all Applicable Laws, and in no event shall Landlord be liable for the malfunctioning thereof. Tenant acknowledges and agrees that it understands that all persons in the Premises and the activities of all such persons are and shall be subject to surveillance by video camera and/or otherwise by Landlord's agents and employees at the points of egress and the EPO buttons.

7.1.1 Landlord and Tenant specifically acknowledge that Tenant, at Tenant's cost, may remove Landlord's electronic "key card" systems (the "**Key Card Systems**") that, on the Commencement Date, control access to each of Suites 880 and 890; provided, however, that (a) Tenant obtains Landlord's prior written approval (not to be unreasonably withheld, conditioned or delayed) of the plans and specifications of Tenant's Security System prior to such removal, in accordance with the terms and conditions of Section 8.3, below, (b) Tenant notifies Landlord at least ten (10) days in advance of such removal, and (c) prior to the expiration or upon the earlier termination of this Lease, Tenant shall restore the Key Card Systems to their original locations and functionality that existed as of the Commencement Date.

7.2 Other Landlord's Services.

7.2.1 Electricity Service Levels. Landlord shall furnish electricity and back-up power and other services to the Premises in accordance with the specifications set forth in (a) Items 1, 2 and 3, respectively, of **Exhibit "F"** attached hereto, with respect to Suite 880, and (b) Items 1, 2 and 3, respectively, of **Exhibit "F-1"** attached hereto, with respect to Suite 890 (collectively, the "**Electrical Service**"). The obligation of Landlord to provide electricity to the Tenant Space shall be subject to the rules, regulations and requirements of the supplier of such electricity and of any governmental authorities regulating providers of electricity and shall be limited to providing the Electricity Consumption Threshold (as defined in Section 6.4). Except as expressly set forth in Items 2 & 3 of **Exhibit "F"** with respect to Suite 880, and Items 2 & 3 of **Exhibit "F-1"** with respect to Suite 890, Tenant shall be solely responsible for all additional emergency, supplemental or back-up power systems ("**Back-Up Power**") for use in the Tenant Space.

7.2.2 HVAC Service Levels. Landlord shall furnish heating, ventilation and air conditioning to the Premises in accordance with the specifications set forth in (a) Item 4 of **Exhibit "F"** attached hereto, with respect to Suite 880, and (b) Item 4 of **Exhibit "F-1"** attached hereto, with respect to Suite 890 (collectively, the "**HVAC Service**").

7.2.3 Access to Tenant Space. Notwithstanding anything to the contrary in this Lease, Tenant shall have access to the Tenant Space twenty-four (24) hours per day, seven (7) days per week, three-hundred and sixty five (365) days per year (the "**Access Service**"; together, with the Electrical Service and the HVAC Service, collectively, the "**Essential Services**").

7.2.3 Other Services. Landlord shall also furnish or cause to be furnished to the Premises the following utilities and services (at no charge to Tenant):

- (a) Tenant shall have the right to use non-reserved parking on the Property on a first-come, first-served basis;
- (b) Hot and cold water for drinking and restroom purposes shall be available on the eighth (8) floor of the Building seven (7) days a week.

(c) Non-attended automatic passenger elevator service shall be available twenty-four (24) hours per day seven (7) days a week. Attended freight elevator service shall be available Monday through Friday from 6 a.m. to 6 p.m. After hours freight elevator service is available at Tenant's cost, and subject to local union rules.

(d) Customary janitorial, trash removal and cleaning services Monday through Friday or Sunday through Thursday in and about the Common Areas.

7.3 Interruption of Services.

7.3.1 Except as expressly provided in this Lease (including, without limitation, as expressly set forth in Section 7.3.2 below), Landlord shall not be liable or responsible to Tenant for any loss, damage or expense of any type which Tenant may sustain or incur if the quantity or character of the utility provided electric service is changed, is no longer available, or is no longer suitable for Tenant's requirements. Additionally, except as expressly provided in this Lease (including, without limitation, as expressly set forth in Section 7.3.2 below), no interruption or malfunction of any electrical or other service (including, without limitation, heating ventilation and air conditioning, collectively, "HVAC") to the Premises (or to any other portion of the Building or Property) shall, in any event, (i) constitute an eviction or disturbance of Tenant's use and possession of the Tenant Space, (ii) constitute a breach by Landlord of any of Landlord's obligations under this Lease, (iii) render Landlord liable for damages of any type or entitle Tenant to be relieved from any of Tenant's obligations under this Lease (including the obligation to pay Base Rent, Additional Rent, or other charges), (iv) grant Tenant any right of setoff or recoupment, (v) provide Tenant with any right to terminate this Lease, or (vi) make Landlord liable for any injury to or interference with Tenant's business or any punitive, incidental or consequential damages (of any type), whether foreseeable or not, whether arising from or relating to the making of or failure to make any repairs, alterations or improvements, or whether arising from or related to the provision of or failure to provide for or to restore any service in or to any portion of the Property, the Building or the Premises. In the event of any interruption, however, Landlord shall employ commercially reasonable efforts to restore such service or cause the same to be restored in any circumstances in which such restoration is within the reasonable control of Landlord and the interruption at issue was not caused in whole or in part by any action of Tenant.

7.3.2 Notwithstanding the foregoing, in the event that (a) there is an interruption of Landlord's Essential Services in the nature of (i) a violation of the service levels described in **Exhibit "F"**, attached hereto, with regard to Suite 880, or (ii) a violation of the service level described in **Exhibit "F-1"**, attached hereto, with regard to Suite 890, (b) such interruption of Landlord's Essential Services is not caused by any act or omission of Tenant or Tenant's employees, agents, invitees or contractors, nor by a Casualty (as defined and dealt with in Section 9.1.1, below), nor by an ECT Overage, and (c) Tenant is prevented from using (and actually does not use) the Tenant Space, or any portion thereof, in the ordinary course of Tenant's business (which, for the avoidance of doubt, and for the purposes of this Lease, means the operation of Tenant's business in the affected portion of the Tenant Space is adversely impacted), as determined by Tenant, for a period in excess of the timeframe specified in Item 15 of the Basic Lease Information (the "**Eligibility Period**") as a result of such interruption of Landlord's services (such an interruption, an "**Interruption of Landlord's Services**"), Tenant shall, as its exclusive remedy therefor, except as otherwise expressly set forth herein (including Section 16.1), be entitled to an equitable abatement of Base Rent as set forth in Item 15 of the Basic Lease Information. The foregoing notwithstanding, if Tenant fails to take advantage of the redundant electrical design of the Premises (e.g. Tenant "single-cords" its equipment in a scenario where "dual-cording" of Tenant's equipment is available), and there occurs an interruption of electrical service to the Tenant Space, which could have been avoided if Tenant had, in fact, taken proper advantage of such electrical redundancies, then such interruption will not be deemed to be an Interruption of Landlord's Services. Additionally, in the event that (a) Tenant or its pertinent designees have produced the pertinent identification document and/or credentials that are required to enter the Building, (b) are in an outwardly visible condition that does not represent a real or perceived threat to the Building or the Tenant Space, and (c) are denied access to the Tenant Space for a period in excess of six (6) consecutive hours, Tenant shall, as its exclusive remedy be entitled to an equitable abatement of Base Rent equal to 1/30th of the Base Rent for a given month.

7.3.3 In addition to Tenant's right to abatement of Base Rent, in the event a Continuous Outage (as hereinafter defined) occurs, Tenant may terminate this Lease by delivering to Landlord within ten (10) business days following the occurrence of the Continuous Outage, written notice ("**Tenant's Continuous Outage Termination Notice**") of such termination. Tenant's failure to timely deliver Tenant's Continuous Outage Termination Notice shall automatically extinguish Tenant's right to terminate this Lease with respect to that particular Continuous Outage. As used herein the term "**Continuous Outage**" means an Interruption of Landlord's Services occurs and continues for thirty (30) consecutive days, regardless of whether or not such Interruption of Landlord's Services was caused by Force Majeure.

7.3.4 In addition to Tenant's right to abatement of Base Rent, in the event a Chronic Outage (as hereinafter defined) occurs, Tenant may terminate this Lease by delivering to Landlord within ten (10) business days following the occurrence of the Chronic Outage, written notice ("**Tenant's Chronic Outage Termination Notice**") of such termination. Tenant's failure to timely deliver Tenant's Chronic Outage Termination Notice shall automatically extinguish Tenant's right to terminate this Lease with respect to that particular Chronic Outage. As used herein the term "**Chronic Outage**" means that four (4) or more times within a twelve (12) consecutive month period, there occurs separate/independent Interruptions of Landlord's Services, each occurrence of which continues for twelve (12) or more consecutive hours, regardless of whether or not such Interruption of Landlord's Services was caused by Force Majeure.

8. MAINTENANCE; ALTERATIONS.

8.1 **Landlord Maintenance.** Except as provided in this Section 8.1, Landlord shall have no obligation to repair and/or maintain the Tenant Space. Landlord will maintain and keep in a safe and good order and clean condition (with a maintenance schedule and practices at least as comprehensive as the Minimum Landlord Maintenance Threshold (as defined below)) the Pathway (but not the Additional Conduits), the PDUs serving the Premises, Landlord's Access Control Systems, the HVAC, UPS plant, Back-up Power, and fire suppression systems serving the Premises and other similar equipment installed for the benefit of multiple tenants of the Building, the structure, floors and foundation of the Building, the exterior walls and windows in the Building and the roof of the Building, the Building Systems, the Common Areas, and the Common Area heating, air conditioning and ventilation system within the Building. Landlord shall use commercially reasonable efforts to, (i) maintain battery capacity in the UPS plant for Suite 880, as specified in Item 2 of **Exhibit "F"**, (ii) maintain battery capacity in the UPS plant for Suite 890, as specified in Item 2 of **Exhibit "F-1"**, (iii) maintain Suite 880 temperature within the range specified in Item 4(a) of **Exhibit "F"**, (iv) maintain Suite 890 temperature within the range specified in Item 4(a) of **Exhibit "F-1"**, (v) maintain Suite 880 relative humidity within the range specified in Item 4(b) of **Exhibit "F"**, and (vi) maintain Suite 890 relative humidity within the range specified in Item 4(b) of **Exhibit "F-1"**. In any event, Landlord shall perform its obligations under this Section 8.1 in accordance with Section 17.16 hereof.

8.1.1 If Landlord fails (a) to commence a commercially reasonable cure for an Interruption of Landlord's Services related to any item on **Exhibit "F"** or **Exhibit "F-1"** within forty-eight (48) hours from the time Landlord receives Tenant's notice of the need for such cure, and to diligently pursue the completion thereof in a manner consistent with first class datacenter operations practices, *or* (b) to perform its maintenance obligations under Section 8.1 within fifteen (15) days of the scheduled or rescheduled date for such maintenance, and cure such failure within ten (10) days following notice from Tenant of same, then (in the event of (a) or (b)) Tenant shall have the remedy of Tenant Self-Help described below; provided, however, in any event where Tenant intends to exercise its rights contained herein with regard to equipment located outside of the Premises, (i) Tenant may not do so unless and until Tenant obtains insurance policies consistent with Landlord's insurance policy requirements set forth in Section 9.3 hereof and complying with, and which shall be subject to, the "Requirements" paragraph set forth on **Exhibit "B"**, and (ii) Tenant hereby agrees to indemnify, defend, and hold harmless Landlord and the Landlord Group from and against (and to reimburse Landlord and the Landlord Group) for any and all Claims arising directly from Tenant's gross negligence or willful misconduct in the performance of Tenant Self-Help in any portion of the Building or the Property by Tenant or any other Tenant Party or any person

engaged by Tenant or any other Tenant Party to perform such Tenant Self-Help. If Landlord has failed to perform as provided under the prior sentence, Tenant may (subject to the terms of this Section 8.1.1), but shall not be obligated to, perform all necessary or appropriate maintenance and repair to any equipment serving the Premises, provided, however, that for any such maintenance or repair, Tenant shall use one of Landlord's pre-approved contractors listed on Schedule "2" to **Exhibit "H"** attached hereto (such list, subject to modification thereof by Landlord from time to time, "**Landlord's Pre-Approved Contractors**") ("**Tenant Self-Help**"), and any amounts actually expended by Tenant to effect such repair and/or maintenance shall be reimbursed by Landlord to Tenant within thirty (30) days after receipt of Tenant's written demand therefor. The foregoing notwithstanding, in the event that any action of Tenant Self-Help causes an event in the Tenant Space (which would have otherwise been an Interruption of Landlord's Services hereunder), then such interruption *will not* be deemed to be an Interruption of Landlord's Services.

8.1.2 Landlord's current preventative maintenance schedule is attached hereto as **Exhibit "I"** (the "**Current PM Schedule**"). Landlord agrees to use commercially reasonable efforts to give Tenant notice of any material changes in such schedule in advance of implementing such change (however, the foregoing shall not excuse Landlord from adhering to the higher standard of overall amount and level of maintenance dictated by any of the following: (i) the Current PM Schedule, (ii) the maintenance schedule recommended by the manufacturer of a particular Building System, or (iii) Institutional Owner Practices (the applicable higher standard being the "**Minimum Landlord Maintenance Threshold**"). Landlord shall use commercially reasonable efforts to provide Tenant with Landlord's preventative maintenance schedule with respect to such equipment one year in advance. Although Landlord will use reasonable efforts to substantially adhere to the maintenance schedule provided to Tenant, Tenant acknowledges that Landlord may deviate from such schedule (however, the foregoing shall not excuse Landlord from adhering to the Minimum Landlord Maintenance Threshold). During the Term, Tenant shall have the right to confirm Landlord's compliance with Landlord's maintenance schedule by inspecting Landlord's books and records with respect thereto ("**Books and Records**"), interviewing Landlord's relevant employees or contractors, and visually inspecting the related equipment (collectively, "**Tenant's Maintenance Inspection**"), but in no event more frequently than twice in a twelve (12) month period during the Term. Tenant shall exercise the foregoing right by delivering prior written notice ("**Tenant's Inspection Notice**") to Landlord of Tenant's intent to perform Tenant's Maintenance Inspection, detailing the equipment for which the Books and Records are requested and/or which Tenant wishes to visually inspect. Any visual inspection shall be performed during Landlord's normal business hours at a time reasonably designated by Landlord. Landlord shall respond to Tenant's request to perform an inspection within five (5) business days after receipt of Tenant's Inspection Notice by delivering to Tenant copies of the requested Books and Records and, if a request for an interview or a visual inspection is included in Tenant's Inspection Notice, designating the time at which Tenant may perform its interview or visual inspection. If Tenant's inspection reveals that Landlord is delinquent in complying with Landlord's maintenance schedule, Tenant shall deliver written notice to Landlord of such delinquency including reasonable detail of such delinquency, and Landlord shall cure such delinquency within the time allowed Landlord pursuant to Section 16.1 of this Lease, failing which Landlord shall be in default of its obligations hereunder.

8.1.3 In connection with the foregoing, in the event that Tenant desires that Landlord make a change (over and above the Minimum Landlord Maintenance Threshold) to Landlord's then existing Current PM Schedule or other standards or procedures related to Landlord's maintenance obligations hereunder (other than a change needed to adhere to the Minimum Landlord Maintenance Threshold, a "**PM Change**"), Tenant agrees to provide Landlord written notice of such PM Change request (the "**PM Change Request**") no fewer than *twenty (20) days* prior to the next scheduled occurrence of the activity to which the PM Change applies. In the event that Landlord is reasonably able to grant the PM Change, Landlord shall notify Tenant of the estimated costs related to the PM Change (the "**PM Change Cost Estimate**"), if any, within three (3) business days after Landlord's receipt of the PM Change Request. Tenant agrees to notify Landlord within five (5) business days after Tenant's receipt of the PM Change Cost Estimate as to whether or not Tenant elects to have the PM Change implemented. If, in fact, Tenant does timely elect to have the PM Change implemented, Tenant shall pay Landlord the *actual* amount of the costs incurred by Landlord in connection with the PM Change within thirty (30) days after Tenant's receipt of an invoice for same from Landlord.

8.2 **Tenant's Maintenance.** During the Term of this Lease, Tenant shall, at Tenant's sole cost and expense, maintain the Tenant Space (including all Additional Conduits) and Tenant's equipment therein in a safe and good order and clean condition (and in at least as good order and clean condition as when Tenant took possession), ordinary wear and tear and damage by Casualty excepted. If Tenant fails to perform its covenants of maintenance and repair hereunder, or if Tenant or any of Tenant's technicians or representatives physically damages the Property, the Building or any portion of any of the above, or the personal property of any other tenant or occupant, Landlord may, but shall not be obligated to, perform all necessary or appropriate maintenance and repair, and any amounts expended by Landlord in connection therewith, plus an administrative charge of ten percent (10%), shall be reimbursed by Tenant to Landlord as Additional Rent within thirty (30) days after Landlord's demand therefor.

8.3 **Alterations.** Notwithstanding any provision in this Lease to the contrary, Tenant shall not make or cause to be made any alterations, additions, improvements or replacements to the Tenant Space or any other portion of the Building or Property (collectively, "**Alterations**") without the prior written consent and approval of Landlord, which consent and approval may not be unreasonably withheld, conditioned or delayed; provided, however, that Landlord's consent shall not be required for any usual and customary installations, repairs, maintenance, and removals of equipment and telecommunication cables within the Tenant Space if and to the extent that such installations, repairs, maintenance, and removals (i) are usual and customary within the industry, (ii) are of a type and extent which are customarily permitted to be made without consent by landlords acting consistently with Institutional Owner Practices (defined below) leasing similar space for similar uses to similar tenants, (iii) are in compliance with the Datacenter Rules and Regulations, and (iv) will not affect the Building's structure, the provision of services to other Building tenants, or the Building's electrical, plumbing, HVAC, life safety or mechanical systems. For example, Landlord's consent would be required for the installation of overhead ladder racks that are attached to the ceiling and Landlord's consent would not be required for the installation of equipment which does not involve drilling into the floor or ceiling. For purposes hereof, "**Institutional Owner Practices**" shall mean practices that are consistent with the practices of the majority of the institutional owners of institutional grade, first-class datacenter or telecommunications projects in the United States of America. Landlord and Tenant acknowledge and agree that (a) Landlord's Installations are hereby deemed to be Alterations hereunder; (b) all Alterations not requiring Landlord's consent shall be left as part of the Premises upon the expiration or earlier termination of this Lease in good and operable condition, ordinary wear and tear and damage by Casualty not caused by any Tenant Party excepted; and (c) for all Alterations requiring Landlord's consent hereunder, Landlord will designate whether or not such Alterations must be removed (or restored) at the expiration or earlier termination of the Lease at the time Landlord provides such consent. Additionally, Landlord and Tenant agree that Landlord shall provide its consent (or objections) with regard to Tenant's requests for Alterations consent within ten (10) business days after Landlord's receipt of such request. In the event that Landlord has failed to provide its consent (or objections) within the prescribed ten (10) business day period, Landlord will be deemed to have consented with regard to such request for Alterations consent; provided that (i) such request for Alterations consent contains the phrase "**DATED MATERIAL ENCLOSED. RESPONSE IS REQUIRED WITHIN TEN BUSINESS DAYS AFTER LANDLORD'S RECEIPT HEREOF**", in all capital letters (no smaller than sixteen (16) point font) in a conspicuous location inside the package in which such request for Alterations consent is provided to Landlord; (ii) such request for Alterations consent contains three (3) full sets of drawings (two full size hard copies, and one full set of drawings on CD); and (iii) in the event that Landlord has not responded within the applicable notice period, Tenant agrees to provide Landlord one (1) additional written notice and one (1) additional business day in which to respond, prior to such deemed approval taking effect. ***The foregoing notwithstanding, if the Alterations consent request is received by Landlord after month 12 of the Term, and if Landlord engages a third party engineer to review Tenant's request for Alterations consent (and Landlord shall notify Tenant within ten (10) days of receiving Tenant's request for Alterations consent whether such outside engineering review will be commissioned), Landlord shall provide its consent (or objections) with regard to Tenant's requests for Alterations consent within thirty (30) calendar days after Landlord's receipt of such request.*** In any instance where Tenant desires to conduct Alterations, Tenant's contractors, laborers, materialmen and others furnishing labor or materials for Tenant's job must work in harmony and not interfere with any labor utilized by Landlord, Landlord's contractors or mechanics or by any other tenant or such other tenant's contractors or mechanics; and if at any time such entry by one (1) or more persons furnishing labor or materials for Tenant's work shall cause

disharmony or interference for any reason whatsoever without regard to fault, the consent granted by Landlord to Tenant and/or the express or implied permission for such persons to enter the Premises may be withdrawn at any time upon written notice to Tenant. Additionally, all such contractors, laborers, materialmen and others must obtain (and provide Landlord evidence of) such insurance as Landlord may reasonably require, prior to any such entry.

8.3.1 **Additional Conduit.** Landlord and Tenant agree that Landlord has given its pre-approval, in concept, as it relates to Tenant's installation of the Additional Conduits set forth on **Exhibit "E-1"**. However, Landlord and Tenant acknowledge that such pre-approval only represents approval by Landlord with regard to the concept of such an installation, and that each such Additional Conduit remains subject to Landlord's review and approval (not to be unreasonably withheld, conditioned or delayed) with regard to the plans and specifications thereof.

8.3.2 **Conceptually Pre-Approved Alterations.** Landlord and Tenant agree that Landlord has given its pre-approval, in concept, as it relates to the Conceptually Pre-Approved Alteration set forth in **Exhibit "E"**. However, Landlord and Tenant acknowledge that such pre-approval only represents approval by Landlord with regard to the concept of such an installation, and that such Conceptually Pre-Approved Alteration remain subject to Landlord's review and approval with regard to the plans and specifications thereof.

8.3.2.1 **Conditionally Pre-Approved Alterations.** Landlord and Tenant acknowledge and agree that Tenant has requested Landlord's consent with regard to the specific Alteration defined on **Exhibit "E"** as the "**Premises Re-configuration**". Landlord does hereby provide its consent with regard to the Premises Re-configuration, and confirms that Tenant shall not be required to restore the Premises to its condition prior to the Premises Re-configuration (i.e., Tenant shall not have to return the CRAH units and PDU's to their location within the Premises prior to the Premises Re-configuration) at the expiration or earlier termination of this Lease, subject to the following conditions:

(a) such Premises Re-Configuration must be completed by Tenant at Tenant's sole cost and expense,

(b) Tenant must engage only the same contractors (general, sub & architectural and engineering) who installed the equipment that Tenant desires to re-configure and Tenant must otherwise take such actions as are required by such contractors such that the Premises Re-configuration shall have no effect on the contractor and supplier warranties that are in effect on the Effective Date with regard to the work and equipment installed in the Premises as of the Effective Date, whether or not such items are moved or affected by the Premises Re-configuration (i.e., Tenant is taking on the responsibility that none of the warranties affecting the Tenant Space will be affected and/or voided in connection with the Premises Re-configuration);

(c) Tenant must obtain all permits required by Applicable Law with regard to the Premises Re-Configuration and provide Landlord with copies of same prior to undertaking the Premises Re-Configuration;

(d) the Premises Re-Configuration shall not be deemed to have been completed, unless and until (i) the Premises shall have been re-commissioned (A) at Tenant's sole cost and expense, (B) in Landlord's presence (or in the presence of a representative designated by Landlord) and in accordance with the terms of **Exhibit "L"** attached hereto (the "**Commissioning Criteria**"), and (C) to the level of testing that is mutually agreed to by Landlord and Tenant, each exercising reasonable discretion, and (ii) Tenant's commissioning agent has delivered to Landlord a letter confirming such re-commissioning, substantially in the form attached hereto as **Exhibit "L-1"** (the "**Commissioning Complete Letter**").

(e) from and after the Effective Date until the date upon which condition (d), above, has been completed, no conditions or occurrences, which would otherwise have been an Interruption of Landlord's Services, will be deemed to have been an Interruption of Landlord's Services, and Landlord shall have no obligation to provide the Service Levels set forth in Item 2 or Item 3 of **Exhibit "F"** or **Exhibit "F-1"**.

8.4 Removal of Cable, Wiring, Connecting Lines, Equipment and Personal Property. Tenant agrees that, upon the expiration or earlier termination of this Lease, Tenant (or, failing which, a contractor designated by Landlord) shall at Tenant's sole cost and expense, promptly remove all of Tenant's Personal Property (defined below), and shall restore those portions of the Building and/or the Tenant Space damaged by such removal of (or by the initial installation of) such Tenant's Personal Property to their condition immediately prior to the installation or placement of such items. If Tenant fails to promptly remove any such Tenant's Personal Property pursuant to this Section 8.4, Landlord shall have the right to remove such Tenant's Personal Property and to restore those portions of the Building and/or the Tenant Space damaged by such removal to their condition immediately prior to the installation or placement of such Tenant's Personal Property, in which case Tenant agrees to reimburse Landlord within thirty (30) days of Landlord's demand therefor, for all of Landlord's costs of removal and restoration plus an administrative fee equal to ten percent (10%) of such cost. For purposes hereof, "**Tenant's Personal Property**" shall mean, collectively, all cable, wiring, connecting lines, and other installations, equipment or property installed or placed by, for, through, under or on behalf of Tenant or any Tenant Party anywhere in the Building and/or the Tenant Space [other than equipment or property owned, leased or licensed by Landlord or any other member of the Landlord Group]. Additionally, for the purposes of clarity, the parties acknowledge that Tenant's Personal Property includes all equipment or property [other than equipment or property owned, leased or licensed by Landlord or any other member of the Landlord Group] installed and/or placed anywhere in the Building and/or the Tenant Space by any party specifically and solely in order to provide any service to Tenant or any Tenant Party (e.g., data storage/archiving and data recovery type equipment that is utilized by or for Tenant or any Tenant Party in the Tenant Space, but which is actually owned by a third party, other than Landlord or any other member of the Landlord Group).

9. CASUALTY; TAKING; INSURANCE.

9.1 Casualty; Taking.

9.1.1 If at any time during the Term of this Lease, a material portion of the Building shall be (i) damaged or destroyed by fire or other casualty (a "**Casualty**") or (ii) taken under the power of eminent domain or condemned by any competent authority for any public or quasi-public use or purpose, or sold to prevent the exercise thereof (a "**Taking**"), then Landlord shall have the right to elect, in Landlord's sole and absolute discretion, to either (a) terminate this Lease by delivery of written notice (a "**Termination Notice**") thereof to Tenant (but only if the other leases at the Building that are similarly affected by such Casualty or Taking are terminated) or (b) to continue this Lease, in which case, Landlord shall repair and reconstruct the Tenant Space to substantially the same condition in which they existed immediately prior to such Casualty or Taking. For the avoidance of doubt, however, such repair and reconstruction obligations shall not be deemed to include any obligation on the part of Landlord with regard to any of Tenant's Personal Property. If as a result of the Casualty, the Tenant Space is unfit for use by Tenant in the ordinary conduct of Tenant's business and actually is not used by Tenant, then Landlord shall provide written notice (the "**Restoration Notice**") to Tenant as soon as practicable after the Casualty of the period of time (the "**Stated Restoration Period**") which shall be required for the repair and restoration of the Building to permit use of the Tenant Space in the ordinary conduct of Tenant's business and Tenant shall have the right, at its election, to terminate this Lease if either (i) the Stated Restoration Period shall be in excess of ninety (90) days following the Casualty and Tenant terminates this Lease with written notice thereof to Landlord within fifteen (15) days following delivery of the Restoration Notice, or (ii) Landlord shall fail within the Stated Restoration Period to complete the repair and restoration of the Building necessary to allow Tenant's use of the Tenant Space in the ordinary conduct of Tenant's business and Tenant delivers written notice of such termination to Landlord within fifteen (15) days following the expiration of the restoration deadline. The foregoing notwithstanding, in the event of a Casualty or Taking that results in the complete destruction (a "**Total Casualty**") or complete condemnation (a "**Total Taking**") of the Building, the Lease shall automatically terminate as of the date of the Total Casualty or the date of the Total Taking.

9.1.2 Base Rent Abatement; Taking Awards. In the event that this Lease is terminated as herein permitted, Landlord shall refund to Tenant any prepaid Base Rent less any sum then owing Landlord by Tenant.

9.1.2.1 Base Rent Abatement. If this Lease is not terminated pursuant to Section 9.1.1 above, Base Rent shall abate proportionately during the period and to the extent that the Tenant Space is unfit for use by Tenant in the ordinary conduct of Tenant's business and to the extent that the Tenant Space is actually is not used by Tenant, this Lease shall continue in full force and effect, and the repairs and/or restorations shall be made within the time periods set forth in Section 9.1.1, subject to Force Majeure.

9.1.2.2 Taking Award Rights. Landlord reserves the right to receive the entirety of the condemning authority's award related to a Taking of any portion of the Property. The foregoing notwithstanding, in the event that this Lease is terminated in connection with any Taking, Landlord expressly permits Tenant to make a separate claim against the condemning authority, in any appropriate proceeding, for the value of Tenant's trade fixtures, equipment or other tangible property, unamortized leasehold improvements or other improvements to the Tenant Space made by Tenant, or at Tenant's expense, which are taken in connection with such Taking, and for Tenant's moving expenses and loss of business related to such Taking, but only if such claim and/or recovery does not reduce the condemnation/taking award otherwise payable to Landlord in connection with such Taking ("**Tenant's Taking Award Rights**"). If any such award made, or compensation paid, to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account therefore to the other.

9.1.3 Tenant's Remedy. Tenant's termination right and Base Rent abatement, to the extent provided above in this Article 9, shall be Tenant's sole remedies in the event of a Casualty or Taking, and Tenant shall not be entitled to any compensation or damages for loss of, or interference with, Tenant's business or use or access of all or any part of the Tenant Space resulting from any such damage, repair, reconstruction or restoration; provided, however, that notwithstanding anything to the contrary herein, if any Casualty is caused by any grossly negligent act or omission or willful misconduct of Tenant or any Tenant Party, Tenant shall not be entitled to terminate this Lease under Section 9.1.1 and there shall be no abatement of any Base Rent (or any other Rent or other amounts) due hereunder.

9.1.4 Waiver. Landlord and Tenant agree that the provisions of this Article 9 and the remaining provisions of this Lease shall exclusively govern the rights and obligations of the parties with respect to any and all damage to, or destruction of, all or any portion of the Tenant Space, the Building or the Property, and/or any Taking thereof, and each Landlord and Tenant hereby waive and release each and all of their respective common law and statutory rights inconsistent herewith, whether now or hereinafter in effect.

9.2 Tenant's Insurance. Tenant shall, at Tenant's expense, procure and maintain throughout the Term of this Lease a policy or policies of insurance in accordance with the terms and requirements set forth in **Exhibit "B"** to this Lease. Tenant hereby waives its rights against the Landlord Group (defined in Item 24 of the Basic Lease Information) with respect to any claims or damages or losses (including any claims for bodily injury to persons and/or damage to property) which are caused by or result from (i) risks insured against under any insurance policies which are required to be obtained and maintained by Tenant under this Lease and that were, in fact, carried by Tenant at the time of such claim, damage, loss or injury, or (ii) risks which would have been covered under any insurance required to be obtained and maintained by Tenant under this Lease had such insurance been obtained and maintained as required. The foregoing waivers shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

9.3 Landlord's Insurance. Landlord shall, at Landlord's expense, procure and maintain throughout the Term of this Lease a policy or policies of insurance (a) insuring the Building and the Property and all of Landlord's equipment and fixtures installed therein against loss due to fire and other casualties included in standard extended coverage insurance policies, in an amount equal to the replacement

cost thereof; and (b) commercial general liability insurance covering bodily injury to or death of any one or more members of the Landlord Group in connection with Landlord's operations on the Property in amounts reasonably required by Landlord's lender(s) or Landlord. For the avoidance of doubt, however, Landlord and Tenant acknowledge and agree that, in no event, shall Landlord be obligated to carry any insurance covering any of Tenant's Personal Property, any Alteration to the Tenant Space made by or on behalf of Tenant, or covering any Tenant Party. All insurance required under this Lease shall be issued by insurers with a "General Policyholders Rating" of at least A-, VIII, as set forth in "Best's Insurance Guide." Such insurers shall be authorized to do business in the state in which the Property is located. Landlord hereby waives its rights against Tenant with respect to any claims or damages or losses for bodily injury to persons and/or for damage to the Building, the Property and/or Landlord's equipment and fixtures, which are caused by or result from (i) risks insured against under any insurance policies which are required to be obtained and maintained by Landlord under this Lease and that were, in fact, carried by Landlord at the time of such claim, damage, loss or injury, or (ii) risks which would have been covered under any insurance required to be obtained and maintained by Landlord under this Lease had such insurance been obtained and maintained as required. The foregoing waivers shall be in addition to, and not a limitation of, any other waivers or releases contained in this Lease.

9.4 Mutual Waiver of Subrogation. The waivers contained in the foregoing Sections 9.2 and 9.3 are intended to waive fully, and for the benefit of Landlord and Tenant, as applicable, any rights and/or claims which might rise to a right of subrogation in favor of any insurance carrier that provides an insurance policy required under this Lease. Tenant and Landlord shall each cause each insurance policy required to be obtained by them per Sections 9.2 and 9.3, respectively, of this Lease to provide that the insurer waives all rights of recovery by way of subrogation against either party in connection with any damage or injury covered by such policy. Neither Landlord or Tenant shall be liable to the other for any damage caused by fire or any of the risks insured against under any insurance policy as required under Section 9.2 and 9.3 of this Lease or which would have been covered by insurance had the applicable party maintained the insurance required to be maintained by that party under the terms of this Lease.

10. ASSIGNMENT AND SUBLETTING.

10.1 Restrictions on Transfers; Landlord's Consent Except for Permitted Transfers (defined in Section 10.1.1) and Permitted Agreements (defined in Section 10.5), Tenant shall not sublease all or any part of the Tenant Space, nor assign this Lease, nor enter into any other agreement (a) permitting a third party (other than Tenant's employees and occasional guests) to occupy or use any portion of the Tenant Space or (b) otherwise assigning, transferring, licensing, mortgaging, pledging, hypothecating, encumbering or permitting a lien to attach to its leasehold interest under this Lease (any such assignment, sublease, license or the like may sometimes be referred to herein as a "**Transfer**" and any person or entity to whom a Transfer is made or sought to be made is referred to herein as a "**Transferee**"), without Landlord's express prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. The term "Transfer" shall also include any sublease or sub-license of whatever tier. Except for Permitted Transfers and Permitted Agreements, no Transfer (whether voluntary, involuntary or by operation of law) shall be valid or effective without Landlord's prior written consent and, at Landlord's election, any Transfer or attempted Transfer shall constitute an Event of Default of this Lease.

10.1.1 Permitted Transfer. Notwithstanding anything to the contrary in this Lease, Tenant shall have the right, with no consent of Landlord being required or necessary (in either event, a "**Permitted Transfer**") (however, Landlord shall be given written notice within thirty days of such Permitted Transfer), to assign or sublet this Lease by operation of law or otherwise to any of the following entities (each a "**Permitted Assignee**"): (i) an affiliate, subsidiary, or parent of Tenant, or a corporation, partnership or other legal entity wholly owned by Tenant (collectively, a "**Tenant Affiliate**"), provided, however, that the Tangible Net Worth (defined below) of such Tenant Affiliate is not less than the Tangible Net Worth of Tenant as of the Effective Date, or (ii) a successor to Tenant by acquisition or merger, or by a consolidation or reorganization pursuant to which Tenant ceases to exist as a legal entity (each such party a "**Successor Party**") and the Tangible Net Worth of the surviving or created entity is not less than the Tangible Net Worth of Tenant as of the Effective Date. As used herein, (A) "parent" shall mean a company which owns a majority of Tenant's voting equity; (B) "subsidiary" shall mean an entity wholly

owned by Tenant or a controlling interest in whose voting equity is owned by Tenant; and (C) "affiliate" shall mean an entity controlled by, controlling or under common control with Tenant. The term "**Tangible Net Worth**" as used herein shall mean the excess of total assets over total liabilities (in each case, determined in accordance with GAAP). Excluded from the determination of total assets are all assets which would be classified as intangible assets under GAAP, including, without limitation, goodwill, licenses, patents, trademarks, trade names, copyrights, and franchises.

10.1.2 **Certain Permitted Financing.** Notwithstanding anything to the contrary in this Lease, the mortgaging, pledging, hypothecating, encumbering or permitting a lien to attach to any of Tenant's Personal Property (in each case, a "**Tenant's Personal Property Financing**") is not a Transfer, and Tenant shall have the right, with no consent of Landlord being required or necessary, to mortgage, pledge, hypothecate, encumber or permit a lien to attach to any of Tenant's Personal Property (other than to its leasehold interest under this Lease), including, without limitation, for equipment financing; provided, however, that Landlord shall not be obligated to permit the secured party in any Tenant's Personal Property Financing to access the Premises for the purposes of removing any of Tenant's Personal Property unless and until such secured party has entered into a reasonably acceptable access agreement with Landlord and Tenant.

10.2 **Notice to Landlord.** If Tenant desires to make any Transfer (other than a Permitted Transfer, for which Tenant must notify Landlord within twenty (20) days after the occurrence of same, or a Permitted Agreement, for which no notice is necessary other than that which is expressly described in Section 10.5, below, but for which all materials described in this Section 10.2 must still be provided contemporaneously with such notice), then at least twenty (20) business days (but no more than one hundred eighty (180) days) prior to the proposed effective date of the proposed Transfer, Tenant shall submit to Landlord a written request (a "**Transfer Notice**") for Landlord's consent, which notice shall include: (i) a statement containing: (a) the name and address of the proposed Transferee; (b) current, certified financial statements of the proposed Transferee, and any other information and materials (including, without limitation, credit reports, business plans, operating history, bank and character references) required by Landlord to assist Landlord in reviewing the financial responsibility, character, and reputation of the proposed Transferee; (c) all of the principal terms of the proposed Transfer; and (d) such other information and materials as Landlord may reasonably request (and if Landlord requests such additional information or materials, the Transfer Notice shall not be deemed to have been received until Landlord receives such additional information or materials) and (ii) four (4) originals of the proposed assignment or other Transfer on a form approved by Landlord and such other Transfer documentation that is executed by Tenant and the proposed Transferee. If Tenant modifies any of the terms and conditions relevant to a proposed Transfer specified in the Transfer Notice, Tenant shall re-submit such Transfer Notice to Landlord for its consent pursuant to all of the terms and conditions of this Article 10.

10.3 **Intentionally Deleted.**

10.4 **No Release; Subsequent Transfers.** No Transfer (whether or not a Permitted Transfer) will release Tenant from Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. In no event shall the acceptance of any payment by Landlord from any other person be deemed to be a waiver by Landlord of any provision hereof. Consent by Landlord to one Transfer will not be deemed consent to any subsequent Transfer. In the event of breach by any Transferee of Tenant or any successor of Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such Transferee or successor. The voluntary or other surrender of this Lease by Tenant or a mutual termination thereof shall not work as a merger and shall, at the option of Landlord, either (i) terminate all and any existing agreements effecting a Transfer, or (ii) operate as an assignment to Landlord of Tenant's interest under any or all such agreements.

10.5 **Colocation.** Additionally, Tenant shall have the right, with no consent of Landlord being required or necessary, to enter into licenses or similar agreements (collectively a "**Permitted Agreement**") with a customer (i.e., a person or entity that has entered into an agreement with Tenant, or an affiliate of Tenant, for the provision of telecommunication, colocation or any similar or successor services from the

Premises (“**Customers**”), consistent with the custom and practice of the telecommunications industry, to “co-locate” such Customers’ telecommunications equipment within the Premises or to otherwise occupy a portion of the Premises and to allow such Customers to avail themselves of the services provided by Tenant from the Premises consistent with the Permitted Use. Any such Permitted Agreement shall be subject and subordinate in all respects to all of the terms of this Lease but shall not require any prior consent or notice to the Landlord; provided, however, that: (a) no Permitted Agreement shall in any way discharge or diminish any of the obligations of Tenant to Landlord under this Lease and Tenant shall remain directly and primarily liable under this Lease; (b) each Permitted Agreement shall be subject to and subordinate to this Lease and to the rights of Landlord hereunder; (c) each Permitted Agreement shall prohibit the Customer from engaging in any activities on the Premises that are not consistent with the Permitted Use; (d) each Permitted Agreement shall have a term which expires on or prior to the expiration date of the term of this Lease (or the expiration of any extension option if Tenant has irrevocably exercised such extension option); (e) Tenant provides a list of such Customers in a format that Landlord may reasonably alter from time-to-time, (f) Tenant pays to Landlord as Additional Rent Landlord’s prevailing fee for each Customer (the “**Access Card Fee**”) for the purpose of providing the Customer with access to the Premises, which Access Card Fee, as of the date of this Lease, is \$0.00 per access card for the first (1st) access card issued to a Customer, and \$35 per access card for every subsequent access card issued to the same Customer, and is subject to increases from time-to-time during the Term of this Lease; provided, however, in the event that Tenant elects to install Tenant’s Security System at the Premises, the Access Card Fee shall not apply following the completion of such installation, and (g) the Customer’s license of a portion of the Premises may not violate the terms of this Lease or any Applicable Laws. The Customer shall comply with all Applicable Laws and the Datacenter Rules and Regulations. The Permitted Agreements and the Customers’ rights thereunder shall be subject and subordinate at all times to the Lease and all of its provisions, covenants and conditions. **Anything to the contrary contained herein notwithstanding, Landlord and Tenant acknowledge and agree that Permitted Agreements shall not constitute, or be deemed to be, the grant of a leasehold interest or otherwise constitute, or be deemed to be, a real property interest.**

11. ESTOPPEL CERTIFICATES

11.1 **Estoppel Certificate by Tenant.** At any time and from time to time, within ten (10) days after written request by Landlord, Tenant shall execute, acknowledge and deliver to Landlord a statement in writing certifying all matters reasonably requested by Landlord or any current or prospective purchaser, Holder of any Security Document, ground lessor or master lessor. Tenant acknowledges and agrees that it understands that any statement delivered (or to be delivered) pursuant to this Article 11 may be relied upon by any prospective purchaser of the Building or the Property or by any prospective mortgagee, ground lessor or other like encumbrancer thereof or any assignee of any such encumbrance upon the Building or the Property.

11.2 **Estoppel Certificate by Landlord.** At any time and from time to time, within ten (10) days after written request by Tenant, Landlord shall execute, acknowledge and deliver to Tenant a statement in writing certifying all matters reasonably requested by Tenant or any current or prospective transferee, or purchaser of Tenant or any current or prospective lender to Tenant or transferee, including without limitation the nature of known defaults by Tenant under the Lease, if any. Landlord acknowledges and agrees that it understands that any statement delivered (or to be delivered) pursuant to this Article 11 may be relied upon by any current or prospective transferee, or purchaser of Tenant, or any current or prospective lender to Tenant or transferee.

12. SUBORDINATION AND ATTORNMENT; LENDER RIGHTS.

12.1 **Subordination and Attornment.** Without the necessity of any additional document being executed by Tenant for the purpose of effecting a subordination, and at the election of Landlord or any mortgagee or beneficiary with a mortgage or deed of trust encumbering the Property or any portion thereof, or any lessor of a ground or underlying lease with respect to the Property or any portion thereof (any such mortgagee, beneficiary or lessor, a “**Holder**”), this Lease will be subject and subordinate at all times to: (i) all ground leases or underlying leases which may now exist or hereafter be executed affecting

the Property; (ii) the lien of any mortgage, deed or deed of trust which may now exist or hereafter be executed affecting the Property or any portion thereof; (iii) all past and future advances made under any such mortgages, deeds or deeds of trust; and (iv) all renewals, modifications, replacements and extensions of any such ground leases, master leases, mortgages, deed and deeds of trust (collectively, "**Security Documents**") which may now exist or hereafter be executed which constitute a lien upon or affect the Property or any portion thereof, or Landlord's interest and estate in any of said items, subject to the terms of Section 12.3, below; provided, however, as a condition to Tenant's agreement hereunder to subordinate Tenant's interest in this Lease to any future Security Document not effective as of the Effective Date of this Agreement, Landlord shall obtain from the applicable Lender a subordination, non-disturbance and attornment agreement in recordable form that is reasonably acceptable to Tenant (any such agreement, an "**SNDA**"). Notwithstanding the foregoing, Landlord reserves the right to subordinate any such Security Documents to this Lease. In the event of any termination or transfer of Landlord's estate or interest in the Property, the Building or the Tenant Space by reason of any termination or foreclosure of any such Security Documents (and notwithstanding any subordination of such Security Document to this Lease that may or may not have occurred), at the election of Landlord's successor in interest, Tenant agrees to attorn to and become the tenant of such successor, in which event Tenant's right to possession of the Property will not be disturbed as long as Tenant is not in default under this Lease. Tenant hereby waives any right under any Applicable Law or otherwise to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any termination or transfer of Landlord's estate or interest in the Property, the Building or the Tenant Space by reason of any termination or foreclosure of any such Security Documents.

12.1.1 Landlord hereby represents and warrants that as of the Effective Date, the Property is not encumbered by a mortgage, deed of trust or other Security Document.

12.2 Mortgagee and Ground Lessor Protection. Tenant agrees to give each Holder, by registered or certified mail, or by overnight courier, a copy of any notice of default served upon the Landlord by Tenant, provided that prior to such notice Tenant has been notified in writing of the address of such Holder (hereafter, a "**Noticed Holder**"). Tenant further agrees that prior to Tenant pursuing any remedy for such default provided hereunder, at law or in equity, any Noticed Holder shall have the same time periods (i.e., within Landlord's time periods) set forth in this Lease, or as otherwise set forth in the SNDA, for which to cure or correct such default.

12.3 SNDA. At any time that the Building is made subject to any Security Document(s) (including, without limitation, prior to the date hereof), Landlord shall use commercially reasonable good faith efforts to cause the mortgagee and any lessor (whether under a ground or master lease) to deliver to Tenant an SNDA, providing in part that so long as Tenant is not in default under this Lease after the expiration of any applicable notice and cure periods, Tenant may remain in possession of the Tenant Space under the terms of this Lease, even if the mortgagee or its successor should acquire Landlord's title to the Building. The foregoing obligation shall apply if the Building is currently subject to any Security Document(s), and Landlord shall use commercially reasonable efforts to cause the mortgagee and any lessor (whether under a ground or master lease) to deliver to Tenant an SNDA prior to the Commencement Date. Notwithstanding anything herein to the contrary, the subordination of this Lease to any Security Document hereafter placed upon the Building and Tenant's agreement to attorn to the Holder as provided in this Section 12 shall be conditioned upon the Holder entering into an SNDA. Tenant covenants and agrees to execute and deliver, within ten (10) days of receipt thereof, an SNDA.

13. SURRENDER OF TENANT SPACE; HOLDING OVER.

13.1 Tenant's Method of Surrender. Upon the expiration of the Term of this Lease, or upon any earlier termination of this Lease or the termination of Tenant's right to possess the Tenant Space, Tenant shall, subject to the provisions of this Article 13 and Section 8.4, quit and surrender possession of the Tenant Space to Landlord in good working order and clean condition, reasonable ordinary wear and tear, and damages by Casualty and Taking excepted.

13.2 Disposal of Tenant's Personal Property. If any property not belonging to Landlord remains in the Tenant Space after the expiration of or within fifteen (15) days after any earlier termination of the Term of this Lease or the termination of Tenant's right to possess the Tenant Space, Tenant shall be deemed to have abandoned such property and to have authorized Landlord to make such disposition of such property as Landlord may desire without liability for compensation or damages to Tenant in the event that such property is the property of Tenant; and in the event that such property is the property of someone other than Tenant, Tenant shall indemnify and hold the Landlord Group harmless from all Claims arising out of, in connection with, or in any manner related to any removal, exercise or dominion over and/or disposition of such property by Landlord.

13.3 Holding Over. If Tenant should remain in possession of all or any portion of the Tenant Space after the expiration of the Term of this Lease (or any earlier termination of this Lease or the termination of Tenant's right to possess the Tenant Space), without the execution by Landlord and Tenant of a new lease or an extension of the Term of this Lease, then Tenant shall be deemed to be occupying the entire Tenant Space as a tenant-at-sufferance, upon all of the terms contained herein, except as to term and Base Rent and any other provision reasonably determined by Landlord to be inapplicable. During any such holdover period, Tenant shall pay to Landlord a monthly Base Rent in an amount equal to one hundred fifty percent (150%) of the Base Rent and Additional Rent payable by Tenant to Landlord during the last month of the Term of this Lease. The monthly rent payable for such holdover period shall in no event be construed as a penalty or as liquidated damages for such retention of possession, nor shall such monthly rent be considered to be any form of consequential or special damages related to such retention of possession. Neither any provision hereof nor any acceptance by Landlord of any rent after any such expiration or earlier termination shall be deemed a consent to any holdover hereunder or result in a renewal of this Lease or an extension of the Term, or any waiver of any of Landlord's rights or remedies with respect to such holdover. Notwithstanding any provision to the contrary contained herein, Landlord expressly reserves the right to require Tenant to surrender possession of the Tenant Space upon the expiration of the Term of this Lease or upon the earlier termination hereof or at any time during any holdover and the right to assert any remedy at law or in equity to evict Tenant and collect damages in connection with any such holdover.

13.4 Survival. The provisions of this Article 13 shall survive the expiration or early termination of this Lease.

14. WAIVER OF CLAIMS; INDEMNITY.

14.1 Waiver. To the fullest extent permitted by law, Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of, and waives all claims it may have against the Landlord Group (as defined in the Basic Lease Information) for damage to or loss of property (including, without limitation, consequential damages, loss of profits and intangible property) or personal injury or loss of life or other damages of any kind resulting from the Property, the Building or the Tenant Space or any part thereof becoming out of repair, by reason of any repair or alteration thereof, or resulting from any accident within the Property, the Building or the Tenant Space or on or about any space adjoining the same, or resulting directly or indirectly from any act or omission of any person, or due to any condition, design or defect of the Property, the Building or the Tenant Space, or any space adjoining the same, or the mechanical systems of the Building, which may exist or occur, whether such damage, loss or injury results from conditions arising upon the Tenant Space or upon other portions of the Building, or from other sources or places, and regardless of whether the cause of such damage, loss or injury or the means of repairing the same is accessible to Tenant; provided, however, that, subject to Section 9.2 and Section 14.3, such assumption and waiver shall not apply to the extent such claims are caused by the gross negligence or willful misconduct of Landlord or any other member of the Landlord Group. Except to the extent cause caused by the gross negligence or willful misconduct of Landlord or any other member of the Landlord Group, Tenant further waives any claim for damages for any injury to Tenant's business or inconvenience to, or interference with, Tenant's business, any loss of occupancy or quiet enjoyment of the Tenant Space or any other loss occasioned by Landlord's entry under the terms of Section 17.16, below. Tenant agrees that Landlord will not have any responsibility or liability for any damage to Tenant's equipment or interruption of Tenant's operations (unless such interruption amounts to an Interruption of Landlord's

Services, in which case, the terms of Section 7.3.2 shall have effect with regard to any abatement of Base Rent that would be due to Tenant in connection therewith) which is caused by any other tenant or occupant of the Building or the Property or the employees, agents, contractors, technicians, representatives, customers, co-locators or invitees of any such tenant or occupant.

14.2 Indemnification.

14.2.1 Subject to the terms of Sections 9.3 and 9.4 above, and except to the extent caused by the active negligence (defined below), gross negligence or willful misconduct of Landlord or any other member of the Landlord Group, as determined by a court of competent jurisdiction, Tenant hereby agrees to indemnify, defend, and hold harmless Landlord and the Landlord Group from and against (and to reimburse Landlord and the Landlord Group for) any and all claims, actions, suits, proceedings, losses, damages, obligations, liabilities, penalties, fines, costs and expenses (including, without limitation, reasonable attorneys' fees, legal costs, and other reasonable costs and expenses of defending against any claims, actions, suits, or proceedings) (collectively, "**Claims**") arising from, in connection with, or in any manner relating to (or alleged to arise from, to be in connection with, or to be in any manner related to): (i) the use or occupancy of the Tenant Space or any portion of the Building or the Property by (A) Tenant or any person claiming by, through or under Tenant or any other Tenant Party*, or (B) any Customer or any person claiming by, through or under any Customer, its partners, and their respective officers, agents, servants or employees of Tenant or any such person (collectively, the "**Colocating Parties**"); (ii) the gross negligence or willful misconduct of Tenant or any Tenant Parties with respect to the Tenant Space, the Building or the Property, (iii) the acts or omissions of any Customer or any Colocating Parties; (iv) any malfunctioning of Tenant's Security System, (v) Tenant's failure to surrender the Tenant Space upon the expiration or any earlier termination of this Lease or the termination of Tenant's right to possess the Tenant Space in accordance with the terms of this Lease (including, without limitation, costs and expenses incurred by Landlord in returning the Tenant Space to the condition in which Tenant was to surrender and Claims made by any succeeding tenant founded on or resulting from Tenant's failure to surrender the Tenant Space); and (vi) any Permitted Agreement. In the event that any action or proceeding is brought against Landlord or any member of the Landlord Group by reason of any such Claim, Tenant upon notice from Landlord shall defend such action or proceeding at Tenant's cost and expense by counsel reasonably approved by Landlord. Tenant's obligations under this Section 14.2 shall survive the expiration or termination of this Lease as to any matters arising prior to such expiration or termination or prior to Tenant's vacation of the Tenant Space and the Building. Notwithstanding any provision to the contrary contained in this Section 14.2, nothing contained in this Section 14.2 shall be interpreted or used in any way to affect, limit, reduce or abrogate any insurance coverage provided by any insurer to either Tenant or Landlord. This indemnity provision shall survive the termination or expiration of this Lease. *For the purposes of this Section 14.2.1 and Section 14.2.2, below, the term "active negligence" shall mean and refer to a negligent act in which the party at fault has personally participated and which constitutes the violation of a duty expressly provided by this Lease.*

* For the avoidance of doubt, Landlord and Tenant hereby agree that the indemnification contained in (i) above applies to Claims (a) by, through or related to any third (3rd) party who owns or holds any ownership interest (including lien rights) in any item or portion of Tenant's Personal Property; and (b) by Tenant or any other Tenant Party (or any individual accessing the Tenant Space on any Tenant Party's behalf) for bodily injury occurring in, on or around the Tenant Space, the Building or otherwise on or at the Property.

14.2.2 Subject to the terms of Sections 9.2 and 9.4 above, and except to the extent caused by the active negligence, gross negligence or willful misconduct of Tenant, as determined by a court of competent jurisdiction, Landlord hereby agrees to indemnify, defend, and hold harmless Tenant and the Tenant Group from and against (and to reimburse Tenant and the Tenant Group for) any and all Claims arising from, in connection with, or in any manner relating to (or alleged to arise from, to be in connection with, or to be in any manner related to) the gross negligence or willful misconduct of Landlord or any other member of the Landlord Group with respect to the Tenant Space, the Building or the Property. In the event that any action or proceeding is brought against Tenant or any of the Tenant Group by reason of any such Claim, Landlord upon notice from Tenant shall defend such action or proceeding at Landlord's cost and

expense by counsel reasonably approved by Tenant. Landlord's obligations under this Section 14.2 shall survive the expiration or termination of this Lease as to any matters arising prior to such expiration or termination or prior to Tenant's vacation of the Tenant Space and the Building. Notwithstanding any provision to the contrary contained in this Section 14.2, nothing contained in this Section 14.2 shall be interpreted or used in any way to affect, limit, reduce or abrogate any insurance coverage provided by any insurer to either Tenant or Landlord. This indemnity provision shall survive the termination or expiration of this Lease.

14.3 Consequential Damages. Except for the indemnification obligations expressly set forth in Section 13.3 and this Section 14.3, under no circumstances whatsoever shall Landlord or Tenant ever be liable under this Lease for consequential damages, incidental damages, indirect damages, or special damages, or for loss of profit, loss of business opportunity or loss of income. The foregoing notwithstanding, with regard to each customer or other person or entity to which Tenant, any Tenant Affiliate, or any Transferee provides goods or services, which are in any way related to or associated with the use of the Tenant Space, including, but not limited to, those (now or hereafter) conducting transactions or other operations by or through or in connection with equipment located within the Tenant Space (collectively, "**Tenant Space Customers**"), Tenant hereby agrees, except to the extent caused by the gross negligence or willful misconduct of Landlord or any other member of the Landlord Group, to indemnify and hold Landlord and the other members of the Landlord Group harmless with regard to (and to reimburse Landlord and any other members of the Landlord Group for) any and all claims by, through, or under any Tenant Space Customer which are related to the use of the Tenant Space or equipment located within the Tenant Space, for, or with regard to, any and all types of consequential damages, incidental damages, indirect damages, or special damages, or for loss of profit, loss of business opportunity or loss of income related to any use of the Tenant Space or equipment located within the Tenant Space.

14.4 Liens. Notwithstanding anything to the contrary herein, in no event shall Tenant have any right (express or implied) to create or permit there to be established any lien or encumbrance of any nature against the Tenant Space, the Building or the Property or against Landlord's or Tenant's interest therein or hereunder, including, without limitation, for any improvement or improvements by Tenant, and Tenant shall fully pay the cost of any improvement or improvements made or contracted for by Tenant. Tenant shall require each contractor which it engages to perform any improvements or alterations within the Tenant Space or elsewhere in the Building or the Property, to acknowledge and agree in writing that it is performing its work under its agreement with Tenant solely for the benefit of Tenant and that Tenant is not acting as Landlord's agent. Any mechanic's lien filed against the Tenant Space, the Building or the Property, or any portion of any of the above, for work claimed to have been done, or materials claimed to have been furnished to Tenant, shall be duly discharged or bonded by Tenant within ten (10) days after the filing of the lien.

15. TENANT DEFAULT.

15.1 Events of Default By Tenant. Each of the following acts or omissions of Tenant or occurrences shall constitute an "**Event of Default**":

15.1.1 Any failure or refusal by Tenant to timely pay any Rent or any other payments or charges required to be paid hereunder, or any portion thereof, within five (5) days of notice that the same is delinquent.

15.1.2 Any failure by Tenant to perform or observe any other covenant or condition of this Lease (including, without limitation, in the Datacenter Rules and Regulations) to be performed or observed by Tenant (other than those described in Section 15.1.1, above or Sections 15.1.3, 15.1.4, or 15.1.5, below) if such failure continues for a period of thirty (30) days following written notice to Tenant of such failure; provided, however, that in the event Tenant's failure to perform or observe any covenant or condition of this Lease to be performed or observed by Tenant cannot reasonably be cured within thirty (30) days following written notice to Tenant, Tenant shall not be in default if Tenant commences to cure same within ten (10) days following receipt of such written notice and thereafter diligently prosecutes the curing thereof to completion within sixty (60) days following such written notice.

15.1.3 The filing or execution or occurrence of any one of the following: (i) a petition in bankruptcy or other insolvency proceeding by or against Tenant, (ii) a petition or answer seeking relief under any provision of the Bankruptcy Act, (iii) an assignment for the benefit of creditors, (iv) a petition or other proceeding by or against Tenant for the appointment of a trustee, receiver or liquidator of Tenant or any of Tenant's property, or (v) a proceeding by any governmental authority for the dissolution or liquidation of Tenant or any other instance whereby Tenant or any general partner of Tenant shall cease doing business as a going concern; provided, however, in each of the foregoing subsections, such order, judgment or decree (entered as a result of a petition or proceeding) shall remain undischarged or unstayed sixty (60) days after it is entered.

15.1.4 Any failure by Tenant to execute and deliver any statement or document described in either Article 11 or Section 12.1 requested to be so executed and delivered by Landlord within the time periods specified therein applicable thereto, where such failure continues for five (5) days after delivery of written notice of such failure by Landlord to Tenant.

15.1.5 Intentionally deleted.

The parties hereto acknowledge and agree that all of the notice periods provided in this Section 15.1 are in lieu of, and not in addition to, the notice requirements of any Applicable Laws.

15.2 **Remedies.** Upon the occurrence of any Event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the option to pursue any one or more of the remedies described in Section 1 of **Exhibit "D"** attached hereto and incorporated herein by this reference, each and all of which shall, subject to applicable law, be cumulative and nonexclusive, without any notice or demand whatsoever (and all of the other provisions of Section 1 of **Exhibit "D"** shall apply to an Event of Default by Tenant hereunder).

16. LIMITATION OF LANDLORD'S LIABILITY.

16.1 **Landlord Default.** In the event that Landlord shall fail to perform any obligation of Landlord to be performed under this Lease, except as otherwise provided in Sections 7.3.2, 7.3.3 and 7.3.4, above, Tenant's sole and exclusive remedies for any such failure shall be an action for money damages, specific performance and/or injunctive relief (Tenant hereby waiving the benefit of any laws granting Tenant a lien upon the property of Landlord and/or upon rental due to Landlord or granting Tenant a right to terminate this Lease upon a default by Landlord); provided, however, that Landlord shall not be in default hereunder (and Tenant shall have no right to pursue any such claim for damages in connection with any such failure) unless and until Tenant shall have delivered to Landlord a written notice specifying such default with particularity, and Landlord shall thereafter have failed to cure such default within thirty (30) days (or, if the nature of Landlord's obligation is such that more than thirty (30) days are reasonably required for its performance, then not unless Landlord shall have failed to commence such performance of such cure within such thirty (30) day period and thereafter diligently pursue the same to completion within sixty (60) days). In the event Landlord's failure to perform an obligation of Landlord to be performed under this Lease materially adversely affects Tenant's use of the Tenant Space for the Permitted Use, Landlord shall commence to cure such default within ten (10) business days following receipt of written notice from Tenant of such default, and in the event of an emergency, shall commence to cure such default within twenty-four (24) hours following receipt of written notice from Tenant of such default, and shall diligently pursue the curing thereof to completion. Unless and until Landlord shall have so failed to so cure any such failure after such notice, Tenant shall not have any remedy or cause of action by reason thereof, except as otherwise provided in Sections 7.3.2, 7.3.3 and 7.3.4, above. Except as expressly set forth in this Lease, in no event shall Tenant have the right to terminate the Lease nor shall Tenant's obligation to pay Base Rent or other charges under this Lease abate based upon any default by Landlord of its obligations under the Lease.

16.2 **Landlord's Liability.** In consideration of the benefits accruing under this Lease to Tenant and notwithstanding anything to the contrary in this Lease or in any exhibits, riders, amendments, or addenda to this Lease (collectively, the "**Lease Documents**"), it is expressly understood and agreed by and

between the parties to this Lease that: (i) the recourse of Tenant or its successors or assigns against Landlord (and the liability of Landlord to Tenant, its successors and assigns) with respect to (a) any actual or alleged breach or breaches by or on the part of Landlord of any representation, warranty, covenant, undertaking or agreement contained in any of the Lease Documents, or (b) any matter relating to Tenant's occupancy of the Tenant Space (collectively, the "**Landlord's Lease Undertakings**"), shall be limited solely to an aggregate amount of Landlord's interest in the Property not to exceed \$50,000,000.00 ("**Landlord's Liability Cap**"); (ii) other than Landlord's interest in the Property, Tenant shall have no recourse against any other assets of the Landlord Group (as defined in the Basic Lease Information); (iii) except to the extent of Landlord's interest in the Property, no personal liability or personal responsibility of any sort with respect to any of Landlord's Lease Undertakings or any alleged breach thereof is assumed by, or shall at any time be asserted or enforceable against, the Landlord Group, and (iv) at no time shall Landlord be responsible or liable to Tenant or any Tenant Party for any lost profits, lost economic opportunities or any form of consequential damages as the result of any actual or alleged breach by Landlord of Landlord's Lease Undertakings.

16.3 Transfer of Landlord's Interest. Landlord shall have the right, from time to time, to assign its interest in this Lease in whole or, to a wholly owned subsidiary, in part. Notwithstanding the foregoing, in connection with any assignment in part to a wholly-owned subsidiary, (i) Landlord shall provide a written notice to Tenant specifying the rights and obligations so assigned and (ii) Landlord shall guaranty the performance of the obligations assigned to such wholly-owned subsidiary; provided, however, Landlord's maximum liability under such guaranty shall not exceed the maximum liability it would have had under this Lease if such obligations had not been assigned. Landlord, and each successor to Landlord, shall be fully released from the performance of Landlord's obligations under the Lease Documents arising after the date of such transfer of Landlord's interest in the Property to a third party. Landlord shall not be liable for any obligation under the Lease Documents arising after the date of such transfer of its interest in the Property, and Tenant agrees to look solely to the successor in interest of Landlord in and to this Lease for all obligations and liabilities accruing on or after the date of such transfer. If any security has been given by Tenant to secure the faithful performance of any of the covenants of this Lease, Landlord may transfer or deliver said security, as such, to Landlord's successor in interest and thereupon Landlord shall be discharged from any further liability with regard to said security.

17. MISCELLANEOUS.

17.1 Severability. If any term or other provision of this Lease is determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any legal requirement, all other terms and provisions of this Lease shall nevertheless remain in full force and effect. Upon such determination by a court of competent jurisdiction that any term or other provision is invalid, illegal or incapable of being enforced, Landlord and Tenant shall negotiate in good faith a new provision, to replace the invalid, illegal or unenforceable provision, that, as far as legally possible, (a) most nearly reflects the intent of Landlord and Tenant, (b) restores this Lease as closely as possible to its original intent and effect, and (c) results in the economic and legal substances of the transactions contemplated hereby not being affected in any manner materially adverse to Landlord or Tenant.

17.2 Performance; No Waiver. The covenants and obligations of Tenant and Landlord pursuant to this Lease shall be independent of performance by the other of its covenants and obligations pursuant to this Lease. No failure or delay by either Tenant or Landlord to insist on the strict performance of any obligation, covenant, agreement, term or condition of this Lease, or to exercise any right or remedy available upon such non-performance, will constitute a waiver, and no breach or failure by such party to perform will be waived, altered or modified, except by written instrument signed by such party against whom enforcement is sought.

17.3 Attorneys' Fees and Costs. If either Landlord or Tenant initiates any litigation, mediation, arbitration or other proceeding regarding the enforcement, construction or interpretation of this Lease, then the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees and costs (including, without limitation, all expense reimbursements, expert witness fees and litigation costs). In addition, if it should otherwise be necessary or proper for Landlord to consult an attorney concerning this

Lease for the review of instruments evidencing a proposed Transfer or for the purpose of collecting Rent, Tenant agrees to pay to Landlord its reasonable attorneys' fees whether suit be brought or not to the extent such fees exceed \$1,000.00. The parties further agree that their agreement and associated obligation to pay any such attorneys' fees shall survive the expiration or termination of this Lease.

17.4 Waiver of Right to Jury Trial. IN ORDER TO LIMIT THE COST OF RESOLVING ANY DISPUTES BETWEEN THE PARTIES, AND AS A MATERIAL INDUCEMENT TO EACH PARTY TO ENTER INTO THIS LEASE, TO THE FULLEST EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH EXPRESSLY WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY TRIAL HELD AS A RESULT OF A CLAIM ARISING OUT OF, IN CONNECTION WITH, OR IN ANY MANNER RELATED TO THIS LEASE IN WHICH LANDLORD AND TENANT ARE ADVERSE PARTIES. THE FILING OF A CROSS-COMPLAINT BY ONE AGAINST THE OTHER IS SUFFICIENT TO MAKE THE PARTIES "ADVERSE."

17.5 Headings; Time; Survival. The headings of the Articles, Sections and Exhibits of this Lease are for convenience only and do not define, limit or construe the contents thereof. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. Each of the parties hereto acknowledges that it has read and reviewed this Lease and that it has had the opportunity to confer with counsel in the negotiation of this Lease. Accordingly, this Lease shall be construed neither for nor against Landlord or Tenant, but shall be given a fair and reasonable interpretation in accordance with the meaning of its terms and the intent of the parties. In all instances where Tenant is required to pay any sum or do any act at a particular indicated time or within an indicated period, it is understood that time is of the essence. Any obligations of Tenant accruing prior to the expiration or termination of this Lease shall survive the expiration or termination of this Lease, and Tenant shall promptly perform all such obligations whether or not this Lease has expired.

17.6 Notices. Any notice which may or shall be given under the provisions of this Lease shall be in writing and may be delivered by (i) hand delivery or personal service, (ii) a reputable overnight courier service which provides evidence of delivery, (iii) facsimile (so long as a confirming copy is forwarded by a reputable overnight courier service within twenty-four (24) hours thereafter), or (iv) email (so long as a confirming copy is forwarded by a reputable overnight courier service within twenty-four (24) hours thereafter), if for Landlord, to the Building office and at the address specified in Item 16 of the Basic Lease Information, or if for Tenant, at the address specified in Item 3 of the Basic Lease Information, or at such other addresses as either party may have theretofore specified by written notice delivered in accordance herewith. Such address may be changed from time to time by either party by giving notice as provided herein. Notice shall be deemed given, (a) when delivered (if delivered by hand or personal service), (b) if sent by a reputable overnight courier service, on the business day immediately following the business day on which it was sent, (c) the date the facsimile is transmitted, or (d) the date the e-mail is transmitted.

17.7 Governing Law; No Counterclaim; Jurisdiction. This Lease shall be governed by, and construed in accordance with, the laws of the state in which the Property is located. In addition, each of Landlord and Tenant hereby submits to local jurisdiction in the state in which the Property is located and agrees that any action by one against the other shall be instituted in the state in which the Property is located and that each shall have personal jurisdiction over the other for any action brought by one against the other in the state in which the Property is located.

17.8 Incorporation; Amendment; Merger. This Lease, along with any exhibits and attachments or other documents referred to herein, all of which are hereby incorporated into this Lease by this reference, constitutes the entire and exclusive agreement between Landlord and Tenant relating to the Tenant Space, and each of the aforementioned documents may be altered, amended or revoked only by an instrument in writing signed by the party to be charged thereby. All prior or contemporaneous oral or written agreements, understandings and/or practices relative to the leasing or use of the Tenant Space are merged herein or revoked hereby. For the avoidance of doubt, Landlord and Tenant hereby agree that (i) this Lease relates exclusively to the Tenant Space, and (ii) the provisions herein do not supersede the terms of any other agreement between Landlord and Tenant related to matters other than the Tenant Space.

17.9 **Brokers.** Each party hereto represents to the other that the representing party has not engaged, dealt with or been represented by any broker in connection with this Lease other than the brokers specified in Item 18 of the Basic Lease Information. Landlord and Tenant shall each indemnify, defend (with legal counsel reasonably acceptable to the other) and hold harmless the other party from and against all Claims (including attorneys' fees and all litigation expenses) related to any claim made by any other person or entity for any commission or other compensation in connection with the execution of this Lease or the leasing of the Tenant Space to Tenant if based on an allegation that claimant dealt through the indemnifying party. The provisions of this Section 17.9 shall survive the termination of this Lease.

17.10 **Examination of Lease.** This Lease shall not be binding or effective until each of the parties hereto have executed and delivered an original or counterpart hereof to each other.

17.11 **Recordation.** Neither Tenant nor any person or entity acting through, under or on behalf of Tenant shall record or cause the recordation of this Lease, a short form memorandum of this Lease or any reference to this Lease.

17.12 **Authority.** Each of Landlord and Tenant represents to the other party that the person executing this Lease on its behalf is duly authorized to execute and deliver this Lease pursuant to its respective by-laws, operating agreement, resolution or other legally sufficient authority. Further, each party represents to the other party that (i) if it is a partnership, the undersigned are all of its general partners, (ii) it has been validly formed or incorporated, (iii) it is duly qualified to do business in the state in which the Property is located, and (iv) this Lease is being executed on its behalf and for its benefit.

17.13 **Successors and Assigns.** Except as otherwise provided in this Lease, all of the covenants, conditions and provisions of this Lease shall be binding upon, and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives and permitted successors and assigns.

17.14 **Force Majeure.** A party shall incur no liability to the other party with respect to, and shall not be responsible for any failure to perform, any of its obligations hereunder (other than payment obligations or obligations that may be cured by the payment of money (e.g., maintaining insurance)) if such failure is caused by any reason beyond the reasonable control of the party obligated to perform such obligations, including, but not limited to, strike, labor trouble, governmental rule, regulations, ordinance, statute or interpretation, or by fire, earthquake, civil commotion, or failure or disruption of utility services (collectively, "**Force Majeure**"). The amount of time for a party to perform any of its obligations (other than payment obligations) shall be extended by the amount of time it is delayed in performing such obligation by reason of any Force Majeure occurrence whether similar to or different from the foregoing types of occurrences.

17.15 **No Partnership or Joint Venture; No Third Party Beneficiaries** Nothing contained in this Lease shall be deemed or construed to create the relationship of principal and agent, or partnership, or joint venturer, or any other relationship between Landlord and Tenant other than landlord and tenant. Landlord shall have no obligations hereunder to any person or entity other than Tenant, and no other parties shall have any rights hereunder as against Landlord.

17.16 **Access by Landlord.** Landlord, Landlord's agents and employees shall have the right to enter upon any and all parts of the Tenant Space at any reasonable time upon prior reasonable oral or written notice (except in the case of an emergency when no prior notice shall be required, but Landlord shall use commercially reasonable efforts to give prior notice to Tenant and be accompanied by a representative of Tenant) to examine the condition thereof, to clean, to make any repairs, alterations or additions required to be made by Landlord hereunder, to show the Tenant Space to prospective purchasers or prospective tenants (but only to such prospective tenants during the last year of the Term of the Lease) or mortgage lenders (prospective or current), to determine whether Tenant is complying with all of its obligations under this Lease, to exercise any of Landlord's rights or remedies hereunder and for any other

purpose deemed reasonable by Landlord (and in any event, Landlord's representative shall be allowed to accompany Tenant during any such access). In connection with Landlord's rights hereunder, Landlord shall at all times have and retain a key with which to unlock all of the doors in, on or about the Tenant Space, and Landlord shall have the right to use any and all means by which Landlord may deem proper to open such doors to obtain entry to the Tenant Space. Notwithstanding anything herein to the contrary, Landlord shall use reasonable efforts to minimize disruption of Tenant's business or occupancy during such entries.

17.17 Rights Reserved by Landlord. Landlord reserves the following rights exercisable without notice (except as otherwise expressly provided to the contrary in this Lease) and without being deemed an eviction or disturbance of Tenant's use or possession of the Tenant Space or giving rise to any claim for set-off or abatement of Rent: (i) to change the name or street address of the Building and/or the Property; (ii) to install, affix and maintain all signs on the exterior and/or interior of the Building and/or the Property (but not within the Premises); (iii) subject to the terms of Section 17.16, to display the Tenant Space, the Building and/or the Property to mortgagees, prospective mortgagees, prospective purchasers and ground lessors, and prospective lessees at reasonable hours (but only to such prospective lessees during the last year of the Term of this Lease); (iv) to change the arrangement of entrances, doors, corridors, elevators and/or stairs in the Building and/or the Property; (v) to install, operate and maintain systems which monitor, by closed circuit television or otherwise, all persons entering or leaving the Building and/or the Property; (vi) to maintain and replace pipes, ducts, conduits, wires and structural elements located in the Tenant Space and which serve other parts or other tenants or occupants of the Building and/or Property (subject to Section 8.1, above); (vii) to retain at all times master keys or pass keys to the Tenant Space; (viii) the exclusive right to create any additional improvements to structural and/or mechanical systems, interior and exterior walls and/or glass, which Landlord deems necessary without the prior consent of Tenant; and (ix) the absolute right to lease space in the Building and the Property and to create such other tenancies in the Building and the Property as Landlord, in its sole business judgment, shall determine is in the best interests of the Property (and Landlord does not represent and Tenant does not rely upon any specific type or number of tenants occupying any space in the Building and the Property during the Term of this Lease. In any event, Landlord shall exercise its rights under this Section 17.17 so as not to materially impair Tenant's access to or use of the Tenant Space.

17.18 Counterparts; Execution by Facsimile. This Lease may be executed simultaneously in two or more counterparts each of which shall be deemed an original, but all of which shall constitute one and the same Lease. Landlord and Tenant agree that the delivery of an executed copy of this Lease by facsimile shall be legal and binding and shall have the same full force and effect as if an original executed copy of this Lease had been delivered.

17.19 Confidentiality. Each party agrees that (i) the terms and provisions of this Lease are confidential and constitute proprietary information of the parties and (ii) it shall not disclose, and it shall cause its partners, officers, directors, shareholders, employees, brokers and attorneys to not disclose any term or provision of this Lease to any other person without first obtaining the prior written consent of the other party, except that each party shall have the right to disclose such information for valid business, legal and accounting purposes and/or if advisable under any applicable securities laws regarding public disclosure of business information. The foregoing notwithstanding, each of Tenant and Landlord reserves the right to post a press release or press releases (in the form reasonably approved by the other), that discloses the fact that Landlord and Tenant have entered into a lease; provided that same does not disclose the location, economics or square footage related hereto. Any references in such press release or press releases, in excess of the fact that Landlord and Tenant have entered into a lease, require approval by Tenant, which Tenant may withhold in its sole and absolute discretion.

17.20 Incorporation of Exhibits. All of the terms and conditions of all of the Exhibits to this Lease are hereby incorporated into this Lease.

17.21 Financial Statements. Within thirty (30) days after Landlord's written request therefor, such request to be made only in the event that any actual or prospective lender, mortgagee or purchaser of the Building has required same, Tenant must deliver to Landlord audited annual financial statements of

Tenant for the two (2) fiscal years immediately preceding Landlord's request, a balance sheet and profit and loss statement, all prepared in accordance with generally accepted accounting principles consistently applied (collectively, Tenant's "**Financial Statements**"). If Tenant does not then have its Financial Statements audited, Tenant must forward unaudited Financial Statements certified by Tenant's chief financial officer as true, complete and correct in all material respects. Tenant's failure to timely comply with this Section 17.21 shall be an Event of Default hereunder. Landlord hereby agrees to maintain Tenant's Financial Statements as proprietary and confidential and agrees not to disclose Tenant's Financial Statements to any third party other than any actual or prospective lender, mortgagee, or purchaser of the Building, and Landlord's attorneys, accountants and similar business advisors. Notwithstanding the foregoing, this Section 17.21 shall not apply to Tenant if, and so long as, the entity named as "Tenant" under this Lease is a publicly traded entity that is traded on a nationally recognized stock exchange. For the avoidance of doubt, in the event that the entity that is named as "Tenant" under this Lease is merely an affiliate or subsidiary of an entity that is publicly traded on a nationally recognized stock exchange (i.e., the entity that is named as "Tenant" under this Lease is not an entity that is (itself) actually publicly traded on a nationally recognized stock exchange), then Tenant's obligation to provide its Financial Statements, in accordance with this Section 17.21, shall remain in effect - the publicly traded nature of its parent or affiliate notwithstanding. Notwithstanding anything to the contrary in this Section 17.21, so long as Equinix Operating Co., Inc., a Delaware corporation, or a Permitted Assignees is the "Tenant" under this Lease, Landlord will accept an unaudited income statement and balance sheet in satisfaction of the Financial Statements required by this Section 17.21.

17.22 **OS Rider**. As partial consideration for entering into this Lease, and concurrently with the execution of this Lease, Landlord and Tenant are entering into that certain Office Space Rider (attached hereto as **Exhibit "P"**, the "**OS Rider**"), covering Suite 895 in the Building (the "**OS Tenant Space**").

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have duly executed this Lease as of the Effective Date.

LANDLORD:

DIGITAL LAKESIDE, LLC,
a Delaware limited liability company

By: Digital Lakeside Holdings, LLC,
a Delaware limited liability company,
its sole Member

By: Digital Realty Trust, L.P.,
a Maryland limited partnership,
its sole Member

By: Digital Realty Trust, Inc.,
a Maryland corporation,
its General Partner

By: /s/ Glenn H. Benoist, Sr.
Name: Glenn H. Benoist, Sr.
Title: Vice President

Date: June 30, 2009

TENANT:

EQUINIX OPERATING CO., INC.,
a Delaware corporation

By: /s/ Steve Smith
Name: Steve Smith
Title: CEO

Date: July 10, 2009

List of Equinix's Subsidiaries

<u>Name</u>	<u>Jurisdiction</u>
Equinix Operating Co., Inc.	Delaware
Equinix RP, Inc.	Delaware
Equinix RP II LLC	Delaware
CHI 3, LLC	Delaware
NY3, LLC	Delaware
SV1, LLC	Delaware
LA4, LLC	Delaware
Equinix Pacific, Inc.	Delaware
Sundance Acquisition Corporation	Delaware
CHI 3 Procurement, LLC	Illinois
Equinix Asia Pacific Pte Ltd	Singapore
Equinix Singapore Holdings Pte Ltd	Singapore
Equinix Singapore Pte Ltd	Singapore
Equinix Pacific Pte Ltd	Singapore
Pihana Pacific SDN, BHD	Malaysia
Equinix Japan KK (in Kanji)	Japan
Equinix Australia Pty Ltd	Australia
Equinix Hong Kong Ltd	Hong Kong
Equinix Europe Ltd	United Kingdom
Equinix Group Ltd	United Kingdom
Equinix (UK) Ltd	United Kingdom
Equinix (Services) Ltd	United Kingdom
Equinix Corporation Ltd	United Kingdom
Equinix Investments Ltd	United Kingdom
Equinix (London) Ltd	United Kingdom
Equinix (Dusseldorf) GmbH	Germany
Equinix (Real Estate) GmbH	Germany
Equinix (Germany) GmbH	Germany
Equinix (IBX Services) GmbH	Germany
Upminster GmH	Germany
Equinix (France) SAS	France
Equinix Paris SAS	France
Interconnect Exchange Europe SL	Spain
Equinix (Switzerland) AG	Switzerland
Equinix Services (Switzerland) AG	Switzerland
Intelisite BV	The Netherlands
Equinix (Netherlands) BV	The Netherlands
Equinix (Netherlands) Holding Coöperatie U.A	The Netherlands
Equinix (Holdings) B.V.	The Netherlands
Virtu Secure Web Services BV	The Netherlands

**CERTIFICATION PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Stephen M. Smith, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Equinix, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 26, 2009

/s/ Stephen M. Smith

Stephen M. Smith
Chief Executive Officer and President

**CERTIFICATION PURSUANT TO
SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Keith D. Taylor, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Equinix, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: October 26, 2009

/s/ Keith D. Taylor

Keith D. Taylor

Chief Financial Officer

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

In connection with the Quarterly Report of Equinix, Inc. (the "Company") on Form 10-Q for the period ending September 30, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stephen M. Smith, Chief Executive Officer and President of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Stephen M. Smith

Stephen M. Smith
Chief Executive Officer and President

October 26, 2009

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

In connection with the Quarterly Report of Equinix, Inc. (the "Company") on Form 10-Q for the period ending September 30, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Keith D. Taylor, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Keith D. Taylor

Keith D. Taylor
Chief Financial Officer

October 26, 2009