

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

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
For the quarterly period ended **September 30, 2013**

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 0-12957

**Enzon Pharmaceuticals, Inc.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State of incorporation)

**22-2372868**  
(I.R.S. Employer Identification No.)

**20 Kingsbridge Road, Piscataway, New Jersey**  
(Address of principal executive offices)

**08854**  
(Zip Code)

**(732) 980-4500**  
(Registrant's telephone number, including area code)

Not Applicable  
(Former name, former address and former fiscal year, if changed since last report)

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) 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

Shares of Common Stock outstanding as of November 1, 2013: 44,068,299

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**PART I – FINANCIAL INFORMATION**  
**Item 1. Financial Statements.**

**ENZON PHARMACEUTICALS, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(In thousands, except share and per share amounts)  
(Unaudited)

	September 30, 2013	December 31, 2012
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 21,691	\$ 77,348
Marketable securities	-	119,391
Other current assets	642	1,904
Assets held for sale	529	-
Total current assets	<u>22,862</u>	<u>198,643</u>
Property and equipment	-	1,138
Total assets	<u>\$ 22,862</u>	<u>\$ 199,781</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 201	\$ 776
Accrued expenses and other current liabilities	2,286	5,688
Notes payable	-	115,849
Total current liabilities	<u>2,487</u>	<u>122,313</u>
Accrued rent liability	596	-
Total liabilities	<u>3,083</u>	<u>122,313</u>
Commitments and contingencies		
Stockholders' equity:		
Preferred stock - \$0.01 par value, authorized 3,000,000 shares; no shares issued and outstanding at September 30, 2013 and December 31, 2012	-	-
Common stock - \$0.01 par value, authorized 170,000,000 shares; issued and outstanding 44,068,299 shares at September 30, 2013 and 43,674,170 shares at December 31, 2012	441	437
Additional paid-in capital	154,515	224,796
Accumulated other comprehensive income	-	83
Accumulated deficit	<u>(135,177)</u>	<u>(147,848)</u>
Total stockholders' equity	<u>19,779</u>	<u>77,468</u>
Total liabilities and stockholders' equity	<u>\$ 22,862</u>	<u>\$ 199,781</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**ENZON PHARMACEUTICALS, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME**  
(In thousands, except share and per share amounts)  
(Unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	2013	2012	2013	2012
<b>Revenues:</b>				
Royalties	\$ 8,828	\$ 10,919	\$ 26,436	\$ 31,011
Contract research and development	-	-	-	136
Miscellaneous revenue	-	202	631	806
Total revenues	<u>8,828</u>	<u>11,121</u>	<u>27,067</u>	<u>31,953</u>
<b>Operating expenses:</b>				
Research and development – pipeline	653	3,954	2,525	16,541
Research and development – specialty and contracted services	-	10	-	123
General and administrative	2,259	3,209	7,606	11,242
Restructuring charges	794	(113)	3,764	(220)
Total operating expenses	<u>3,706</u>	<u>7,060</u>	<u>13,895</u>	<u>27,686</u>
Operating income	<u>5,122</u>	<u>4,061</u>	<u>13,172</u>	<u>4,267</u>
<b>Other income (expense):</b>				
Investment income, net	4	1,386	534	2,387
Interest expense	-	(1,274)	(2,124)	(4,055)
Other income (expense), net	195	2	1,061	(191)
Total other income (expense)	<u>199</u>	<u>114</u>	<u>(529)</u>	<u>(1,859)</u>
Income before income tax expense	5,321	4,175	12,643	2,408
Income tax (benefit) expense	(241)	-	(28)	33
Net income	<u>\$ 5,562</u>	<u>\$ 4,175</u>	<u>\$ 12,671</u>	<u>\$ 2,375</u>
<b>Earnings per common share</b>				
Basic	<u>\$ 0.13</u>	<u>\$ 0.09</u>	<u>\$ 0.29</u>	<u>\$ 0.05</u>
Diluted	<u>\$ 0.13</u>	<u>\$ 0.08</u>	<u>\$ 0.26</u>	<u>\$ 0.05</u>
Weighted-average shares – basic	<u>43,921</u>	<u>46,387</u>	<u>43,782</u>	<u>47,614</u>
Weighted-average shares – diluted	<u>44,137</u>	<u>58,563</u>	<u>53,468</u>	<u>47,671</u>
Special cash dividend paid per common share	<u>-</u>	<u>-</u>	<u>\$ 1.60</u>	<u>-</u>
<b>Other comprehensive income (loss):</b>				
Net income	\$ 5,562	\$ 4,175	\$ 12,671	\$ 2,375
Available-for-sale marketable securities:				
Unrealized holding gains arising during period	4	590	238	1,070
Reclassification adjustment for realized gains on sales included in net income	-	(979)	(320)	(960)
Total other comprehensive income (loss)	<u>4</u>	<u>(389)</u>	<u>(82)</u>	<u>110</u>
Comprehensive income	<u>\$ 5,566</u>	<u>\$ 3,786</u>	<u>\$ 12,589</u>	<u>\$ 2,485</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

**ENZON PHARMACEUTICALS, INC. AND SUBSIDIARIES**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands)  
(Unaudited)

	Nine months ended September 30,	
	2013	2012
<b>Cash flows from operating activities:</b>		
Net income	\$ 12,671	\$ 2,375
Adjustments to reconcile net income to net cash provided by (used in) operating activities:		
Depreciation	218	3,500
Amortization and write-off of debt issuance costs	193	425
Stock-based compensation and employee purchase plan discount	(54)	1,550
Gain on sales of marketable securities	(320)	(960)
Loss on early retirement of notes payable	-	212
Amortization of purchase premium on marketable securities	735	2,345
Gain on sale of assets	(1,060)	(8)
Changes in operating assets and liabilities	(2,276)	(7,378)
Net cash provided by operating activities	<u>10,107</u>	<u>2,061</u>
<b>Cash flows from investing activities:</b>		
Purchases of property and equipment	-	(23)
Proceeds from sale of assets	1,451	9
Proceeds from sales and maturities of marketable securities	118,894	265,314
Purchases of marketable securities	-	(195,413)
Net cash provided by investing activities	<u>120,345</u>	<u>69,887</u>
<b>Cash flows from financing activities:</b>		
Common stock dividend	(69,970)	-
Repurchase of common stock	-	(21,439)
Retirement of notes payable	(115,849)	-
Repurchases of notes payable	-	(13,862)
Proceeds from issuance of common stock	12	62
Withholding taxes – stock based compensation	(269)	(102)
Withdrawals/proceeds from employee stock purchase plan	(33)	15
Net cash used in financing activities	<u>(186,109)</u>	<u>(35,326)</u>
Net (decrease) increase in cash and cash equivalents	(55,657)	36,622
Cash and cash equivalents at beginning of period	<u>77,348</u>	<u>104,324</u>
Cash and cash equivalents at end of period	<u>\$ 21,691</u>	<u>\$ 140,946</u>

The accompanying notes are an integral part of these unaudited condensed consolidated financial statements.

## **(1) Description of Business**

Enzon Pharmaceuticals, Inc. (together with its subsidiaries, "Enzon" or the "Company") receives royalty revenues from existing licensing arrangements with other companies primarily related to sales of six marketed products, namely, PegIntron<sup>®</sup>, Sylatron<sup>®</sup>, Macugen<sup>®</sup>, CIMZIA<sup>®</sup>, Oncaspar and Adagen. The Company currently has no clinical operations and limited corporate operations. The Company operates in one business segment. The Company's Principal Executive Officer (chief operating decision maker) reviews the Company's operating results on an aggregate basis and manages the Company's operations as a single operating unit. The Company's operations and assets reside exclusively in the United States.

The Company was previously dedicated to the research and development of innovative therapeutics for patients with high unmet medical needs. In December 2012, the Company announced that its Board of Directors retained Lazard Frères & Co. LLC to act as financial advisor in a review of the possible sale or disposition of one or more corporate assets or a sale of the Company and that the Board of Directors established a special committee to oversee the sale review process. In connection with the sale review process, the Company substantially suspended all clinical development activities with a goal of conserving capital and maximizing value returned to the Company's stockholders. In April 2013, the Company announced that it had concluded a thorough review of the possible sale or disposition of one or more corporate assets, or a sale of the Company. The review did not result in a definitive offer to acquire the Company or all or substantially all of the Company's assets. In the same announcement, the Company also announced that its Board of Directors intends to distribute excess cash, expected to arise from ongoing royalty revenues, in the form of periodic dividends to stockholders.

On April 30, 2013, pursuant to the terms of an asset purchase agreement entered into on the same date (the "Belrose APA"), the Company completed the sale of all of its right, title and interest in its Customized PEGylation Linker Technology platform and related assets to Belrose Pharma Inc. ("Belrose") for aggregate consideration of \$700,000. The assets sold included (i) intellectual property and know-how associated with the PEGylation platform (including certain patents), (ii) patents and know-how related to PEG-SN38, (iii) patents and know-how associated with certain of the Company's internal clinical programs and (iv) certain related supplies and equipment. In addition, the Company assigned to Belrose the Company's existing license agreement with Zhejiang Hisun Pharmaceutical Co., Ltd. The Belrose APA had also provided for the sale by the Company of its interest in the Locked Nucleic Acid (LNA) Technology platform and related assets for \$100,000 at a second closing; however, the conditions to the second closing were not satisfied. The Belrose APA also entitles the Company to receive from Belrose additional potential payments, including a share of net revenues that may be received from Hisun related to PEG-SN38 rights in China as well as a share of other potential partnering revenues. The achievement of any of these potential payments is uncertain. The assets sold to Belrose did not include any of the Company's existing rights to receive royalties on PegIntron<sup>®</sup>, Sylatron<sup>®</sup>, Macugen<sup>®</sup>, CIMZIA<sup>®</sup>, OMONTYS<sup>®</sup>, Oncaspar or Adagen.

On October 21, 2013, the Company terminated its License and Collaboration Agreement with Santaris Pharma A/S ("Santaris") whereby the Company will return to Santaris the rights to molecules utilizing LNA technology including the mRNA antagonists targeting Hypoxia-Inducible Factor-1 alpha (HIF-1 alpha), the Androgen Receptor (AR), HER3, and Beta-catenin. See Note 15, "Subsequent Event" for further details.

The Company has no intention of resuming any clinical development activities.

## **(2) Basis of Presentation**

### *Interim Financial Statements*

The accompanying unaudited condensed consolidated financial statements have been prepared from the books and records of the Company in accordance with United States generally accepted accounting principles ("U.S. GAAP") for interim financial information and Rule 10-01 of Regulation S-X promulgated by the U.S. Securities and Exchange Commission. Accordingly, these financial statements do not include all of the information and footnotes required for complete annual financial statements. Interim results are not necessarily indicative of the results that may be expected for the full year. Interim condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and the notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2012.

## *Principles of Consolidation*

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated as part of the consolidation.

## *Use of Estimates*

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions that affect reported amounts of assets and liabilities, disclosures 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 include the carrying value of property and equipment, valuation of investments, legal and contractual contingencies, research and development expenses, stock-based compensation, and income taxes. Although management bases its estimates on historical experience and various other assumptions that are believed to be reasonable under the circumstances, actual results could differ from these estimates.

### **(3) New Accounting Pronouncements**

In February 2013, the Financial Accounting Standards Board (the "FASB") issued Accounting Standards Update "Comprehensive Income (Topic 220): Reporting of Amounts Reclassified Out of Accumulated Other Comprehensive Income" (ASU 2013-02). ASU 2013-02 requires an entity to report the effect of significant reclassifications out of accumulated other comprehensive income on the respective line items in net income if the amount being reclassified is required under U.S. GAAP to be reclassified in its entirety to net income. The amendments require an entity to provide information about the amounts reclassified out of accumulated other comprehensive income by component. An entity is required to provide this information together, in one location, either on the face of the statement where net income is presented or as a separate disclosure in the notes to the financial statements. The amendments are effective prospectively for reporting periods beginning after December 15, 2012. The adoption of ASU 2013-02 did not have a material impact on the Company's financial position or results of operations.

The FASB recently issued ASU "Presentation of Financial Statements (Topic 205) Liquidation Basis of Accounting" (ASU 2013-07) that requires an entity to prepare its financial statements using the liquidation basis of accounting when liquidation is imminent, as defined in ASU 2013-7. ASU 2013-7's objective is to eliminate diverse practices by providing guidance about when and how to apply the model. The guidance applies to all entities except for investment companies regulated under the Investment Company Act of 1940.

ASU 2013-7 is effective for both public and nonpublic entities that determine liquidation is imminent during annual reporting periods beginning after December 15, 2013, and interim reporting periods within those annual periods. An entity preparing its financial statements on a going-concern basis at the effective date that is required to use the liquidation basis of accounting is required to account for any differences between its existing measurements and the measurements under ASU 2013-7 through a cumulative-effect adjustment. Early adoption is permitted. The Company has evaluated the impact of ASU 2013-7 on the Company's consolidated financial statements, and has determined that it does not currently have an impact on Company's financial statements.

In July 2013, the FASB issued ASU 2013-11, "Presentation of an Unrecognized Tax Benefit When a Net Operating Loss Carryforward, a Similar Tax Loss, or a Tax Credit Carryforward Exists." This update amends ASC 740, "Income Taxes," to require that in certain cases, an unrecognized tax benefit, or portion of an unrecognized tax benefit, should be presented in the financial statements as a reduction to a deferred tax asset for a net operating loss carryforward, a similar tax loss, or a tax credit carryforward when such items exist in the same taxing jurisdiction. The amendments in this update are effective for fiscal years, and interim periods within those years, beginning after December 15, 2013. Early adoption is permitted. The amendments should be applied prospectively to all unrecognized tax benefits that exist at the effective date, and retrospective application is permitted. The Company is currently evaluating the impact this update will have on its financial statements.

### **(4) Financial Instruments and Fair Value**

The carrying values of cash, cash equivalents, marketable securities, other current assets, accounts payable, accrued expenses and other current liabilities in the Company's condensed consolidated balance sheets approximated their fair values at September 30, 2013 and December 31, 2012 due to their short-term nature.

## (5) Marketable Securities

The Company held no marketable securities at September 30, 2013. The amortized cost, gross unrealized holding gains or losses, and fair value of the Company's marketable securities by major security type at December 31, 2012 were as follows (in thousands):

	Amortized Cost	Gross Unrealized Holding Gains	Gross Unrealized Holding Losses	Fair Value*
Corporate bonds	\$ 86,769	\$ 82	\$ (11)	\$ 86,840
Commercial paper	30,482	8	-	30,490
U.S. government-sponsored agency	2,057	4	-	2,061
	<u>\$ 119,308</u>	<u>\$ 94</u>	<u>\$ (11)</u>	<u>\$ 119,391</u>

\* Included in current marketable securities at December 31, 2012.

All marketable securities at December 31, 2012 were classified as available-for-sale.

For the three months ended September 30, 2013, the Company did not realize any gains from the sale of marketable securities. For the nine months ended September 30, 2013, the Company realized gains from the sale of marketable securities of \$0.3 million. For the three months ended September 30, 2012, the Company realized net gains from the sale of marketable securities of \$1.0 million. For the nine months ended September 30, 2012, the Company realized net gains from the sale of marketable securities of \$1.0 million. The Company includes realized gain and losses, if any, in the accompanying Condensed Consolidated Statements of Comprehensive Income, in Interest and Other Income.

Impairment assessments are made at the individual security level each reporting period. When the fair value of an investment is less than its cost at the balance sheet date, a determination is made as to whether the impairment is other-than-temporary and, if it is other-than-temporary, an impairment loss is recognized in earnings equal to the difference between the investment's amortized cost and fair value at such date. As of December 31, 2012, marketable securities with fair value of \$38.1 million were in an unrealized loss position. However, none of the underlying investments has been in a continuous loss position longer than twelve months, and no other-than-temporary impairment is deemed to have occurred.

As of December 31, 2012, the Company's marketable securities are all valued based on Level 2 inputs. Fair value is determined from available Level 2 vendor quoted prices utilizing observable inputs based on active markets. The Company utilizes a financial institution to provide pricing for securities in the Company's portfolio, and reviews documentation from the sources that detailed the pricing techniques and methodologies used by these sources and determines if their policies adequately considered market activity, either based on specific transactions for the particular security type or based on modeling of securities with similar credit quality, duration, yield and structure that were recently transacted. The Company continues to monitor any changes or modifications to their process by reviewing their documentation on internal controls for pricing and market reviews.

## (6) Property and Equipment and Assets Held for Sale

In connection with the sublease of a portion of its headquarters as discussed in Note 14, the Company plans to sell a portion of its property and equipment to Axcelerate and to sell its remaining property and equipment through a third party liquidator. As such, the Company has classified its property and equipment as Assets Held for Sale as of September 30, 2013. The Company reduced the carrying value of its property and equipment to estimated fair market value based on third-party independent appraisals as of December 31, 2012.

## **(7) Notes Payable**

The Company's 4% convertible notes matured on June 1, 2013, and the Company repaid in full at maturity the outstanding principal amount of \$115.8 million, together with accrued interest thereon. As of December 31, 2012, the principal amount of the convertible notes outstanding was \$115.8 million.

During 2012, the Company retired \$13.6 million in principal amount of its then outstanding 4% convertible notes at a price above par and wrote-off approximately \$62,000 of deferred debt issuance costs. As of December 31, 2012, the balance of unamortized deferred debt issuance costs was approximately \$0.2 million.

Accrued interest (included in accrued expenses) on the Company's 4% convertible notes amounted to \$0.4 million as of December 31, 2012.

## **(8) Stockholders' Equity**

On December 21, 2010, the Company announced that its Board of Directors had authorized a share repurchase program, under which the Company is authorized to repurchase up to \$200.0 million of the Company's outstanding common stock. The Company has suspended repurchases under the share repurchase program. No shares were purchased during the first nine months of 2013. During the second quarter of 2012, the Company repurchased and retired 788,300 shares at a cost of \$5.3 million under this program.

## **(9) Supplemental Cash Flow Information**

The Company considers all highly liquid investment securities with maturities when purchased of three months or less to be cash equivalents. During the nine months ended September 30, 2013 and 2012, there were interest payments of \$2.3 million and \$4.8 million, respectively, related to the Company's notes payable. Income tax payments of \$158,000 and \$33,000 were made during the nine months ended September 30, 2013 and 2012, respectively.

## **(10) Earnings Per Common Share**

Basic earnings per common share is computed by dividing the income available to common stockholders by the weighted-average number of shares of common stock outstanding during the period. Restricted stock units (nonvested shares) are not considered to be outstanding shares until the vesting criteria (service and/or performance) have been satisfied.

For purposes of calculating diluted earnings per common share, the denominator includes both the weighted-average number of shares of common stock outstanding and the number of common stock equivalents if the inclusion of such common stock equivalents is dilutive. Dilutive common stock equivalents potentially include stock options and nonvested shares using the treasury stock method and the number of shares issuable upon conversion of the Company's convertible notes payable for the period that they were outstanding. As of September 30, 2013, shares issuable under the employee stock purchase plan (ESPP) no longer have a dilutive effect due to the plan termination. Earnings per common share information as follows (in thousands, except per share amounts):



	Three months ended September 30,		Nine months ended September 30,	
	2013	2012	2013	2012
<b>Income Per Common Share – Basic:</b>				
Net income	\$ 5,562	\$ 4,175	\$ 12,671	\$ 2,375
Weighted-average common shares outstanding	43,921	46,387	43,782	47,614
Basic income per share	\$ 0.13	\$ 0.09	\$ 0.29	\$ 0.05
<b>Income Per Common Share – Diluted:</b>				
Net income	\$ 5,562	\$ 4,175	\$ 12,671	\$ 2,375
Add-back of interest expense on outstanding convertible notes payable, net of tax	-	753	1,142	-
Adjusted net income	\$ 5,562	\$ 4,928	\$ 13,813	\$ 2,375
Weighted-average common shares outstanding	43,921	46,387	43,782	47,614
Weighted-average incremental shares related to assumed exercise of stock options, vesting of nonvested shares, and ESPP	216	45	172	57
Weighted-average incremental shares assuming conversion of outstanding notes payable	-	12,131 <sup>(1)</sup>	9,514 <sup>(1)</sup>	-
Weighted-average common shares outstanding and common share equivalents	44,137	58,563	53,468	47,671
Diluted income per share	\$ 0.13	\$ 0.08	\$ 0.26	\$ 0.05

(1) Dilutive convertible notes payable, which were retired on June 1, 2013, were included in the denominator of diluted EPS for the period that they were outstanding.

#### (11) Restructurings

In December 2012, the Company announced a plan to reduce its workforce by approximately 15-20 employees. In March 2013, in an effort to continue to cut ongoing operating expenses, the Company committed to a plan to reduce its workforce from 19 employees to 12 employees. The Company continued to reduce its workforce during the second quarter of 2013 from 12 to 5 employees. The Company had 4 employees at the end of the third quarter of 2013.

During the first quarter of 2013, the Company incurred restructuring charges of \$2.5 million, of which \$1.6 million resulted in cash expenditures paid during the first quarter.

During the second quarter of 2013, the Company incurred restructuring charges of \$596,000, of which \$501,000 resulted in cash expenditures paid during the second quarter and \$95,000 remained to be paid for one-time employee termination benefits and associated costs. The Company also reversed previously recognized expense of \$132,000 due to changes in estimates of employee separation costs.

During the third quarter of 2013, the Company incurred restructuring charges of \$794,000, primarily related to the sublease of 30,000 square feet of space in its headquarters, representing the present value of future lease obligations in excess of future sublease income. The Company has classified \$503,000 of the charge as current and \$291,000 as non-current.

The Company has also incurred costs from restructuring activities undertaken during 2011 as part of the transition from a fully integrated biopharmaceutical company with research, manufacturing, and marketing operations to a biotechnology company focused primarily on research and development. During the second half of 2011, the Company incurred additional restructuring costs as part of a plan to more closely align its resources and capital with on-going research and development activities.

Restructuring costs are charged to earnings and accrued as a liability at the time they are considered probable and reasonably estimable. Restructuring costs include employee separation benefits and lease termination costs for facilities that have been vacated and are included in accrued expenses on the accompanying Condensed Consolidated Balance Sheets.

The following table summarizes the changes in the Company's accrued restructuring liabilities during the first three quarters of 2013 (in thousands) based on the quarter in which the related restructuring measures were initiated:

	3Q-13	2Q-13	1Q-13	4Q-11	3Q-11	2Q-11	Total
Balance at December 31, 2012	-	-	-	6	769	1	776
1Q2013 Payment made	-	-	(1,583)	(4)	(254)	(1)	(1,842)
1Q2013 Adjustments	-	-	-	-	(23)	-	(23)
1Q2013 Restructuring Accruals	-	-	2,505	-	29	-	2,534
Balance at March 31, 2013	-	-	922	2	521	-	1,445
2Q2013 Payment made	-	(501)	(757)	(2)	(460)	-	(1,720)
2Q2013 Adjustments	-	-	(103)	-	(29)	-	(132)
2Q2013 Restructuring Accruals	-	596	-	-	-	-	596
Balance at June 30, 2013	-	95	62	-	32	-	189
3Q2013 Payment made	-	(82)	(32)	-	(15)	-	(129)
3Q2013 Adjustments	-	-	-	-	-	-	-
3Q2013 Restructuring Accruals	794	-	-	-	-	-	794
Balance at September 30, 2013	794	13	30	-	17	-	854

#### (12) Stock-Based Compensation

##### *Stock Options and Restricted Stock Units (RSUs or Nonvested Shares)*

During the quarter ended September 30, 2013, the Company recognized stock-based compensation expense of \$0.3 million. Shares were withheld to pay \$0.1 million of taxes on behalf of employees whose restricted stock units (RSUs) vested during the quarter, resulting in a credit to additional paid-in capital of \$0.2 million. During the quarter ended September 30, 2012, the Company recognized stock-based compensation expense of \$0.6 million. Shares were withheld to pay \$0.1 million of taxes on behalf of employees during the quarter ended September 30, 2012, resulting in a net incremental credit of additional paid in capital of \$0.5 million.

During the nine months ended September 30, 2013, the Company reversed stock-based compensation expense of \$50,000. Shares were withheld to pay \$0.3 million of taxes on behalf of employees, resulting in a net incremental debit to additional paid-in capital of \$0.3 million. During the nine months ended September 30, 2012, the Company recognized stock-based compensation expense of \$1.5 million. Shares were withheld to pay \$0.1 million of taxes on behalf of employees, resulting in a net incremental credit to additional paid-in capital of \$1.4 million.

As of September 30, 2013, there was \$0.2 million of total unrecognized compensation cost related to unvested stock options that the Company expects to recognize over a weighted-average period of 11 months and \$0.8 million of total unrecognized compensation cost related to nonvested shares to be recognized over a weighted-average period of 14 months.

During the nine months ended September 30, 2013, the Company granted 156,000 stock options, all of which were granted during the first quarter. The aggregate fair value of stock options granted during the nine months ended September 30, 2013 was \$0.2 million. There were no nonvested shares granted during the nine months ended September 30, 2013. The Company uses historical data to estimate forfeiture rates.

On April 23, 2013, the Company's Board of Directors declared a special cash dividend of \$1.60 per share of common stock. This special cash dividend was paid on June 4, 2013 to stockholders of record as of May 7, 2013. In connection with this special cash dividend, the Compensation Committee of the Company's Board of Directors approved equitable adjustments to the Company's outstanding stock options and restricted stock units. The compensation cost recognized during 2013 relating to this modification was \$4,000.

Activity related to stock options and nonvested shares during the nine months ended September 30, 2013 and related balances outstanding as of that date are reflected below (in thousands):

	Stock Options	Nonvested Shares
Outstanding at January 1, 2013	2,292	868
Granted	156	-
Exercised and vested	-	(507)
Expired and forfeited	(159)	(378)
Adjustment pursuant to special dividend	-	438
Outstanding at September 30, 2013	<u>2,289</u>	<u>421</u>
Options vested and expected to vest at September 30, 2013	<u>2,250</u>	
Options exercisable at September 30, 2013	<u>2,034</u>	

### (13) Income Taxes

During the three months ended September 30, 2013, the Company reversed \$186,000 of income tax expense for U.S. federal income tax provision related to alternative minimum taxes, and reversed \$55,000 of income tax expense related to foreign jurisdictions due to a provision for bad debts related to Hisun. During the three months ended September 30, 2012, the Company recorded no income tax expense because the estimated annual effective tax rate was zero.

During the nine months ended September 30, 2013 and 2012, the Company recorded an income tax benefit of \$28,000 and income tax expense of \$33,000, respectively. The Company's expected tax rate for 2013 is zero.

As of September 30, 2013, the Company continues to provide a valuation allowance against its net deferred tax assets since the Company believes it is more likely than not that its deferred tax assets will not be realized within the next twelve months.

### (14) Commitments and Contingent Liabilities

On September 27, 2013, the Company entered into a separation agreement with Andrew Rackear, the Company's Vice President and General Counsel, that provides for severance payments and payments following a termination of employment, which is scheduled to occur during the fourth quarter. The separation agreement provides that, upon termination of Mr. Rackear's employment with the Company, Mr. Rackear will be entitled to receive a severance payment in cash equal to \$835,000 plus other benefits. The Company expects to record a charge related to this agreement during the fourth quarter of 2013.

The Company has been involved in various claims and legal actions arising in the ordinary course of business. In the opinion of management, the ultimate disposition of these matters will not have a material effect on the Company's consolidated financial position, results of operations, or liquidity.

The Company had a non-cancelable lease obligation for certain office and production facilities that had been vacated and sublet. During 2013, the Company terminated the lease of the Bridgewater, New Jersey facility.

On September 26, 2013, the Company entered into an Agreement of Sublease with Axcellerate Pharma, LLC ("Axcellerate"), pursuant to which the Company will sublease to Axcellerate a portion of the Company's premises consisting of approximately 30,000 rentable square feet of the building located at 20 Kingsbridge Road, Piscataway, New Jersey and a share of related parking areas (the "Sublease"). The Company's premises located at 20 Kingsbridge Road, Piscataway, New Jersey are currently leased by the Company pursuant to an agreement of lease dated as of April 1, 1995, as amended by that certain First Amendment to Lease dated as of November 13, 2001 (the "Prime Lease"), with BDG Kingsbridge L.L.C., predecessor-in-interest to Kingsbridge 2005, LLC ("Prime Landlord"). The Sublease is subject to the Company's receipt of the Prime Landlord's consent to the Sublease. The term of the Sublease will commence on the date that the Company has received the Prime Landlord's consent to the Sublease and will expire on July 30, 2021, which is one day prior to the expiration of the Prime Lease. The rights of Axcellerate under the Sublease will be subject to the terms of the Prime Lease. The monthly fixed rent payable by Axcellerate under the Sublease will be as follows: (i) in year one, \$10,417, (ii) in year two, \$15,625, (iii) in year three, \$20,833, (iv) in year four, \$26,042 and (v) in each of years five through eight, \$35,000. The Sublease also provides for Axcellerate to pay additional rent to cover its applicable share of real estate taxes, operating expenses, sewer and gas usage, water usage, electricity usage and certain other charges incurred by Axcellerate.

Below is a table showing the projected sublease rent payments as well as the Company's projected lease payments related to the subleased premises (in thousands of dollars):

	2013	2014	2015	2016	2017	Thereafter	Total
Projected sublease rent payments	22	135	198	267	362	1,505	2,489
Lease payments related to subleased premises	65	373	374	374	394	1,472	3,052

#### (15) Subsequent Event

On October 21, 2013, the Company terminated its License and Collaboration Agreement with Santaris whereby Enzon will return to Santaris the rights to molecules utilizing LNA technology including the mRNA antagonists targeting Hypoxia-Inducible Factor-1 alpha (HIF-1 alpha), the Androgen Receptor (AR), HER3, and Beta-catenin. The termination includes the return of certain product inventory and a net cash payment to Santaris of approximately \$450,000 as well as certain transition expenses to be borne by Enzon of up to \$50,000. The Company and Santaris each agreed to release any and all claims it may have against the other in connection with the License and Collaboration Agreement. The Company accrued a charge of \$500,000 during the three months ended September 30, 2013 for the termination of the Santaris Agreement, included within research and development expenses.

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

Unless the context requires otherwise, references in this Quarterly Report on Form 10-Q to "Enzon," the "Company," "we," "us," or "our" and similar terms mean Enzon Pharmaceuticals, Inc. and its subsidiaries.

#### Overview

We receive revenues from existing licensing arrangements with other companies primarily related to sales of six marketed products, namely, PegIntron<sup>®</sup>, Sylatron<sup>®</sup>, Macugen<sup>®</sup>, CIMZIA<sup>®</sup>, Oncaspar and Adagen. The primary source of our royalty revenue is PegIntron, which is marketed by Merck. We currently have no clinical operations and limited corporate operations.

We were previously dedicated to the research and development of innovative therapeutics for patients with high unmet medical needs. In December 2012, we announced that our Board of Directors retained Lazard Frères & Co. LLC to act as financial advisor in a review of the possible sale or disposition of one or more corporate assets or a sale of our company and that our Board of Directors established a special committee to oversee our sale review process. In connection with our sale review process, we substantially suspended all clinical development activities with a goal of conserving capital and maximizing value returned to our stockholders. In April 2013, the Company announced that it had concluded a thorough review of the possible sale or disposition of one or more corporate assets, or a sale of the Company. The review did not result in a definitive offer to acquire the Company or all or substantially all of the Company's assets. In the same announcement, the Company also announced that its Board of Directors intends to distribute excess cash, expected to arise from ongoing royalty revenues, in the form of periodic dividends to stockholders.

On April 30, 2013, pursuant to the terms of an asset purchase agreement entered into on the same date (the "Belrose APA"), we completed the sale of all of our right, title and interest in our Customized PEGylation Linker Technology platform and related assets to Belrose Pharma Inc. ("Belrose") for aggregate consideration of \$700,000. The assets sold included (i) intellectual property and know-how associated with the PEGylation platform (including certain patents), (ii) patents and know-how related to PEG-SN38, (iii) patents and know-how associated with certain of our internal clinical programs and (iv) certain related supplies and equipment. In addition, we assigned to Belrose our existing license agreement with Zhejiang Hisun Pharmaceutical Co., Ltd. The Belrose APA had also provided for the sale by us of our interest in the Locked Nucleic Acid (LNA) Technology platform and related assets for \$100,000 at a second closing; however, the conditions to the second closing were not satisfied. The Belrose APA also entitles us to receive from Belrose additional potential payments, including a share of net revenues that may be received from Hisun related to PEG-SN38 rights in China as well as a share of other potential partnering revenues. The achievement of any of these potential payments is uncertain. The assets sold to Belrose did not include any of the Company's existing rights to receive royalties on PegIntron®, Sylatron®, Macugen®, CIMZIA®, OMONTYS®, Oncaspar or Adagen.

On September 26, 2013, the Company entered into an Agreement of Sublease with Axcellerate Pharma, LLC ("Axcellerate"), pursuant to which the Company will sublease to Axcellerate a portion of the Company's premises consisting of approximately 30,000 rentable square feet of the building located at 20 Kingsbridge Road, Piscataway, New Jersey and a share of related parking areas (the "Sublease"). The Company's premises located at 20 Kingsbridge Road, Piscataway, New Jersey are currently leased by the Company pursuant to an agreement of lease dated as of April 1, 1995, as amended by that certain First Amendment to Lease dated as of November 13, 2001 (the "Prime Lease"), with BDG Kingsbridge L.L.C., predecessor-in-interest to Kingsbridge 2005, LLC ("Prime Landlord"). The Sublease is subject to the Company's receipt of the Prime Landlord's consent to the Sublease. The term of the Sublease will commence on the date that the Company has received the Prime Landlord's consent to the Sublease and will expire on July 30, 2021, which is one day prior to the expiration of the Prime Lease. The rights of Axcellerate under the Sublease will be subject to the terms of the Prime Lease. The monthly fixed rent payable by Axcellerate under the Sublease will be as follows: (i) in year one, \$10,417, (ii) in year two, \$15,625, (iii) in year three, \$20,833, (iv) in year four, \$26,042 and (v) in each of years five through eight, \$35,000. The Sublease also provides for Axcellerate to pay additional rent to cover its applicable share of real estate taxes, operating expenses, sewer and gas usage, water usage, electricity usage and certain other charges incurred by Axcellerate.

On October 21, 2013, the Company terminated its License and Collaboration Agreement with Santaris whereby Enzon will return to Santaris the rights to molecules utilizing LNA technology including the mRNA antagonists targeting Hypoxia-Inducible Factor-1 alpha (HIF-1 alpha), the Androgen Receptor (AR), HER3, and Beta-catenin. The termination includes the return of certain product inventory, mutual releases, and a net cash payment to Santaris of approximately \$450,000 as well as certain transition expenses to be borne by Enzon of up to \$50,000.

We have no intention of resuming any clinical development activities.

Throughout Management's Discussion and Analysis, the primary focus is on the results of operations, cash flows, financial condition and future outlook of our business. The percentage changes throughout the following discussion are based on amounts stated in thousands of dollars and not the rounded millions of dollars reflected in this section.

## Results of Operations

### Revenues:

#### Royalties (in millions of dollars):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2013	% Change	2012	2013	% Change	2012
Royalty revenue	\$ 8.8	(19)	\$ 10.9	\$ 26.4	(15)	\$ 31.0

We receive income from royalties on sales of products by other companies that use our proprietary PEGylation technology, including PegIntron, marketed by Merck; Macugen, marketed by Pfizer, Inc. outside the U.S. and Valeant Pharmaceuticals International, Inc. in the U.S.; and CIMZIA, marketed by UCB Pharma. Notification from the third-party licensee of the royalties earned under the license agreement is the basis for royalty revenue recognition. This information generally is received from the licensees, and royalty revenue is recognized, in the quarter subsequent to the period in which the sales occur. Royalty revenue for the three months ended September 30, 2013 decreased 19% to \$8.8 million from \$10.9 million for the three months ended September 30, 2012. For the nine months ended September 30, 2013, royalty revenue decreased 15% to \$26.4 million from \$31.0 million for the nine months ended September 30, 2012, primarily due to declining sales of PegIntron related to changes in the hepatitis market. The Company believes that the sales declines are attributable in part to patient treatment being delayed by health care providers in anticipation of new therapeutic options becoming available.

Sales of PegIntron by Merck continue to constitute the most significant source of our royalty revenue. The following table summarizes our PegIntron royalties earned (in millions of dollars):

PEGINTRON royalties from:	Three Months Ended September 30,		Dollar Change	Percent Change	Nine Months Ended September 30,		Dollar Change	Percent Change
	2013	2012			2013	2012		
US sales	\$ 0.90	\$ 1.78	\$ (0.88)	-49 %	\$ 2.87	\$ 5.75	\$ (2.88)	-50 %
Foreign sales - Europe	2.74	3.48	(0.74)	-21 %	7.20	8.84	(1.64)	-19 %
Foreign sales - Japan	1.22	2.23	(1.01)	-45 %	4.73	5.97	(1.24)	-21 %
Foreign sales - Other	2.98	2.87	0.11	4 %	8.63	8.68	(0.05)	0 %
Total	\$ 7.84	\$ 10.36	\$ (2.52)	-24 %	\$ 23.43	\$ 29.24	\$ (5.81)	-20 %

### **Contract Research and Development**

Pursuant to a transition services agreement entered into at the time of the sale of our former specialty pharmaceutical business, we began performing product-support research and development, consulting and technology transfer functions for the purchaser effective with the close of the sale transaction on January 29, 2010. The transition services associated with product-support research and development were reported in continuing operations due to our ongoing involvement in the research and development related to the divested products. No revenue was generated from these services for the three and nine months ended September 30, 2013, and we will not generate any such revenue in the future. This compares to minimal revenue reported for the three and nine months ended September 30, 2012. Our contractual obligation was to assist with these transition services for a period of up to three years subsequent to the date of the sale, although the level of such activity declined significantly during 2012. The transition services agreement was terminated by the purchaser on September 30, 2012.

### **Miscellaneous Revenue**

Miscellaneous revenue was \$0.6 million for the nine months ended September 30, 2013. In the three months ended March 31, 2013, the Company recorded miscellaneous revenue of \$0.55 million representing a milestone event related to the licensing of PEG-SN38 as part of the Collaboration Agreement with Hisun. Hisun has not paid this milestone payment and the Company has determined that there is substantial doubt as to whether it will be paid, resulting in the \$0.55 million provision for bad debts. The Company is continuing to negotiate with Hisun to reach a resolution to this matter.

In addition, miscellaneous revenue consists of rental receipts from the sublease of unused manufacturing and excess office space for which we no longer have lease commitments. The underlying lease expense is reflected in general and administrative expenses.

**Operating Expenses:****Research and Development** (in millions of dollars):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2013	% Change	2012	2013	% Change	2012
Research and development – pipeline	\$ 0.6	(84)	\$ 3.9	\$ 2.5	(85)	\$ 16.5
Research and development – specialty and contracted services	\$ 0.0	n.m.	\$ 0.0	\$ 0.0	n.m.	\$ 0.1

n.m. – not meaningful

*Research and development – pipeline*

During the third quarter of 2013, total spending on our research and development programs decreased by \$3.3 million, or 84%, to \$0.6 million compared to \$3.9 million for the third quarter of 2012. Research and development expense in the third quarter primarily comprised the \$0.5 million charge related to the Santaris termination. Clinical development expenses declined by \$0.5 million and salaries and benefits expenses declined by \$1.5 million as a result of the restructuring implemented in the first half of 2013. Clinical development expenses have declined for the three months ended September 30, 2013 compared to the same three month period of 2012 due to the Company substantially suspending all clinical development activities.

During the first nine months of 2013, total spending on our research and development programs decreased by \$14.0 million, or 85%, to \$2.5 million compared to \$16.5 million for the first nine months of 2012. Salaries and benefits expenses declined by \$3.5 million as a result of the restructuring implemented in the fourth quarter of 2011 and the first half of 2013. Clinical development expenses have declined for the nine months ended September 30, 2013 compared to the same nine month period of 2012 due to the Company substantially suspending all clinical development activities.

*Research and development – specialty and contracted services*

There were no expenses associated with generating contract research and development revenue during the first nine months of 2013.

**General and Administrative** (in millions of dollars):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2013	% Change	2012	2013	% Change	2012
General and administrative	\$ 2.3	(30)	\$ 3.2	\$ 7.6	(32)	\$ 11.2

General and administrative expenses declined by \$1.0 million, or 30%, to \$2.3 million for the third quarter of 2013 from \$3.2 million for the third quarter of 2012. Salaries and benefits expenses declined by \$0.4 million as a result of the restructuring implemented in the first half of 2013. The remainder of the decrease in general and administrative expenses was primarily attributable to reduced legal costs and depreciation.

For the nine months ended September 30, 2013, general and administrative expenses declined by \$3.6 million, or 32%, to \$7.6 million from \$11.2 million for the first nine months of 2012. Salaries and benefits expenses declined by \$1.8 million as a result of the restructuring implemented in the first half of 2013. The remainder of the decrease in general and administrative expenses was primarily attributable to reduced legal costs and depreciation.

## Restructurings

In December 2012, we announced a plan to reduce our workforce by approximately 15-20 employees. In March 2013, in an effort to continue to cut ongoing operating expenses, the Company committed to a plan to reduce its workforce from 19 employees to 12 employees. The Company continued to reduce its workforce during the second quarter of 2013 from 12 to 5 employees. During the first quarter of 2013, we incurred restructuring charges of \$2.5 million, of which \$1.6 million resulted in cash expenditures paid and expensed during the quarter and \$0.9 million remained to be paid for one-time employee termination benefits and associated costs. During the second quarter of 2013, the Company incurred restructuring charges of \$0.6 million for one-time employee termination benefits and associated costs. During the third quarter of 2013, the Company incurred restructuring charges of \$0.8 million, primarily related to the sublease of a portion of its headquarters.

## Other Income (Expense) (in millions of dollars):

	Three Months Ended September 30,			Nine Months Ended September 30,		
	2013	% Change	2012	2013	% Change	2012
<b>Other income (expense):</b>						
Investment income, net	\$ 0.0	(100)	\$ 1.4	\$ 0.5	(79)	\$ 2.4
Interest expense	0.0	(100)	(1.3)	(2.1)	(48)	(4.1)
Other, net	0.2	n.m.	0.0	1.1	n.m.	(0.2)
	<u>\$ 0.2</u>	<u>100</u>	<u>\$ 0.1</u>	<u>\$ (0.5)</u>	<u>(74)</u>	<u>\$ (1.9)</u>

n.m. – not meaningful

We had no net investment income for the third quarter of 2013, as compared to \$1.4 million for the third quarter of 2012. For the nine months ended September 30, 2013, net investment income was \$0.5 million versus \$2.4 million for the first nine months of 2012. Substantially all short-term marketable securities matured or were sold to provide liquidity for the special dividend payment and retirement of the notes payable during the second quarter of 2013.

There was no interest expense for the third quarter of 2013, as compared to \$1.3 million for the third quarter of 2012. Interest expense was \$2.1 million for the first nine months of 2013 versus \$4.1 million for the first nine months of 2012. From November 2011 to May 2012, we repurchased \$18.7 million in principal amount of our 4% convertible notes, and the declining interest costs are reflective of the lower principal amounts outstanding. Additionally, the Company retired the 4% convertible notes during the second quarter of 2013.

## **Liquidity and Capital Resources**

We had cash and cash equivalents of \$21.7 million and no marketable securities as of September 30, 2013, as compared to cash, cash equivalents and marketable securities of \$196.7 million as of December 31, 2012. The decrease in cash, cash equivalents and marketable securities was primarily attributable to net cash used in financing activities of \$186 million, which was attributable to \$70.0 million used to pay the June 2013 special cash dividend and \$115.8 million used to retire the outstanding principal amount of our 4% convertible notes which matured during June 2013.

For the nine months ended September 30, 2013, net cash provided by operating activities was \$10.1 million compared to \$2.0 million of net cash provided by operating activities for the nine months ended September 30, 2012.

In the first nine months of 2013, the net cash provided by investing activities was \$120.3 million. We sold marketable debt securities to generate cash to pay the June 2013 special cash dividend and to retire the outstanding principal amount of our 4% convertible notes during the second quarter of 2013.

Net cash provided in investing activities was \$69.9 million in the first nine months of 2012 as we sold marketable debt securities with a view toward shortening the duration of our portfolio.

Net cash used in financing activities was \$186.0 million for the first nine months of 2013 versus \$35.3 million net cash used in financing activities for the first nine months of 2012. During the first nine months of 2013, we utilized \$70.0 million to pay the special cash dividend in June 2013 and \$115.8 million to retire the principal amount of our outstanding 4% convertible notes which matured during June 2013.



In December 21, 2010, our Board of Directors had authorized a share repurchase program under which we are authorized to repurchase up to \$200.0 million of our outstanding common stock. Since the inception of this share repurchase program, the cumulative number of shares repurchased and retired through September 30, 2013 amounts to 16,174,568 shares at a total cost of \$153.4 million, or an average cost per share of approximately \$9.48. We have suspended repurchases under the share repurchase program.

Our current sources of liquidity are (i) cash, (ii) cash equivalents and (iii) royalties (primarily those related to sales of PegIntron).

Based upon our current sources of liquidity, we anticipate our cash and cash equivalents will be sufficient to meet our capital and operational requirements for the near future.

### **Off-Balance Sheet Arrangements**

As part of our ongoing business, we do not participate in transactions that generate relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities (SPEs), which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually limited purposes. As of September 30, 2013, we were not involved in any SPE transactions.

### **Contractual Obligations**

Our major outstanding contractual obligations relate to our operating leases and license agreements with collaborative partners. The Company retired its 4% convertible notes during the second quarter of 2013.

On October 21, 2013, the Company terminated its License and Collaboration Agreement with Santaris whereby Enzon will return to Santaris the rights to molecules utilizing LNA technology including the mRNA antagonists targeting Hypoxia-Inducible Factor-1 alpha (HIF-1 alpha), the Androgen Receptor (AR), HER3, and Beta-catenin. The termination includes the return of certain product inventory, mutual releases, and a net cash payment to Santaris of approximately \$450,000 as well as certain transition expenses to be borne by Enzon of up to \$50,000.

### **Critical Accounting Policies and Estimates**

A critical accounting policy is one that is both important to the portrayal of a company's financial condition and results of operations and requires management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain.

Our consolidated financial statements are presented in accordance with accounting principles that are generally accepted in the U.S. All applicable U.S. GAAP accounting standards effective as of September 30, 2013 have been taken into consideration in preparing the consolidated financial statements. The preparation of the consolidated financial statements requires estimates and assumptions that affect the reported amounts of assets, liabilities, revenues, expenses and related disclosures. Some of those estimates are subjective and complex, and, consequently, actual results could differ from those estimates. The following accounting policies and estimates have been highlighted as significant because changes to certain judgments and assumptions inherent in these policies could affect our consolidated financial statements.

We base our estimates, to the extent possible, on historical experience. Historical information is modified as appropriate based on current business factors and various assumptions that we believe are necessary to form a basis for making judgments about the carrying value of assets and liabilities. We evaluate our estimates on an ongoing basis and make changes when necessary. Actual results could differ from our estimates.

### *Revenues*

Royalties under our license agreements with third-parties and pursuant to the sale of our former specialty pharmaceutical business are recognized when reasonably determinable and earned through the sale of the product by the third-party and collection is reasonably assured. Notification from the third-party licensee of the royalties earned under the license agreement is the basis for royalty revenue recognition. This information generally is received from the licensees in the quarter subsequent to the period in which the sales occur.

Contingent payments due under the asset purchase agreement related to the sale of our former specialty pharmaceutical business are recognized as income when the milestone has been achieved and collection is assured. Such payments are non-refundable, and no further effort is required on the part of the Company or the other party to complete the earning process. Non-refundable payments received upon entering into license and other collaborative agreements where we have continuing involvement are recorded as deferred revenue and recognized ratably over the estimated service period.

#### *Research and Development Expenses*

We accrued expenses for the cost of work performed by contract research organizations, contract manufacturing organizations and others based upon the estimated amount of the total effort completed on each order, study or project using factors such as the number of lots produced, the number of patients enrolled, the number of active clinical sites and the duration for which the patients are enrolled in the study. We base the estimates on the information available at the time. Additional information may become available at a later date that would enable us to develop a more accurate estimate. Such changes in estimate are generally recognized in the period when the information is first known.

#### *Income Taxes*

Under the asset and liability method of accounting for income taxes, deferred tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. A valuation allowance on net deferred tax assets is provided for when it is more likely than not some portion or all of the deferred tax assets will not be realized. As of September 30, 2013, we believe that it is more likely than not that our net deferred tax assets, including our net operating losses from operating activities and stock option exercises, will not be realized within the next twelve months. We recognize the benefit of an uncertain tax position that we have taken or expect to take on the income tax returns we file if it is more likely than not we will be able to sustain our position.

#### *Stock-Based Compensation*

The Company recognizes the cost of all share-based payment transactions at fair value. Compensation cost, measured by the fair value of the equity instruments issued, adjusted for estimated forfeitures, is recognized in the financial statements as the respective awards are earned.

The impact that share-based payment awards will have on the Company's results of operations is a function of the number of shares awarded, the trading price of the Company's stock at date of grant or modification and vesting, including the likelihood of achieving performance goals. Furthermore, the application of the Black-Scholes valuation model employs weighted average assumptions for expected volatility of the Company's stock, expected term until exercise of the options, the risk free interest rate, and dividends, if any to determine fair value. Expected volatility is based on historical volatility of the Company's common stock; the expected term until exercise represents the weighted average period of time that options granted are expected to be outstanding giving consideration to vesting schedules and the Company's historical exercise patterns; and the risk-free interest rate is based on the U.S. Treasury yield curve in effect at the time of grant for periods corresponding with the expected life of the option.

## Forward-Looking Information and Factors That May Affect Future Results

This Quarterly Report on Form 10-Q contains forward-looking statements within the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. All statements contained in the Quarterly Report on Form 10-Q, other than statements that are purely historical, are forward-looking statements. Forward-looking statements can be identified by the use of forward-looking terminology such as the words “believes,” “expects,” “may,” “will,” “should,” “potential,” “anticipates,” “plans” or “intends” or the negative thereof, or other variations thereof, or comparable terminology, or by discussions of strategy. Forward-looking statements are based upon management’s present expectations, objectives, anticipations, plans, hopes, beliefs, intentions or strategies regarding the future and are subject to known and unknown risks and uncertainties that could cause actual results, events or developments to be materially different from those indicated in such forward-looking statements, including, but not limited to, the following risks and uncertainties:

- We have limited sources of revenue and there can be no assurance that we will be able to sustain profitability in the future.
- Our financial results are heavily dependent on continued sales of PegIntron and if revenues from these royalties or royalties from the sales of other products materially decline, our results of operations and financial position could be materially harmed.
- The discretion of our Board of Directors to declare dividends and uncertainty regarding the amount and/or timing of excess cash, if any, that will actually be distributed to stockholders.
- Costs associated with workforce reductions and the risk that we may not be able to realize the expected benefits from our recent reductions in our workforce.
- We may outsource certain corporate functions, which could make us more dependent on third-parties to perform these corporate functions.

A more detailed discussion of these risks and uncertainties and other factors that could affect results is contained in our filings with the U.S. Securities and Exchange Commission, including our Annual Report on Form 10-K for the year ended December 31, 2012, as updated in “Item 1A. Risk Factors” of our subsequent quarterly reports on Form 10-Q. These risks and uncertainties and other factors should be considered carefully and readers are cautioned not to place undue reliance on such forward-looking statements. As such, no assurance can be given that the future results covered by the forward-looking statements will be achieved. All information in this Quarterly Report on Form 10-Q is as of the date of this report, unless otherwise indicated, and we undertake no duty to update this information.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk.**

Our cash equivalents are primarily held in a number of triple-A rated institutional money market funds. We do not invest in commodities or use financial derivatives for trading purposes. Our market risk exposure consists principally of exposure to changes in interest rates.

### **Item 4. Controls and Procedures.**

#### **Evaluation of Disclosure Controls and Procedures**

Our management, under the direction of our Interim Principal Executive Officer and Interim Chief Operating Officer, acting in his capacity as our Principal Executive Officer and Principal Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as of September 30, 2013. Disclosure controls and procedures are designed to ensure that information required to be disclosed in reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that such information is accumulated and communicated to management, including our Interim Principal Executive Officer and Interim Chief Operating Officer, acting in his capacity as our Principal Executive Officer and Principal Financial Officer, to allow timely decisions regarding required disclosures. During the evaluation of disclosure controls and procedures as of December 31, 2012 conducted during the preparation of the consolidated financial statements, a material weakness in internal control over financial reporting related to non-routine, complex technical accounting matters, specifically impairment analysis of property and equipment was identified. Following the remediation of our review process related to accounting for non-routine complex technical accounting matters, as described more fully below, our Interim Principal Executive Officer and Interim Chief Operating Officer, acting in his capacity as our Principal Executive Officer and Principal Financial Officer, concluded that, as of September 30, 2013, the Company's disclosure controls and procedures were effective.

#### **Changes in Internal Control Over Financial Reporting**

In light of the material weakness described above, we have taken steps to remediate our review process related to accounting for non-routine complex technical accounting matters. Management, with the input and oversight of the Audit Committee, implemented the following steps in March 2013: (i) enhancement of our controls related to the preparation of accounting position papers documenting our analysis and conclusions for all complex technical accounting matters and (ii) where appropriate, seeking the advice of qualified outside consultants on the application of U.S. GAAP for such matters.

Based upon these steps taken and our testing and evaluation of the effectiveness of our internal controls, we have concluded the material weakness related to controls over the period-end financial reporting process no longer existed as of March 31, 2013.

There were no changes in our internal control over financial reporting as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, during the quarter ended September 30, 2013 that have materially affected, or are reasonably likely to materially affect our internal control over financial reporting.

### **Part II – OTHER INFORMATION**

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

On December 21, 2010, our Board of Directors had authorized a share repurchase program under which we are authorized to repurchase up to \$200.0 million of our outstanding common stock. Since the inception of this share repurchase program, the cumulative number of shares repurchased and retired through September 30, 2013 amounts to 16,174,568 shares at a total cost of \$153.4 million, or an average cost per share of approximately \$9.48. Since December 2012, repurchases under the share repurchase program have been suspended. During the third quarter of 2013, we did not repurchase any shares of our Common Stock.

**Item 6. Exhibits.**

(a) Exhibits required by Item 601 of Regulation S-K.

<u>Exhibit Number</u>	<u>Description</u>	<u>Reference No.</u>
10.1	Agreement of Sublease, dated as of September 26, 2013, between Enzon Pharmaceuticals, Inc. and Axcellerate Pharma, LLC	*
10.2	Separation Agreement, dated as of September 27, 2013, between Enzon Pharmaceuticals, Inc. and Andrew Rackear†	*
31.1	Certification of Principal Executive Officer and Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	*
32.1	Certification of Principal Executive Officer and Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	*
101	The following materials from Enzon Pharmaceuticals, Inc.'s Quarterly Report on Form 10-Q for the quarter ended September 30, 2013, formatted in XBRL (Extensible Business Reporting Language): (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Comprehensive Income, (iii) Condensed Consolidated Statements of Cash Flows, and (iv) Notes to Condensed Consolidated Financial Statements.	*

† Management contracts or compensatory plans and arrangements required to be filed pursuant to Item 601(b)(10)(ii)(A) or (iii) of Regulation S-K.

\* Filed herewith.

**SIGNATURES**

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

**ENZON PHARMACEUTICALS, INC.**  
(Registrant)

Dated: November 12, 2013

/s/ George W. Hebard III  
\_\_\_\_\_  
George W. Hebard III  
Interim Principal Executive Officer and  
Interim Chief Operating Officer  
(Principal Executive Officer, Principal Financial Officer and Principal  
Accounting Officer)

## EXHIBIT INDEX

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*	Filed herewith.	

**AGREEMENT OF SUBLEASE**  
**BETWEEN**  
**ENZON PHARMACEUTICALS, INC., AS SUBLANDLORD,**  
**AND**  
**AXCELLERATE PHARMA, LLC, AS SUBTENANT**  
**PREMISES:**  
**PORTION OF 20 KINGSBRIDGE ROAD**  
**PISCATAWAY, NEW JERSEY 08854**

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EXHIBIT E – Equipment

## AGREEMENT OF SUBLEASE

This **AGREEMENT OF SUBLEASE** (this "Sublease"), made as of the 26<sup>th</sup> day of September, 2013, between ENZON PHARMACEUTICALS, INC. f/k/a Enzon, Inc. ("Sublandlord"), a Delaware corporation having an office at 20 Kingsbridge Road, Piscataway, New Jersey 08854, and AXCELLERATE PHARMA, LLC ("Subtenant"), a Delaware limited liability company having an office at 20 Kingsbridge Road, Piscataway, New Jersey 08854.

### WITNESSETH

**WHEREAS**, by agreement of lease dated as of April 1, 1995, as amended by that certain First Amendment to Lease dated as of November 13, 2001 (collectively, the "Prime Lease"), between BDG Kingsbridge L.L.C., predecessor-in-interest to Kingsbridge 2005, LLC ("Prime Landlord"), and Sublandlord, as tenant, Prime Landlord leased to Sublandlord the entire premises located at 20 Kingsbridge Road, Piscataway, New Jersey (the "Property"), and the building (the "Building") located thereon (collectively, the "Original Premises"), all as more particularly described in the Prime Lease (a copy of the Prime Lease is annexed hereto as Exhibit A and made a part hereof); and

**WHEREAS**, Sublandlord desires to sublease to Subtenant, and Subtenant desires to hire from Sublandlord; (i) a portion of the Premises consisting of approximately 30,000 rentable square feet of the Building (the "Sublease Premises"), as more particularly described in Exhibit B annexed hereto, all on the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

1. **Demising of Sublease Premises.** Sublandlord hereby subleases to Subtenant and Subtenant hereby hires from Sublandlord the Sublease Premises, subject to the terms and conditions set forth herein. (All capitalized terms not defined herein shall have the meanings ascribed thereto in the Prime Lease).

2. **Condition of Sublease Premises.** On the Sublease Commencement Date (as hereinafter defined), provided Subtenant is not in breach of the provisions hereof, Sublandlord shall deliver the Sublease Premises, and Subtenant agrees to accept the Sublease Premises, in its "as is" condition as exists as of such date. Sublandlord shall not be obligated to alter, repair or perform any work or furnish any materials on or about the Sublease Premises in order to prepare the Sublease Premises for Subtenant's use or occupancy or otherwise. Notwithstanding anything to the contrary contained herein, but subject to emergencies, force majeure, casualty or circumstances beyond Sublandlord's control, Sublandlord, at its sole cost and expense, shall use commercially reasonable efforts to substantially complete within 20 weeks after the Sublease Commencement Date the following work: (i) install a firewall to separate the Sublease Premises from the Remaining Premises (as defined herein); (ii) install handicap parking spaces (in such number and location as reasonably determined by Sublandlord's architect); provided however, that Sublandlord have unfettered access in and to the Sublease Premises without restriction in order to perform any work as may be necessary or required in Sublandlord's determination in connection with such work. All costs and expenses incurred by Sublandlord in connection with such work (other than the actual costs to install the firewall), but including but not limited to, all architect, engineering, contractors and other professionals' fees and expenses, and any permits, licenses or approval fees and charges, other professional shall be included in Operating Expenses (as such term is defined herein).

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3 . **Term of Sublease.** The term ("Term") of this Sublease shall commence on the later of (a) September 1, 2013, or (b) the date upon which the consent of the Prime Landlord to this Sublease has been received, including Sublandlord's receipt by electronic means of a consent as executed by Prime Landlord (the "Sublease Commencement Date"), and shall expire on July 30, 2021 (the "Expiration Date"), unless this Sublease is sooner terminated by law or pursuant to any of the terms, covenants or conditions of this Sublease. Subtenant shall have no right to renew the term of this Sublease. Notwithstanding anything to the contrary herein, possession of the Sublease Premises shall not be delivered to Subtenant until the later of: (i) the Sublease Commencement Date; or (ii) the date Sublandlord receives full payment of the purchase price for various equipment in accordance with that certain Equipment Sale Agreement of same date hereof between the parties.

4 . **Consent.** This Sublease is subject to and conditioned upon Sublandlord obtaining the written consent of Prime Landlord to this Sublease, to the extent required under the Prime Lease. Sublandlord and Subtenant each agree to promptly execute and deliver a consent agreement in a form reasonably requested by Prime Landlord, provided that the consent does not contain any provisions that would materially increase the obligations of either party under this Sublease, and further provided that, Sublandlord shall in no event be required to (a) incur any cost or expense in connection with such consent, (b) alter any of the terms of the Prime Lease which would materially increase any of Sublandlord's, or materially reduce any of Prime Landlord's, obligations under the Prime Lease, or (c) commence any action or proceedings against Prime Landlord. Subtenant shall (i) cooperate with Sublandlord and use commercially reasonable efforts to assist Sublandlord in obtaining Prime Landlord's consent to this Sublease as soon as practicable, and (ii) provide all information concerning Subtenant that Prime Landlord shall reasonably require. If such consent is refused or unacceptably conditioned or if Prime Landlord shall otherwise fail to grant such consent within sixty (60) days after a copy of this Sublease is provided to Sublandlord with Sublandlord's written request for Prime Landlord's covenant thereto, then either party may, by written notice to the other, given at any time prior to the granting of such consent, terminate and cancel this Sublease. Upon the timely delivery of such written notice of any such termination in accordance with the terms hereof, neither party shall have any further rights or obligations hereunder, except for those rights and obligations expressly set forth herein to survive the termination of this Sublease.

5. **Rent.**

A. Subtenant covenants and agrees to pay to Sublandlord, in lawful money of the United States, fixed rent ("Fixed Rent") as follows:

LEASE YEAR	ANNUAL RENT P.S.F.	LEASE YEAR RENT	MONTHLY RENT
1	\$ 12.50 (based on 10,000 s.f.)	\$ 125,000.00	\$ 10,416.67
2	\$ 12.50 (based on 15,000 s.f.)	\$ 187,500.00	\$ 15,625.00
3	\$ 12.50 (based on 20,000 s.f.)	\$ 250,000.00	\$ 20,833.00
4	\$ 12.50 (based on 25,000 s.f.)	\$ 312,500.00	\$ 26,041.67
5	\$ 14.00 (based on 30,000 s.f.)	\$ 420,000.00	\$ 35,000.00
6	\$ 14.00 (based on 30,000 s.f.)	\$ 420,000.00	\$ 35,000.00
7	\$ 14.00 (based on 30,000 s.f.)	\$ 420,000.00	\$ 35,000.00
8**	\$ 14.00 (based on 30,000 s.f.)	\$ 420,000.00	\$ 35,000.00

\*\* (Lease Year 8 shall be for a period that ends on the Expiration Date.)

Upon execution of this Sublease, Subtenant shall pay or deliver to Sublandlord the first monthly installment of Fixed Rent payable under this Sublease and the Security (as defined herein). (The term "Lease Year" is defined as the twelve (12) month period beginning with the Sublease Commencement Date and succeeding anniversaries thereof, except that if the Sublease Commencement Date occurs on a date other than the first day of a calendar month, then Lease Year 1 shall be extended to the last day of the calendar month in which the first anniversary of the Sublease Commencement Date occurs, so that Lease Year 2 and all subsequent Lease Years shall commence on the first day of a calendar month and end on the last day of a calendar month.)

B. In addition to the payment of Fixed Rent and any other sums that Subtenant may be obligated to pay under the provisions of this Sublease, Subtenant covenants and agrees to pay Additional Rent (as hereinafter defined) to Sublandlord from and after the Sublease Commencement Date, within the shorter of (i) the time period specifically set forth in this Sublease for the payment of such amounts, or (ii) twenty (20) days after demand. The term "Additional Rent" shall include (but is not limited to):

i. (relating to Real Estate Taxes (as defined in the Prime Lease)): fifty three and eleven one hundredths percent (53.11%) ("Subtenant's Total Share") of all amounts due and payable by Sublandlord to Prime Landlord pursuant to Article 7 of the Prime Lease (as incorporated and modified herein) with respect to Real Estate Taxes regarding the Original Premises, including, without limitation, estimated as well as actual amounts;

ii. (relating to Operating Expenses (as defined herein)): Subtenant's Total Share of all amounts due and payable with respect to the Operating Expenses, including, without limitation, estimated as well as actual amounts payable by Subtenant on a monthly basis;

iii. (relating to sewer and gas usage): for sewer and gas usage at the Sublease Premises: (a) Subtenant's Total Share of (i) the gas usage at the Original Premises for up to 8,500 therms per month (the "Base Gas Usage", which 8,500 therms monthly usage plus delivery costs is currently charged to Sublandlord at \$6,000 per month); and (ii) the sewer usage at the Original Premises, paid on a quarterly basis, but based upon the monthly water usage of 400,000 gallons per month (the "Base Sewer Usage", which usage is currently charged to Sublandlord at \$10,000 per quarter), together with all charges and amounts billed by the applicable utility (and delivery) company in connection with such utility usage, including without limitation all fees, taxes, service charges, repairs, surcharges and any other expense billed by the applicable utility (or delivery) company in connection therewith (such charges, amounts, fees, taxes, service charges, repairs, surcharges and other expenses, hereinafter referred to as "Added Charges"), plus (b) one hundred (100%) percent of all charges and amounts billed against the Original Premises by the applicable utility (and delivery) company for (i) any gas usage at the Original Premises which exceeds the Base Gas Usage; and (ii) any sewer usage at the Original Premises which exceeds the Base Sewer Usage;

iv. (relating to water usage): for water usage at the Sublease Premises: (a) one hundred percent (100%) of all charges and amounts billed by the applicable utility company relating to the existing water meter no. 70176303, including without limitation, all Added Charges; plus (b) forty-three percent (43%) (the "Subtenant Water/Electricity Share") of all charges and amounts billed by the applicable utility company relating to the water usage at the Original Premises, plus all Added Charges, for up to 400,000 gallons per month (the "Base Water Usage", which 400,000 gallon monthly usage is currently charged to Sublandlord at \$3,000 per month); plus (c) one hundred percent (100%) of all charges and amounts, plus all Added Charges, billed by the applicable utility for any monthly water usage at the Original Premises which exceeds the Base Water Usage;

v. (relating to electricity usage): for electricity usage at the Sublease Premises for any and all purposes, including without limitation for heating, ventilation and air conditioning: (a) one hundred percent (100%) of all charges and amounts billed by the applicable utility company relating to the existing electricity meter no. 778017595, including without limitation, all Added Charges; plus (b) the Subtenant Water/Electricity Share of all charges and amounts billed by the applicable utility company relating to the electrical usage at the Original Premises, plus all Added Charges, for up to 238,700 kilowatt hours per month (the "Base Electricity Usage", which 238,700 kilowatt hours monthly usage is currently charged to Sublandlord at \$38,850 per month); plus (c) one hundred percent (100%) of all charges and amounts, plus all Added Charges, billed by the applicable utility for any monthly electricity usage at the Original Premises which exceeds the Base Electricity Usage;

vi. (charges incurred by Subtenant): one hundred percent (100%) of any amounts payable under the Prime Lease which are attributable to Subtenant's use or manner of use of the Sublease Premises or the common areas for which additional charges are incurred;

provided however, in the event that the Remaining Premises is leased to one or more tenants, then for the period of such tenant's(s') occupancy, in the place of Subtenant paying the amounts set forth above in clauses (iii)(a) and (b), (iv) (b) and (c), and (v)(b) and (c), Subtenant shall pay Subtenant's Total Share of all bills, including all Added Charges, relating to the provision of water, sewer, gas and electricity to the Original Premises. In the event Sublandlord wishes to install additional meters or submeters to measure consumption of utilities in the Sublease Premises, the Subtenant shall promptly pay within twenty (20) days of demand therefor the Subtenant's Total Share of all charges and expenses related to such work, including without limitation any special conduits, feeders, risers, wiring and panels needed in connection therewith, and after such meter or sub-meters are installed and are operational, Subtenant shall pay for all utilities consumed as shown on said meters or submeters and all Added Charges related thereto, all as and when billed. Sublandlord shall repair, and perform maintenance to the meters or submeters so as to keep same in good order and condition during the Term and Subtenant shall pay Subtenant's Total Share of all expenses therefor; provided however, for damage, if any, caused by Subtenant, Subtenant shall be responsible for all costs incurred in connection with the repair and, if necessary, the replacement thereof, at Subtenant's sole cost and expense.

C. Subtenant shall pay promptly or cause to be paid all charges for gas, water, sewer, electricity, light, heat, power, telephone and other utilities and services used, rendered or supplied to the Sublease Premises, including without limitation, any sewer rents, hookup, connection, availability, stand by and any other charges in connection with the use, consumption or supply of water, sewage system or other utility. During the Term, Sublandlord shall have the right (to access the Sublease Premises as reasonably necessary) to measure Subtenant's consumption of utilities (including, without limitation, water and gas) in the Sublease Premises.

D. Subtenant shall pay each item of Additional Rent as determined pursuant to the terms hereof, within the time periods set forth herein. Sublandlord's delay or failure during the term of this Sublease to prepare and deliver any statements or bills required to be delivered to Subtenant under this Sublease shall not in any way be deemed to be a waiver of, or cause Sublandlord to forfeit or surrender its rights to collect any Rental (as hereinafter defined) which may have become due pursuant hereto. Subtenant's liability for Rental due under this Sublease shall continue unabated during the Term and shall survive the expiration or sooner termination of this Sublease.

E. Fixed Rent and monthly installments, if any, of Additional Rent shall be due and payable in equal monthly installments in advance, on the first (1<sup>st</sup>) day of each month during the Term. If the Sublease Commencement Date shall be other than the first day of a month or the expiration or sooner termination of the Term is other than the last day of a month, the monthly installments of Fixed Rent and Additional Rent payable hereunder for any such month shall be prorated on a per diem basis based on the actual number of days in such month. Any Additional Rent hereunder that is not payable in monthly installments shall be due and payable by Subtenant within five (5) Business Days (the term "Business Days" used herein to mean all days except Saturdays, Sundays, and the days observed by the Federal or the New Jersey State governments as legal holidays) after Subtenant shall be billed therefor. Notwithstanding the foregoing nor the provisions of Section 7(D) hereof, (i) if the Prime Lease provides that an amount payable as Additional Rent hereunder is payable by Sublandlord to Prime Landlord within a shorter period of time, Subtenant shall pay such Additional Rent no later than one (1) day prior to the date that Sublandlord shall be required to pay same, and (ii) if the Prime Lease provides that an amount payable as Additional Rent hereunder is payable to Prime Landlord on demand, then Subtenant shall pay such Additional Rent to Sublandlord immediately upon the demand of Sublandlord.

F. All of the amounts payable by Subtenant pursuant to this Sublease, including, without limitation, Fixed Rent, Additional Rent and all other fees, costs, expenses, charges, sums and deposits payable by Subtenant to Sublandlord hereunder shall constitute rent under this Sublease (collectively, "Rental"), and such Rental shall be payable to Sublandlord or its designee at such address as Sublandlord shall from time to time direct in writing.

G. Subtenant shall promptly pay the Rental as and when the same shall become due and payable without notice and without setoff, offset or deduction of any kind whatsoever and, in the event Subtenant shall fail to pay same when due, Sublandlord shall, in addition to all of the rights and remedies provided for in this Sublease and/or at law or in equity, have all of the rights and remedies provided for in the Prime Lease in the case of non-payment of any rent due thereunder. Subtenant's obligation to pay Rental shall survive the expiration or sooner termination of this Sublease.

H. In the event that any Rental payment to be made by Subtenant hereunder is not paid by Subtenant to Sublandlord within five (5) Business Days after the date upon which such sum is due, a service charge ("Late Charge") equal to the lesser of (i) eight percent (8%) of such sum and (ii) the maximum amount allowable by law shall be immediately due and payable in addition to the underlying sum. The foregoing service charge is for the purpose of reimbursing Sublandlord for the extra costs and expenses incurred in connection with the handling and processing of such late payments. Further, in the event that any Rental payment due hereunder shall not be paid within five (5) Business Days after the same is due, such unpaid Rental shall bear interest from such fifth (5<sup>th</sup>) Business Day until the date when paid at a rate equal to the lesser of (i) four (4%) per cent in excess of the Base Rate (as defined herein) and (ii) the maximum amount allowable by law. It is expressly acknowledged and agreed that nothing herein contained shall be deemed or construed as permitting or allowing Subtenant to make any payment of Rental at a time other than when same shall be required to be paid pursuant to the provisions of this Sublease. The acceptance of the late charge and/or interest referred to in this Section 5(H) shall not in any manner preclude Sublandlord from enforcing any of its rights or remedies contained elsewhere in this Sublease.

I. If Sublandlord shall be charged with respect to the Sublease Premises for any other sums or charges pursuant to the provisions of the Prime Lease, including, without limitation, for charges, overtime or other extra services requested by Subtenant, then Subtenant shall be liable for such costs, sums or charges. Additionally, Subtenant shall also pay to Sublandlord all other costs or charges incurred by Sublandlord as a result of the occupancy, actions or omissions of Subtenant. All amounts due to Sublandlord under this Section 5(I) shall be due and payable by Subtenant to Sublandlord within five (5) Business Days after written demand therefor. As used in this Sublease, the term "Additional Rent" shall mean all sums payable by Subtenant to Sublandlord pursuant to this Sublease, including payments due to Sublandlord pursuant to the terms of the provisions of the Prime Lease as incorporated herein by reference (other than Fixed Rent) and, in the event of any non-payment of any Additional Rent, Sublandlord shall have all rights and remedies provided for herein or by law for non-payment of rent.



J. If Sublandlord shall receive a refund of any amounts from Prime Landlord with respect to the Sublease Premises pursuant to the terms of the Prime Lease, and provided Subtenant shall not then be in default of this Sublease, Sublandlord shall promptly notify Subtenant and refund to Subtenant the portion thereof (after deducting from the amount of any such refund an equitable portion of all reasonable expenses, including court costs and reasonable attorneys' fees, incurred by Sublandlord with respect to such refund), if any, which shall have actually been paid by Subtenant hereunder in respect of Fixed Rent or Additional Rent applicable to such refund, less any amounts theretofore received by Subtenant directly from Prime Landlord.

K. Subtenant shall be responsible for any applicable occupancy or rent tax now in effect or hereafter enacted and, if such tax is payable by Sublandlord, Subtenant shall promptly pay such amounts to Sublandlord, within ten (10) days after receipt of Sublandlord's written demand.

6. **Use.** Provided Subtenant's use is lawful and in compliance with all environmental laws and requirements and all provisions of this Sublease and the Prime Lease (including without limitation, Article 13 thereof), Subtenant shall use and occupy the Premises for research and development, manufacturing and warehousing of chemical, biochemical and pharmaceutical products and office use incidental thereto and for no other purpose.

7. **Subordination to and Incorporation of the Prime Lease.**

A. This Sublease and all of Subtenant's rights hereunder are and shall remain in all respects subject and subordinate to (i) all of the terms, conditions and provisions of the Prime Lease, (ii) any and all amendments, supplements or modifications to the Prime Lease, and (iii) any and all matters to which the tenancy of Sublandlord, as tenant under the Prime Lease, is or may be subordinate. The foregoing provisions shall be self-operative and no further instrument of subordination shall be necessary to effectuate such provisions. Subtenant hereby acknowledges and agrees that it has been furnished with a true, correct and complete copy of the Prime Lease and is familiar with the terms and conditions set forth therein.

B. Except as otherwise expressly provided in this Sublease, Subtenant assumes and shall keep, observe and perform every term, provision, covenant and condition on Sublandlord's part pertaining to the Sublease Premises that is required to be kept, observed and performed pursuant to the Prime Lease and which arises or accrues during the term of this Sublease. For the avoidance of doubt, the words "pursuant to this Sublease" or similar language shall mean "pursuant to this Sublease, including the terms, conditions and provisions of the Prime Lease as incorporated herein."

C. Except as otherwise expressly provided in this Sublease, the terms, provisions and conditions contained in the Prime Lease are incorporated in this Sublease by reference and are made a part hereof as if herein set forth at length, the term "Sublandlord" being substituted for the term "Landlord" under the Prime Lease, the term "Subtenant" being substituted for the term "Tenant" under the Prime Lease, the term "Sublease" being substituted for the term "Lease" under the Prime Lease, the term "Sublease Premises" being substituted for the term "Demised Premises" under the Prime Lease, the term "Prime Landlord's mortgagee" being substituted for the term "Landlord's mortgagee" under the Prime Lease, the term "Prime Landlord and Sublandlord" being substituted for the term "Landlord" in Sections 8.01(A)(2) and (4), and 8.01(B), in Section 8.01(C), Sections 13.03(B) and (E) and Section 22.01 of the Prime Lease, and the term "Prime Landlord or Sublandlord" being substituted for the term "Landlord" in line one (1) of Section 8.01(E). In all instances where consent or approval of the Landlord is required under the Prime Lease, the consent or approval of each of the Landlord and Sublandlord shall be required. The parties agree that the following provisions of the Prime Lease are not so incorporated herein by reference (although any terms used in the Prime Lease which are defined in such provisions are incorporated in this Sublease by reference to the extent such terms are used in the provisions of the Prime Lease which are incorporated herein by reference): Article 1; Article 2; Sections 3.01 and 3.02; Article 4; the 1<sup>st</sup> sentence of Section 5.01; the last sentence of the 1<sup>st</sup> paragraph (as set forth in Section 5 of the First Amendment) and the 4<sup>th</sup>, 5<sup>th</sup> and 10<sup>th</sup> sentences of the 2<sup>nd</sup> paragraph of Section 7.01; the last (hand-written) sentence of Section 10.01; Section 11.05; the last 3 sentences of Section 14.01; the last sentence of Section 22.01; Article 23; Section 25.01; Section 26.01; Article 35; Article 36; and Sections 19, 26 and 27 of the First Amendment to Lease.

The parties agree that: (i) except as limited above, Section 7.01 of the Prime Lease is incorporated by reference, except the words "to Landlord" shall be added into the first (1<sup>st</sup>) line immediately following the word "pay," the words "all Real Estate Taxes" as set forth in the first (1<sup>st</sup>) paragraph thereof shall be deemed to mean "Subtenant's Total Share of the Real Estate Taxes," the words "all of the Real Estate Taxes" as set forth in the first (1<sup>st</sup>) sentence of the second paragraph thereof shall be deemed to mean "all of the Subtenant's Total Share of the Real Estate Taxes," and the words "such obligation" in the sixth (6<sup>th</sup>) sentence of the second paragraph thereof shall be deemed to mean "Subtenant's Total Share of the Real Estate Taxes,;" (ii) Section 7.03 of the Prime Lease is incorporated by reference, except the words "all assessments" as set forth in the first (1<sup>st</sup>) line thereof shall be deemed to mean "all of Subtenant's Total Share of assessments,;" (iii) Section 7.05 of the Prime Lease is incorporated by reference, except the words "said escrowee" in the fifth (5<sup>th</sup>) line thereof shall be deemed to mean "Sublandlord,;" (iv) Section 7.06 of the Prime Lease is incorporated by reference, except the words "Demised Premises" in the third (3<sup>rd</sup>) line thereof shall be deemed to mean "Original Premises,;" (v) Section 8.02 of the Prime Lease is incorporated by reference, except the word "Landlord" as used throughout such Section shall be deemed to mean "Prime Landlord" and as used in sentences six (6) and seven (7) thereof shall be deemed to mean "Sublandlord,;" (vi) Sections 11.01 and 11.02 of the Prime Lease are incorporated by reference, except the words "Landlord's architect or engineer" shall mean "Prime Landlord's or Sublandlord's architect or engineer,;" and (vii) upon the occurrence of any casualty event or any condemnation proceeding, Sublandlord shall be under no obligation to repair, alter or restore the Property, the Sublease Premises, the Building or the Land.

D. The time limits set forth in the Prime Lease for the giving of notices, making demands, performance of any act, condition or covenant, or the exercise of any right, remedy or option, are changed for the purposes of incorporation into this Sublease, by lengthening or shortening the same in each instance, as appropriate, so that notices may be given, demands made, or any act, condition or covenant performed, or any right, remedy or option hereunder exercised, by Sublandlord or Subtenant, as the case may be (and each party covenants that it will do so), within three (3) business days prior to the expiration of the time limit, taking into account the maximum grace period, if any, relating thereto contained in the Prime Lease. Each party shall promptly deliver to the other party copies of all notices, requests or demands which relate to the Sublease Premises or the use or occupancy thereof after receipt of same from Prime Landlord.

E. Sublandlord shall have the same rights and remedies with respect to a breach of this Sublease by Subtenant as Prime Landlord has with respect to a breach of the Prime Lease as if the same were more fully set forth at length herein, and Sublandlord shall have, with respect to Subtenant, this Sublease and the Sublease Premises, all of the rights, powers, privileges and immunities as are possessed by Prime Landlord under the Prime Lease. Sublandlord herein shall not be responsible for any breach of the Prime Lease by Prime Landlord or any non-performance or non-compliance with any provisions thereof by Prime Landlord, but Sublandlord shall comply with the provisions of Article 13 hereof.

F. Subtenant shall not be liable for any charges, interest or penalties as a result of a default of Sublandlord in paying the rent due under the Prime Lease so long as and to the extent that any such default by Sublandlord does not arise out of Subtenant's default in paying any installments or other payments of the Rental due under this Sublease.

G. Provided Subtenant is not in default under this Sublease beyond any applicable periods of notice and grace, Sublandlord covenants and agrees not to voluntarily terminate, cancel or surrender the Prime Lease, except with respect to a termination permitted under Article 11 or Article 12 of the Prime Lease, or consent to any modification, amendment or supplement to the Prime Lease which would materially deprive Subtenant of its rights under this Sublease, without the prior written consent of Subtenant, which consent by Subtenant shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, if the Prime Lease is terminated for any reason whatsoever, whether by operation of law or otherwise, except through a default of Sublandlord under the Prime Lease which was not otherwise caused by Subtenant's default hereunder, Sublandlord shall not be liable in any manner whatsoever for such termination. Sublandlord shall promptly forward to Subtenant any default or termination notice with respect to the Prime Lease received by Sublandlord and this Sublease shall terminate in the event of any such termination of the Prime Lease.

H. In the event of any conflict between the terms of the Prime Lease and this Sublease, this Sublease shall govern and control in each instance with respect to Sublandlord's and Subtenant's respective obligations hereunder.

8. **Operating Expenses.**

A. Definitions.

i. The term "Sublandlord's Statement" shall mean an instrument containing a computation of any Additional Rent due pursuant to the provisions of this Article.

ii. “Operating Expenses” shall mean the aggregate of all costs and expenses paid or incurred by or on behalf of Sublandlord in connection with the operation, repair and maintenance of the Original Premises, including, but not limited to, the following:

- (a) costs and expenses of operating, maintaining and repairing the Building and/or the Property and the sidewalks, curbs and parking areas adjacent thereto and/or a part thereof;
- (b) costs and expenses of performing repairs to all structural walls, roofs, plate glass, doors and windows;
- (c) costs and expenses of maintenance and repairs of the structural elements of the Building and the Property;
- (d) costs and expenses of performing repairs and maintenance of (i) utility lines, sanitary or storm sewer lines and culverts and drainage facilities; (ii) lighting and lighting fixtures; and (iii) any sprinkler system installed in any part of the Building and/or Property;
- (e) costs and expenses of maintaining and operating the management and engineering offices, if any, for the Building but only to the extent that the management and engineering work performed therein relates solely to the Building and/or the Property;
- (f) costs and expenses incurred by Sublandlord in establishing, equipping, maintaining, repairing and operating (including the reasonable rental value thereof) any Building amenities or services intended by Sublandlord for the general benefit of tenants of the Building;
- (g) costs and expenses of maintaining and performing repairs of the sidewalks, curbs, landscaping and other improvements adjacent to and those located on the Property, including, without limitation, costs of cleaning and removing snow and ice;
- (h) costs and expenses incurred for the operation, repair and maintenance of the parking facility(ies), including, but not limited to, insurance, cleaning, repaving, repairing and restriping;
- (i) costs and expenses for electricity, water and all other utilities (to the extent same are not separately submetered and not separately billed to Subtenant);
- (j) costs and expenses of all insurance (including any terrorism insurance) maintained by Sublandlord in connection with the Original Premises and/or sublandlord’s equipment, fixtures and personal property used in connection therewith, and including insurance maintained by Sublandlord pursuant to the Prime Lease, including the insurance maintained by or on behalf of Prime Landlord pursuant to the Prime Lease;

(k) service contracts and repair, replacement and maintenance charges, including without limitation, relating to the air conditioning, heating and ventilation systems and equipment, window washing, rubbish removal and cleaning costs (to the extent same is provided) and the roof (and any other service contract, as may be entered into in the future); protection and security services, if any is provided; sales, use and other similar taxes;

(l) supplies, wages, salaries, disability benefits, pensions, hospitalization, retirement plans and group insurance and payroll, social security, unemployment and other similar taxes respecting service and maintenance employees (including the property manager for the Building and the Property);

(m) all professional fees, including without limitation, legal and accounting fees; all permits, authorizations and license fees; other consultants' and professionals' fees; all costs and disbursements incurred in connection with any of the foregoing;

(n) any capital improvement made after the Sublease Commencement Date; provided, such capital improvements shall be amortized (with interest at the Base Rate (as defined below)) on a straight-line basis over such period as Sublandlord shall reasonably determine in accordance with generally accepted accounting principles ("GAAP"), and the amount included in Operating Expenses in any Operational Year shall be equal to the annual amortized amount; and

(o) any installation, maintenance, upgrades, modifications, repairs and replacements to, and service contracts relating to, any security systems and equipment for the Original Premises.

iii. "Subtenant's Estimated Share" shall mean Subtenant's Total Share multiplied by Sublandlord's written estimate of the Operating Expenses for the ensuing Operational Year (as defined below), said written estimate to be delivered by Sublandlord to Subtenant during December of each calendar year. Subtenant's Estimated Share shall be divided by 12 and such one-twelfth amount shall be payable on the first of each month, starting January 1 of the ensuing year, by Subtenant to Sublandlord as Additional Rent. The Subtenant's Estimated Share for calendar year 2013 is \$10,268.00 per month.

iv. "Operational Year" shall mean each calendar year after calendar 2013.

v. "Base Rate" shall mean annual rate of interest publicly announced from time to time by JPMorgan Chase Bank, N.A., or its successor, in New York, New York as its "base rate" or "prime rate" (or such other term as may be used by JPMorgan Chase Bank, N.A., from time to time, for the rate presently referred to as its "base rate").

B. Sublandlord's Statement.

i. After the expiration of each calendar year during the Term, Sublandlord shall furnish Subtenant a written detailed statement or statements prepared by Sublandlord (the "Sublandlord's Statement") setting forth the actual Operating Expenses incurred for such expired year, the amount of Subtenant's Total Share thereof, the payments received from Subtenant for Operating Expenses for such expired year and the amount of the Subtenant's Estimated Share for the ensuing Operational Year. For thirty (30) days following the date of Sublandlord's Statement, Subtenant shall have the right, at Subtenant's sole cost and expense, to inspect the records maintained by the Sublandlord of the material reflected in said Sublandlord's Statement at a reasonable time mutually agreeable to Sublandlord and Subtenant. If the Sublandlord's Statement reflects that the actual Operating Expenses incurred for such expired year exceeded the payments of Operating Expenses received from Subtenant for such expired year, Subtenant shall pay the amount of such shortfall to Sublandlord within thirty (30) days after receipt of such Sublandlord Statement. If the Sublandlord Statement reflects that the Subtenant has overpaid the Operating Expenses for such expired year, such overpayment shall be credited against the next ensuing payment of Additional Rent (or, if the Term of the Sublease shall have ended, Sublandlord shall reimburse such amount to Subtenant within thirty (30) days thereafter).

ii. Sublandlord's failure to render Sublandlord's Statements with respect to any year, or Sublandlord's delay in rendering said Statements beyond a date specified herein, shall not prejudice Sublandlord's right to render a Sublandlord's Statement (or any corrected Sublandlord Statement) with respect to that year or any subsequent year; nor shall the rendering of a Sublandlord Statement prejudice Sublandlord's right to thereafter render a corrected Statement for that Operational Year.

iii. If Sublandlord furnishes a Sublandlord Statement containing the estimate for an ensuing Operational Year subsequent to the commencement thereof, then (i) until the first (1<sup>st</sup>) day of the month following the month in which the Sublandlord Statement Estimate is furnished to Subtenant, Subtenant shall pay to Sublandlord on the first (1<sup>st</sup>) day of each month an amount equal to the monthly sum payable by Subtenant to Sublandlord under this Article during the last month of the calendar year preceding such Operational Year, (ii) promptly after the Sublandlord Statement is furnished to Subtenant or together therewith, Sublandlord shall give notice to Subtenant stating whether the installments of Subtenant's Operating Payment previously made for such Operational Year were greater or less than the installments of Subtenant's Estimated Share to be made for such Operational Year, and (x) if there shall be a deficiency, Subtenant shall pay the amount thereof within ten (10) days after demand therefor, or (y) if there shall have been an overpayment, Sublandlord shall credit the amount thereof against subsequent payments of Rental due hereunder, and (iii) on the first (1<sup>st</sup>) day of the month following the month in which the Sublandlord Statement is furnished to Subtenant, and on the first (1<sup>st</sup>) day of each month thereafter throughout the remainder of such Operational Year, Subtenant shall pay to Sublandlord an amount equal to 1/12 of Subtenant's Estimated Share shown on the Sublandlord Statement.

iv. Each Sublandlord's Statement shall be conclusive and binding upon Subtenant unless, within thirty (30) days after delivery of such Sublandlord's Statement to Subtenant, Subtenant shall notify Sublandlord that it disputes the correctness of Sublandlord's Statement, specifying the respects in which Sublandlord's Statement is claimed to be incorrect. Pending the determination of such dispute, Subtenant shall pay Additional Rent in accordance with the applicable Sublandlord's Statement, and such payment shall be without prejudice to Subtenant's position in any legal proceeding commenced by Subtenant.

v. With respect to each Sublandlord Statement, Sublandlord will maintain its applicable books and records for a period of at least three (3) years after such Sublandlord Statement is delivered to Subtenant and thereafter during the pendency of any review thereof by Subtenant pursuant to the terms of this Sublease. Subtenant agrees that Subtenant will not employ, in connection with any dispute under this Sublease with respect to a Sublandlord Statement, any audit or accounting person or entity who is to be compensated in whole or in part, on a contingency fee basis. If Subtenant timely notifies Sublandlord of Subtenant's desire to review a Sublandlord Statement and the parties do not resolve any dispute as to the correctness of such Sublandlord Statement within sixty (60) days following such notice, either party may refer the issues raised to a nationally recognized public accounting firm mutually acceptable to Sublandlord and Subtenant, and the decision of such accountants shall be conclusively binding upon Sublandlord and Subtenant. In connection therewith, Subtenant, such accountants and all other persons to whom Subtenant gives any of the information obtained in connection with such review shall execute and deliver to Sublandlord a confidentiality agreement, in form and substance reasonably satisfactory to Sublandlord and Subtenant, whereby such parties agree not to disclose to any third party any of the information obtained in connection with such review. Within ten (10) Business Days after issuance of the accounting firm's decision, Sublandlord shall reimburse to Subtenant the amount overstated by Sublandlord as determined by the accountant. Subtenant shall pay the fees and expenses of the accounting firm relating to such procedure, unless such accountants determine that Sublandlord overstated Operating Expenses by more than five percent (5%) for such Operational Year, in which case Sublandlord shall pay all reasonable fees and expenses of the accounting firm selected by Sublandlord and Subtenant as set forth above within thirty (30) days after receipt of written request; provided however, in the event that Subtenant retains an accountant or audit company, Sublandlord shall not be obligated to reimburse Subtenant for the costs of such accountant or audit company.

vi. The obligations of Sublandlord and Subtenant under the provisions of this Article with respect to any Additional Rent shall survive the expiration or any sooner termination of the Term.

9. **Electricity.**

A. A portion of the electricity consumed within the Sublease Premises is measured by an existing submeter (the "Submeter"). Sublandlord shall install and repair, and perform maintenance to the Submeter so as to keep same in good order and condition during the Term and Subtenant shall pay Subtenant's Total Share of all expenses therefor; provided however, for damage, if any, caused by Subtenant, Subtenant shall be responsible for all costs incurred in connection with the repair and, if necessary, the replacement thereof, at Subtenant's sole cost and expense. Where more than one meter measures the electricity supplied to Subtenant, the electricity rendered through each meter may be computed and billed separately in accordance with the provisions herein set forth.

B. If the Submeter should fail to properly register or operate at any time for any reason whatsoever, Sublandlord may estimate the cost (or, at Sublandlord's option, the average cost) per kilowatt hour and the cost (or, at Sublandlord's option, the average cost) per kilowatt demand, by time of day, if applicable, to Sublandlord of purchasing electricity for the Sublease Premises, including fuel adjustment charges (as determined for each month of the relevant period and not averaged), rate adjustment charges, sales tax, and any other factors or charges, used by the utility company in computing the charges to Sublandlord for electric usage (the "Electricity Additional Rent"), and, when the Submeter is again properly operative, an appropriate reconciliation shall be made, by Subtenant paying any deficiency to Sublandlord within ten (10) days after demand, or by Sublandlord crediting Subtenant with the amount of any overpayment, as the case may be. Sublandlord, at its option, may from time to time increase the Electricity Additional Rent based upon any increase in electricity cost. Subtenant acknowledges that in connection with the installation or retrofit of meter(s), the electricity being supplied to serve the Sublease Premises may be temporarily interrupted.

C. If either the quantity or character of electrical service is changed by the public utility corporation supplying electrical service to the Building or is no longer available or suitable for Subtenant's requirements, no such change, unavailability or unsuitability shall constitute an actual or constructive eviction, in whole or in part, or entitle Subtenant to any abatement or diminution of rent, or relieve Subtenant from any of its obligations under this Sublease, or impose any liability upon Sublandlord or Sublandlord's agents. Subtenant covenants that at no time shall Subtenant use electrical energy in the Sublease Premises which exceeds the capacity of the existing feeders or wiring installations then serving the Sublease Premises or which interferes with the electrical service to other tenants of the Building. Subtenant shall not, without prior consent of Sublandlord in each instance (such consent shall not be unreasonably withheld, provided that the consent of the Prime Landlord shall have first been obtained), make or perform, or permit the making or performing of, any alteration to wiring installations or other electrical facilities in or serving the Sublease Premises or any additions to the electrical fixtures, business machines, office equipment, or other appliances in the Sublease Premises which utilize electrical energy.

10. **Quiet Enjoyment.** Sublandlord covenants that as long as Subtenant shall timely pay the Rental due hereunder and shall duly perform all of the terms, covenants and conditions of this Sublease on Subtenant's part to be performed and observed, Subtenant shall peaceably and quietly have, hold and enjoy the Sublease Premises during the Term without molestation or hindrance by Sublandlord, subject to the terms, provisions and conditions of the Prime Lease and this Sublease.

11. **Representations and Warranties; Covenants.**

A. Sublandlord represents and warrants to Subtenant as of the date hereof that (i) the Prime Lease is in full force and effect in accordance with, and subject to, all of the terms, covenants, conditions and agreements contained therein, (ii) the Prime Lease has not been materially modified, amended or supplemented, except as set forth in Exhibit A annexed hereto, (iii) Sublandlord has not received any notice of any default from the Prime Landlord under the Prime Lease which default remains uncured nor, to Sublandlord's knowledge, (other than Prime Landlord's failure to deliver a subordination non-disturbance and attornment agreement relating to the current fee mortgagee), has any action or omission by any person that would constitute a material breach or default under the Prime Lease for which a notice of default has not been received, including but not limited to any violations of environmental laws and rules and regulations summarized in Section 13.03(C) of the Prime Lease, and (iv) that, to Sublandlord's knowledge, except as set forth in Exhibit C annexed hereto, and subject to emergencies, changes of law, force majeure, casualty or circumstances beyond Sublandlord's control and subject to any additional expense in connection with the work as described in Section 2 hereof, there are no significant extraordinary expenses which are anticipated to be incurred in connection with the operation of the Building which would reasonably be anticipated to cause the Operating Expenses for the first twelve (12) months of the term of this Sublease to materially exceed the annual average sum of Operating Expenses for the Building over the past five (5) years.



B. Subtenant represents and warrants to Sublandlord as of the date hereof that (i) Subtenant has full right, power and authority to enter into this Sublease and perform its obligations and consummate the transactions contemplated hereunder and (ii) this Sublease has been duly executed and delivered by Subtenant and constitutes a valid and binding agreement of Subtenant, enforceable against Subtenant in accordance with the terms hereof.

C. Subtenant hereby covenants and agrees that Subtenant will not do anything in, about or with respect to the Sublease Premises or the Building which would constitute a breach or default under the Prime Lease or this Sublease, or fail to do anything which Subtenant is obligated to do under the terms of this Sublease which would constitute a breach or default under the Prime Lease or this Sublease. Subtenant shall not (i) do or fail to do anything in or about the Sublease Premises which would interfere with the use and occupancy, or any business operations of Sublandlord or any other third party in those portions of the Original Premises or Building excluding the Sublease Premises (the "Remaining Premises"); and (ii) permit, cause or suffer to occur any trespass by Subtenant or any of its Agents in, on or upon such Remaining Premises. Subtenant agrees to be bound by and agrees that Subtenant's business and operations and, more specifically, its handling, storage, use and disposal of Hazardous Substances shall at all times comply with, all applicable laws pertaining to Hazardous Substances and with the terms and provisions of the Prime Lease, including without limitation Sections 13.03(G)(ii), (iii) and (iv).

**12. Services and Repairs.**

A. Notwithstanding anything to the contrary set forth in the Prime Lease, Subtenant agrees that except as expressly set forth in subparagraph (C) below, Sublandlord shall have no obligation to render or supply any services to Subtenant, including, without limitation (i) cleaning and janitorial services relating to the Sublease Premises, window washing or rubbish removal services, (ii) performing any maintenance or making any alterations or repairs, (iii) providing any utility or service not currently provided to the Building and/or the Property, or (iv) taking any action that Prime Landlord has agreed to provide, make, comply with or take, or cause to be provided, made, complied with or taken under the Prime Lease (collectively "Services and Repairs"). Subtenant hereby agrees that Subtenant shall look solely to the Prime Landlord for the performance of any and all of such Services and Repairs, subject to the terms and conditions of this Sublease. Sublandlord hereby grants to Subtenant Sublandlord's rights under the Prime Lease to receive from Prime Landlord Services and Repairs to the Sublease Premises to the extent that Sublandlord is entitled to receive same under the Prime Lease. Sublandlord shall in no event be liable to Subtenant nor shall the obligations of Subtenant hereunder be impaired or the performance thereof excused because of any failure or delay on Prime Landlord's part in furnishing Services and Repairs, unless such failure or delay results from Sublandlord's default under the Prime Lease (which default is not the result of or attributable to any corresponding default of Subtenant under this Sublease).

B. Subtenant shall take good care of the Sublease Premises and, at Subtenant's sole cost and expense, shall clean and provide janitorial services to and rubbish removal from the Sublease Premises and shall make all non-structural repairs and replacements, as and when needed to preserve the Sublease Premises in good working order and condition.

C. Sublandlord, at its expense (but subject to reimbursement as Operating Expenses), shall keep, repair, replace and maintain the common areas, the roof, the foundation, the structural supports and walls and the fixtures, appurtenances, systems and facilities serving the Sublease Premises in working order, condition and repair and the parking and sidewalk areas free from snow and ice, and, at Subtenant's sole cost and expense payable to Sublandlord as Additional Rent, Sublandlord shall make all repairs, structural and otherwise, interior and exterior, as and when needed in or about the Sublease Premises, including without limitation, the maintenance, repair and replacement of the heating, ventilation and air conditioning systems and equipment located within the Sublease Premises, except for (i) those repairs for which Subtenant is responsible pursuant to any other provision of this Sublease, including but not limited to Section 12(B) above, or (ii) repairs to Subtenant's property and its furniture, fixtures and equipment.

D. On Business Days from 8:00 A.M. to 6:00 P.M., Sublandlord shall furnish and distribute to the Sublease Premises through the Building's air conditioning system, heated, cooled and outside air, at reasonable temperatures, pressures and degrees of humidity and in reasonable volumes and velocities (collectively "air conditioning"). No supplemental heating, ventilating or air conditioning equipment shall be installed or utilized by Subtenant in the Sublease Premises without the prior consent of Sublandlord and, pursuant to the Prime Lease, the Prime Landlord. Sublandlord shall have no liability to Subtenant, nor shall any diminution or abatement of rent or additional rent or other compensation or claim of constructive eviction be claimed by Subtenant, by reason of any interruption, curtailment or suspension of any air conditioning system for the Building.

E. Sublandlord reserves the right, without any liability to Subtenant, except as otherwise expressly provided in this Sublease, to stop the service of the air conditioning, supplemental heating, ventilating, elevator, plumbing, electrical, sanitary, mechanical or other service or utility systems of the Building serving the Sublease Premises, or the rendition of any of the other services required of Sublandlord under this Sublease, whenever and for so long as may be necessary, by reason of accident or emergency, strikes, mechanical breakdown, requirement of law, unavoidable delay or for repairs, alterations, replacements or improvements, which in the judgment of Sublandlord, are desirable or necessary, until the reason for such stoppage shall have been eliminated.

13. **Enforcement of Prime Lease.** If Prime Landlord shall default in any of its obligations to Sublandlord with respect to the Sublease Premises, Sublandlord shall not, except as and to the extent hereinafter set forth, be obligated to bring any action or proceeding or to take any steps to enforce Sublandlord's rights against Prime Landlord other than, upon the written request of Subtenant, making a demand upon Prime Landlord to perform its obligations under the Prime Lease with respect to the Sublease Premises. If following the making of such demand and the expiration of any applicable grace period granted to Prime Landlord under the Prime Lease, Prime Landlord shall fail to perform its obligations under the Prime Lease, then Subtenant at Subtenant's sole cost and expense, shall have the right to take such action in its own name. If (a) any such action against Prime Landlord in Subtenant's name is barred by reason of lack of privity, non-assignability or otherwise, and (b) the failure of Prime Landlord to perform its obligations under the Prime Lease has, or would have, a material adverse effect upon the Sublease Premises or Subtenant's permitted use thereof, then subject to and upon the following terms, Subtenant may bring such action in Sublandlord's name and Sublandlord shall execute all documents reasonably required in connection therewith, provided that (i) the same is without cost or expense to Sublandlord, (ii) Subtenant shall provide the indemnification to Sublandlord required pursuant to Article 15 hereof, (iii) Subtenant is not then in default hereunder, and (iv) Subtenant agrees to indemnify and hold Sublandlord harmless from and against any and all costs, charges, damages and liabilities arising in connection with such contest.

14. **Assignment, Subletting and Encumbrances.**

A. Without the prior written consent of Sublandlord, which consent shall not be unreasonably withheld, provided that the consent of the Prime Landlord shall have first been obtained (if required pursuant to the Prime Lease), and, to the extent required under the Prime Lease, of Prime Landlord, Subtenant shall not (i) assign this Sublease (by operation of law or otherwise), (ii) sub-sublease all or any part of the Sublease Premises, (iii) mortgage, pledge, hypothecate or otherwise encumber its interest in this Sublease or the Sublease Premises or any interest therein, or (iv) grant any concession, license or otherwise permit the Sublease Premises to be used or occupied by anyone other than Subtenant. Any such assignment, sublease, mortgage, pledge, hypothecation or other encumbrance of or under this Sublease without such prior written consent shall be invalid and without force and effect.

B. Any assignment of this Sublease, if consented to, or deemed consented to pursuant to the terms hereof, by Sublandlord, shall be subject to and conditioned upon compliance with the following terms and conditions:

i. By written instrument of assignment and assumption, the assignee shall assume and agree to perform and to comply with all of the terms, conditions and agreements of this Sublease on the part of Subtenant to be kept, performed and observed;

ii. A duplicate original of such instrument, in form satisfactory to Sublandlord; duly acknowledged and executed by the assignor and the assignee, shall be delivered to Sublandlord within five (5) days following the date of execution thereof; and

iii. The assignor shall assign all of its right, title, interest and claim to the Security deposited hereunder to the assignee.

C. Any sub-subletting of the Sublease Premises or any part thereof, if consented to, or deemed consented to pursuant to the terms hereof, by Sublandlord, shall be subject to and conditioned upon compliance with the following terms and conditions:

i. The sub-sublease shall provide that it is subject and subordinate to all of the provisions of this Sublease and all of the rights of Sublandlord hereunder;

ii. The sub-sublease shall expressly provide that the sub-subslessee shall use and occupy the Sublease Premises only for the permitted purposes set forth herein and for no other purpose whatsoever; and

iii. A duplicate original of the sub-sublease, duly executed by Subtenant and sub-subslessee, shall be delivered to Sublandlord within five (5) days following the date of its execution.

D. If this Sublease is assigned, or if the Sublease Premises or any part thereof is sub-sublet or occupied by anyone other than Subtenant, whether or not Subtenant shall have been granted any consent, Sublandlord may, after default by Subtenant, collect rent and other charges from such assignee, sub-subtenant or other occupant, and apply the net amount collected to Rental and other charges herein reserved, but no such assignment, sub-subletting, occupancy or collection shall be deemed to be a waiver of the requirements of this Article 14 or an acceptance of the assignee, sub-subtenant or other occupant as subtenant under this Sublease. No consent by Sublandlord to an assignment or subletting shall in any way be construed to relieve Subtenant from obtaining consent to any further assignment or sub-subletting. No assignment or sub-subletting shall, in any way, release, relieve or modify the liability of Subtenant under this Sublease and Subtenant shall be and remain liable under all of the terms, conditions, and covenants hereof.

E. If Subtenant shall at any time request the consent of Sublandlord to any proposed assignment of this Sublease or sub-subletting of all or any portion of the Sublease Premises, Subtenant shall pay on demand the costs and expenses incurred by Sublandlord and Prime Landlord, including, without limitation, architects', engineers' and attorneys' actual out-of-pocket fees and disbursements, all fees and charges charged identified in the Prime Lease and a reasonable administrative fee for review and/or preparation of documents in connection with any proposed or actual assignment of this Sublease or sub-subletting of the Sublease Premises or any part thereof.

F. In the event Sublandlord's consent to any assignment, sublease, mortgage pledge, hypothecation or other encumbrance is deemed given pursuant to the express terms of this Sublease (or the Prime Lease, as incorporated herein), Subtenant shall not be relieved from its obligation to obtain the prior written consent thereto of Prime Landlord. Any such assignment, sublease, mortgage, pledge, hypothecation or other encumbrance of or under this Sublease without such prior written consent shall be invalid and without force and effect.

15. **Indemnification.**

A. Sublandlord, Prime Landlord and the employees, agents, contractors, licensees and invitees (collectively "Agents") of each (collectively, "Indemnified Parties"), shall not be liable to Subtenant or its Agents, and Subtenant shall indemnify and hold harmless the Indemnified Parties from and against any and all suits, claims, demands, liabilities, damages (including, without limitation, consequential damages) costs and expenses of every kind and nature for which the Indemnified Parties are not reimbursed by insurance (including, without limiting the generality of the foregoing, attorneys' fees, disbursements and court costs, penalties and fines suffered or paid by Prime Landlord and/or Sublandlord in any action or proceeding between or among Subtenant and Prime Landlord and/or Sublandlord, any third party and/ Prime Landlord and/or Sublandlord, or otherwise) incurred in connection with or arising out of the following, to the extent not caused by the negligence of the Indemnified Parties:

i. any injury or damage to any person happening on or about the Sublease Premises, or for any injury or damage to the Sublease Premises, or to any property of Subtenant or of any other natural person or persons, partnership, corporation, limited liability company, firm, association or other form of business or legal association or entity (each, a "Person") on or about the Sublease Premises;

ii. any injury or damage to any person happening on or about the Property or the Remaining Premises (as defined herein), or for any injury or damage to the Property or the Remaining Premises, or to any property of Subtenant or of any other Person on or about the Remaining Premises or the Property, related to or arising out of any act or omission of Subtenant or any Agents of Subtenant;

iii. default by Subtenant in the payment of the Rental or any other default by Subtenant in the observance or performance of, or compliance with any of the terms, provisions or conditions of this Sublease, including, without limitation, such matters relating to obtaining the possession of the Sublease Premises following any such default;

iv. the exercise by Subtenant or any Person claiming through or under Subtenant of any rights against Prime Landlord granted to Subtenant hereunder;

v. any holdover beyond the expiration or sooner termination of the Term of this Sublease;

vi. any acts, omissions or negligence of Subtenant or any Person claiming through or under Subtenant, or the Agents of Subtenant or any such Person, in or about the Sublease Premises or the Building; or

vii. any proceeding, action or dispute that Sublandlord or Subtenant may institute or be a part pursuant to Article 13 of this Sublease, except to the extent that any such proceeding, action or dispute shall determine that Prime Landlord's failure or refusal to provide Services or Repairs is justified because of Sublandlord's gross negligence, willful misconduct or breach of this Sublease or the Prime Lease, and not resulting from Subtenant's acts or omissions.

B. The provisions of this Article 15 shall survive the expiration or earlier termination of this Sublease.

16. **Alterations.** Subtenant shall make no alterations, installations, additions or improvements (collectively, "Alterations") in or about the Sublease Premises without the prior written consent of Sublandlord in each instance, which consent shall not be unreasonably withheld provided that the prior written consent of the Prime Landlord is obtained (to the extent the consent of the Prime Landlord is required pursuant to the Prime Lease). Notwithstanding the foregoing, Subtenant shall have the right to perform Alterations to the Equipment without obtaining the consent of Sublandlord, provided however, that Subtenant shall obtain the prior consent of the Prime Landlord, to the extent that the Prime Landlord's consent is required pursuant to the terms of the Prime Lease. Any Alterations consented to by Sublandlord shall be performed by Subtenant at its sole cost and expense and in compliance with all of the provisions of the Prime Lease, including the provisions requiring the Prime Landlord's prior written consent, and also in compliance with such other reasonable requirements of Sublandlord and Prime Landlord. Subtenant shall pay to Sublandlord any and all amounts payable to Prime Landlord in connection with Prime Landlord's review and/or inspection of (a) any plans and/or specifications relating to any proposed Alterations, and (b) any Alterations during and subsequent to the making thereof. Subtenant acknowledges that any such Alterations may become the property of the Prime Landlord in accordance with Section 9.02 of the Prime Lease. If Sublandlord determines that the services of architects, engineers or other professionals are reasonably required in order to review Subtenant's plans for any Alterations, and the performance of any inspections of such Alterations (during and subsequent to the making thereof), the fees and expenses of such professionals shall be deemed Additional Rent and paid promptly by Subtenant upon being billed therefor. Prior to the expiration (or any sooner termination) of the Term, if removal is required by either the Sublandlord or the Prime Landlord in accordance with Section 9.02 of the Prime Lease, Subtenant, at its sole cost and expense, shall remove any and all Alterations so required to be removed, and shall restore the Sublease Premises to good condition following such removal. Notwithstanding any language to the contrary, but provided that the prior written consent of the Prime Landlord is obtained (to the extent the consent of the Prime Landlord is required pursuant to the Prime Lease), Sublandlord agrees to the installation of security cameras and employee key card entry systems, all at Subtenant's sole cost and expense, so long as Sublandlord is notified prior to installation of these systems and these installations are installed by licensed electricians.

17. **Insurance.**

A. Subtenant, at Subtenant's sole cost and expense, shall maintain for the benefit of Sublandlord and Prime Landlord such policies of insurance (and in such form) as are required of Sublandlord by the Prime Lease with respect to the Sublease Premises during Subtenant's use and occupancy thereof, which policies shall be reasonably satisfactory to Sublandlord as to coverage and insurer (which shall be licensed to do business in the State of New Jersey), provided that such insurance shall at a minimum include commercial general liability insurance protecting Sublandlord, Prime Landlord and Subtenant against all claims and liabilities for injury or damage to persons or property occurring in, on or about the Sublease Premises during Subtenant's use or occupancy thereof, and the public portions of the Building, caused by or resulting from or in connection with any act or omission of Subtenant and/or Subtenant's employees, agents, contractors, licensees or invitees.

B. Nothing contained in this Sublease shall relieve Subtenant from any liability as a result of damage from fire or other casualty, but each party shall look first to any insurance in its favor before making any claim against the other party for recovery for loss or damage resulting from fire or other casualty. To the extent that such insurance is in force and collectible and to the extent permitted by law, Sublandlord and Subtenant each hereby releases and waives all right to recover against the other or anyone claiming through or under the other by way of subrogation or otherwise, and Subtenant also releases and waives all right to recover against Prime Landlord. The foregoing release and waiver shall be in force only if the insurance policies of Sublandlord and Subtenant provide that such release or waiver does not invalidate the insurance; each party agrees to use reasonable efforts to include such a provision in its applicable insurance policies. If the inclusion of said provision would involve an additional expense, either party, at its sole expense, may require such provision to be inserted in the other's policy.

18. **Right to Make Repairs.**

A. In the event Sublandlord shall require access to the Sublease Premises to perform any repairs or replacements which relate to Sublandlord's use and occupancy of the remainder of the Premises, Subtenant hereby agrees that it shall provide access to Sublandlord, provided that, except in an emergency, Sublandlord shall (i) provide Subtenant with reasonable prior notice, (ii) perform such repairs or replacements at such times which are reasonably satisfactory to Subtenant and (iii) not unreasonably interfere with Subtenant's business operations in the Sublease Premises.

B. If Subtenant shall default in the observance or performance of any term or covenant on its part to be observed or performed under or by virtue of any of the terms or provisions in any Article of this Sublease or in the Prime Lease, as incorporated herein, Sublandlord, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of Subtenant. If Sublandlord makes any expenditures or incurs any obligations for the payment of money in connection therewith, including but not limited to, attorneys' fees in instituting, prosecuting or defending any action or proceeding and whether or not any legal action is instituted, such sums paid or obligations incurred, with interest and costs, shall be deemed to be Additional Rent hereunder and shall be paid to Sublandlord by Subtenant within ten (10) days of Sublandlord's demand.

C. Subtenant shall permit Sublandlord, at Sublandlord's sole cost and expense, to erect, use and maintain pipes, ducts and conduits within and through the walls and ceilings of the Sublease Premises provided that Sublandlord reasonably coordinates any such installations with Subtenant, and same do not materially unreasonably interfere with Subtenant's use of the Sublease Premises. Sublandlord or its agents or designees shall have the right upon reasonable notice and at reasonable times, except in the case of an emergency (for which no notice shall be required), to enter the Sublease Premises for the purpose of making such repairs or alterations as shall be required or for which Sublandlord shall have the right pursuant to the terms of this Sublease and to access, repair, replace, alter, modify and inspect any portions of the Building's systems and equipment as may be located within the Sublease Premises in connection with any repairs, replacements, alterations, upgrades, modifications, installations, monitoring, maintenance or upkeep of the Building, the Sublease Premises or any part of the Original Premises. Sublandlord shall also have the right, upon reasonable prior notice to Subtenant and at reasonable times, to enter the Sublease Premises for the purpose of inspecting them or, in the event Subtenant is in default hereunder, exhibiting them to prospective subtenants. Sublandlord shall be allowed to take all material into and upon the Sublease Premises that may be required for the repair or alterations above mentioned without the same constituting an eviction of Subtenant in whole or in part and the Rental reserved shall in no way abate, except as otherwise provided in this sublease, while said repairs or alterations are being made.

D. Sublandlord shall have the right, at Sublandlord's sole cost and expense, at any time without thereby creating an actual or constructive eviction or incurring any liability to Subtenant therefor, to install in the Building or to change the arrangements or locations of such of the following as are contained in the Building (but not contained within the Sublease Premises): lobbies, entrances, elevators, passageways, doors and doorways, corridors, stairs, parking facilities, toilets, and other like public portions of the Building.

19. **Attornment.** Notwithstanding anything to the contrary set forth in this Sublease, if the Prime Lease and Sublandlord's leasehold interest in the Original Premises shall be terminated, Subtenant shall, if so requested in writing by Prime Landlord, attorn to Prime Landlord and shall, during the term of this Sublease, perform all of the terms, covenants and conditions of this Sublease on the part of Subtenant to be performed. In the event of any such attornment, Prime Landlord shall not be (a) liable for any act or omission or default of any prior sublessor (including, without limitation, Sublandlord), (b) subject to any offsets or defenses which Subtenant might have against any prior sublessor (including without limitation, Sublandlord), (c) bound by any rent or additional rent which Subtenant might have paid for more than the current month to any prior sublessor (including, without limitation, Sublandlord), (d) bound by any obligation to make any payment to or on behalf of Subtenant, (e) bound to return the Security, if any, until the Security has come into Prime Landlord's actual possession and Subtenant is entitled to such Security pursuant to the terms of this Sublease or (f) bound by any amendment or modification of this Sublease made without Prime Landlord's consent. The foregoing shall be self-operative without the necessity of the execution of any further instruments but Subtenant agrees, upon the demand of Prime Landlord, to execute, acknowledge and deliver any instrument or instruments confining such attornment.

20. **Destruction by Fire or Other Casualty; Condemnation.**

A. If the Sublease Premises and/or the Building are partially or totally damaged or destroyed by fire or other casualty, Subtenant shall have the right to terminate this Sublease in the same form and fashion and subject to the same qualifications and limitations as apply to the Sublandlord's right to terminate the Prime Lease (in its capacity as tenant under the Prime Lease), as set forth in Article 11 of the Prime Lease (and subject to the Prime Landlord's right to restore as set forth therein). Notwithstanding the foregoing, this Sublease shall be automatically terminated by reason of such casualty in the event that the Prime Lease is terminated by Sublandlord or Prime Landlord in the exercise of any termination rights conferred upon such parties pursuant to the provisions of the Prime Lease. Sublandlord shall give Subtenant prompt notice of any such termination.



B. If the Sublease Premises is partially or totally damaged by fire or other casualty, Subtenant shall receive an abatement of Rental for such casualty to the extent that Sublandlord receives a corresponding abatement pursuant to the terms of the Prime Lease.

C. If the Prime Lease is terminated as the result of a taking of all or any portion of the Building by condemnation (or deed in lieu thereof), this Sublease shall likewise terminate. In such event, Subtenant shall have no claim to any share of the award, except to file a claim for the value of its fixtures or for moving expenses.

D. Subtenant acknowledges and agrees that Sublandlord shall bear no obligation nor responsibility to restore or replace or perform any work to the Sublease Premises or the Original Premises in connection with any casualty or condemnation.

21. **Security.**

A. Subtenant has deposited with Sublandlord a letter of credit (the "Letter") in the amount of \$175,000.00 (the "Security Amount"), complying with the requirements of Section 21(B) hereof, as security ("Security") for the full and punctual performance by Subtenant of all of the terms of this Sublease. At the election of Sublandlord such Security shall be held by Sublandlord in the form of the Letter or as cash. If Subtenant defaults in the performance of any of the terms of this Sublease, including the payment of Rental, Sublandlord may use, apply or retain the whole or any part of the Security so deposited to the extent required for the payment of any rent or for any sum which Sublandlord may expend or may be required to expend by reason of Subtenant's default in respect of any of the terms, provisions or conditions set forth in this Sublease or in the Prime Lease (to the extent incorporated herein), whether accruing before or after summary proceedings or other re-entry by Sublandlord. In the case of every such use, application or retention, Subtenant, on demand, shall cause the Letter or cash deposit, as the case may be, to be restored to the full Security Amount as provided in Section 21(B) below with respect to the Letter, and any failure by Subtenant to do so on demand shall constitute a default under this Sublease. If any bankruptcy, insolvency, reorganization or other creditor debtor proceedings shall be instituted by or against Subtenant, or its successors or assigns, any Security deposited with Sublandlord pursuant to this Section shall be deemed to be applied first to the payment of any rents and/or other charges due Sublandlord for all periods prior to the institution of such proceedings and the balance, if any, of such security deposited with Sublandlord may be retained by Sublandlord in partial liquidation of Sublandlord's damages. If Subtenant shall fully and punctually comply with all of the terms of this Sublease, the Letter or cash deposit, as the case may be, shall be returned to Subtenant after the termination of this Sublease and delivery of exclusive possession of the Sublease Premises to Sublandlord. In the event of a sale or lease of the Building, Sublandlord shall have the right to transfer the security to the vendee or lessee and Sublandlord shall upon such transfer be released by Subtenant from all liability for the return of such security and Subtenant agrees to look solely to the new landlord for the return of said security. The provisions of this Section shall apply to every transfer or assignment made of the security to a new landlord. Subtenant shall not assign or encumber or attempt to assign or encumber the money deposited herein as security and neither Sublandlord nor its successors or assigns shall be bound by any such attempt, assignment or encumbrance.

B. The Letter shall be an irrevocable, clean, unconditional and transferable commercial letter of credit, in the form of Exhibit D attached hereto and made a part hereof and issued by a reputable banking institution approved by Sublandlord in its sole, but reasonable judgment, which Letter shall permit Sublandlord (i) to draw thereon at a location in New York City or in New Jersey up to the full amount of the credit evidenced thereby for the payment of amounts due under the terms, provisions, covenants or conditions of this lease and (ii) to draw at a location in New York City or New Jersey or by facsimile, the full amount thereof to be held as cash security if for any reason the Letter is not renewed within forty-five (45) days prior to its expiration date. The Letter (and each renewal thereof) shall (i) be for a term of not less than one (1) year (except that the last Letter shall be for a term expiring sixty (60) days after the Expiration Date); (ii) expressly provide for the issuing bank to notify Sublandlord in writing not less than sixty (60) days prior to its expiration as to its renewal or non-renewal, as the case may be; (iii) be fully transferable by the beneficiary thereof to its successors and assigns; and (iv) be in form and substance reasonably approved by Sublandlord. The Letter shall expressly provide that the issuing bank shall pay to Sublandlord or its duly authorized representative an amount up to the face amount of the Letter upon presentation of the Letter and a sight draft in the amount to be drawn. Not less than forty-five (45) days prior to the expiration date of each Letter (and every renewal thereof), Subtenant shall deliver to Sublandlord a renewal or new Letter subject to all of the conditions aforesaid, all to the intent and purposes, that a Letter in the sum of not less than the Security Amount shall be in effect during the entire Term and the failure of the Letter to be timely renewed or replaced shall be a default by Subtenant hereunder notwithstanding that Sublandlord may be retaining such cash security. If Sublandlord applies or retains any portion or all of the proceeds of the Letter, Subtenant shall restore the amount so applied or retained by causing the bank issuing the Letter to issue an amendment thereto, or if no Letter was then outstanding by causing a new Letter to be issued so that, at all times, the amount of the Letter which may be drawn upon shall be at least equal to the Security Amount. If the financial institution which issued such Letter enters into any form of regulatory or governmental receivership, conservatorship or other similar regulatory or governmental proceeding including, without limitation, any receivership or conservatorship initiated or commenced by or on behalf of the Federal Deposit Insurance Corporation (FDIC), or is otherwise declared insolvent or downgraded by the FDIC or closed for any reason, Subtenant shall immediately deliver to Sublandlord a substitute letter of credit from a financial institution acceptable to Sublandlord, in its sole and absolute discretion. Failure by Subtenant to comply with the provisions of this Article shall be deemed a material default hereunder entitling Sublandlord to exercise any and all remedies as provided in this Sublease for default in the payment of Rental and, to draw on the existing Letter up to its full amount.

22. **Broker.** Each party warrants and represents to the other party hereto that it has not dealt with any brokers in connection with this Sublease other than Jones Lang LaSalle Americas, Inc. ("JLL") and CB Richard Ellis, Inc. ("CBRE", together with JLL, the "Broker") Sublandlord shall pay the Broker a commission relating solely to the rental provided for in this Sublease Agreement, in accordance with a separate agreement. In the event CBRE seeks any commission relating to the Equipment Sale Agreement, Subtenant shall pay the Subtenant's Broker such commission. Each party hereby indemnifies and holds the other party hereto harmless from any and all loss, damage, claim, liability, cost or expense (including, but not limited to, reasonable attorneys' fees, disbursements and court costs) arising out of or in connection with any breach of the foregoing covenants, representations and warranties. The provisions of this Article 22 shall survive the expiration or earlier termination of this Sublease.

23. **Notices.** All notices, consents, approvals or other communications (collectively a “Notice”) required to be given under this Sublease or pursuant to law shall be in writing and, unless otherwise required by law, shall be either personally delivered, or sent by reputable overnight courier service, or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the party which is to receive such Notice at its address set forth in the preamble to this Sublease or such other address as such party may designate by Notice to the other; and in the case of Notices to Sublandlord, with a copy to Sublandlord’s attorneys: Curtis, Mallet-Prevost, Colt & Mosle LLP, 101 Park Avenue, New York, NY 10178, Attention: Eric L. Gilioli, Esq. Any Notice given pursuant hereto shall be deemed to have been received on delivery, if personally delivered, or one (1) business day following delivery to a reputable overnight courier service, or three (3) Business Days after the mailing thereof if mailed in accordance with the terms hereof, such mailing to be effected by depositing the Notice in any post office, branch post office or official depository regularly maintained by the United States Postal Service. If a party shall refuse to accept a Notice, then delivery shall be deemed to have occurred upon such refusal.

24. **No Waivers.** Failure by either party in any instance to insist upon the strict performance of any one or more of the obligations of the other party under this Sublease, or to exercise any election herein contained, or acceptance of payment of any kind with knowledge of a default by the other party shall in no manner be or be deemed to be a waiver by such party of any defaults or breaches hereunder or of any of its rights and remedies by reason of such defaults or breaches, or a waiver or relinquishment for the future of the requirement of strict performance of any and all of the defaulting party’s obligations hereunder. Further, no payment by Subtenant or receipt by Sublandlord of a lesser amount than the correct amount of Rental due hereunder shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed to effect or evidence an accord and satisfaction, and Sublandlord may accept any checks or payments as made without prejudice to Sublandlord’s right to recover the balance or pursue any other remedy in this Sublease or otherwise provided at law or in equity.

25. **Consent.**

A. Whenever in this Sublease it is provided that either party will not unreasonably withhold its consent to any matter, such party shall also be deemed to have agreed not to unreasonably delay such consent. Sublandlord shall not be deemed to have unreasonably withheld or delayed its consent to any matter if Prime Landlord’s consent to the matter requested is required by the provisions of the Prime Lease and if Prime Landlord shall have withheld or delayed its consent to such matter.

B. If Subtenant shall request Sublandlord's consent to any matter and such consent is withheld or delayed, Subtenant shall not be entitled to any damages by reason thereof, it being intended that the sole remedy therefor shall be an action for specific performance or injunction and that such remedy shall only be available when Sublandlord has agreed herein not to unreasonably withhold or delay such consent or when, as a matter of law, such consent may not be unreasonably withheld or delayed.

26. **Expiration of Term.**

A. Upon the expiration or sooner termination of the Term, Subtenant shall quit and surrender the Sublease Premises to Sublandlord, vacant and broom clean and in good order and condition, ordinary wear and tear excepted, and by such date Subtenant, at its sole cost and expense, shall have cleaned and resealed all exposed concrete floors in the Sublease Premises, removed all of Subtenant's movable fixtures and movable partitions, telephone and other equipment, furniture, furnishings and other items of movable personal property, removed the equipment (the "Equipment", as described in Exhibit E annexed hereto) and any Alterations performed by or on behalf of Subtenant from the Sublease Premises, to the extent such removals are required by either the Sublandlord or the Prime Landlord in accordance with the Prime Lease and shall have restored any damage to the Sublease Premises caused by such removal and/or work; provided however, if Subtenant is not required to remove the Equipment nor to surrender it in good order and condition, Subtenant shall surrender such Equipment in its then "as-is" condition.

B. In addition to its obligation to pay Operating Expenses as provided hereunder, Subtenant agrees to pay to Sublandlord within twenty (20) days of written demand therefor, twenty-five percent (25%) of any and all costs and expenses charged to Sublandlord, including without limitation all costs and expenses charged to or incurred by Sublandlord in connection with the performance of any and all surrender obligations imposed upon Sublandlord by Prime Landlord or pursuant to the Prime Lease, relating to the physical condition of the Original Premises, including without limitation, the Building, the Property and any and all building systems and equipment therein or thereon, whether same be structural or non structural in nature, or located in the exterior or interior, or classified as a capital expenditure.

C. Subtenant's obligation to observe or perform these covenants shall survive the expiration or sooner termination of the Term of this Sublease. Subtenant's failure to comply with its covenants set forth in this Article 26 shall entitle Sublandlord to all of its rights hereunder, including, without limitation, the right to indemnification pursuant to Article 15 hereof for consequential damages arising out of Subtenant's failure to surrender the Sublease Premises when and in the condition required herein.

27. **Limitation of Liability.** If Sublandlord shall be an individual, joint venture, trust, tenancy in common, co-partnership, limited liability company, unincorporated association, or other unincorporated aggregate of individuals and/or entities or a corporation, Subtenant shall look first to Sublandlord's leasehold estate and property in the Sublease Premises for the satisfaction of Subtenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Sublandlord in the event of any default by Sublandlord hereunder, and only then to other property or assets of Sublandlord.

28. **Parking.** Subtenant shall have the non-exclusive right, together with the other tenants and occupants of the Remaining Premises and their employees, agents, licensees and invitees, to use such parking areas (up to Subtenant's Total Share thereof) and any driveways appurtenant thereto for the purposes of egress and ingress, parking of vehicles for itself, its customers and employees, and the loading and unloading of vehicles in connection with and incidental to the business conducted by Subtenant in the Sublease Premises, all without additional charge. Subtenant shall cause its employees to comply with all reasonable rules and regulations which Sublandlord may promulgate in writing with respect to parking in the parking lot.

29. **Signage.** Subtenant shall have the right, at Subtenant's sole cost and expense, subject to the prior consent of the Prime Landlord and subject to Subtenant's compliance with law and the provisions in the Prime Lease and this Sublease relating to the performance of alterations, to install its sign panel on the highest position on the existing monument sign structure (provided that the space utilized does not exceed Subtenant's Total Share of the available signage space on the monument sign) located at the Original Premises. Sublandlord agrees to not unreasonably withhold its consent to any signage plan that is proposed by Subtenant; provided that it is first approved by Prime Landlord in writing. Subtenant, at Subtenant's sole cost and expense, shall be responsible for the maintenance of the monument sign.

30. **Rules and Regulations.** Subtenant shall abide by, and faithfully observe and comply with such rules and regulations as may be reasonably promulgated, amended or added to thereafter; provided same shall be adopted and published by written notice to subtenants by Sublandlord for the safety, care, security, good order and/or cleanliness of the Original Premises, the Sublease Premises and/or the Building. Sublandlord shall not be liable to Subtenant for any violation of such rules and regulations by any other tenant or occupant of the Original Premises.

31. **Miscellaneous.**

A. This Sublease shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to the conflicts of law principles thereof.

B. The section headings in this Sublease are inserted only as a matter of convenience for reference and are not to be given any effect in construing this Sublease.

C. If any of the provisions of this Sublease or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder of this Sublease shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

D. All of the terms and provisions of this Sublease shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

E. All prior negotiations and agreements relating to this Sublease and the Sublease Premises are merged into this Sublease. This Sublease may not be amended, modified or terminated, in whole or in part, nor may any of the provisions be waived, except by a written instrument executed by the party against whom enforcement of such amendment, modification, termination or waiver is sought and unless the same is permitted under the terms and provisions of the Prime Lease.

F. This Sublease shall have no binding force and effect and shall not confer any rights or impose any obligations upon either party unless and until both parties have executed it and Sublandlord shall have obtained Prime Landlord's written consent to this Sublease and delivered to Subtenant an executed copy of such consent. Under no circumstances shall the submission of this Sublease in draft form by or to either party be deemed to constitute an offer for the subleasing of the Premises.

G. This Sublease and all the obligations of Subtenant to pay Rental and perform all of its other covenants and agreements hereunder shall in no way be affected, impaired, delayed or excused because Sublandlord and/or Prime Landlord are unable to fulfill any of their respective obligations hereunder, either explicit or implicit, if Sublandlord and/or Prime Landlord are prevented or delayed from so doing by reason of strikes or labor trouble or by accident, adjustment of insurance or by any cause whatsoever reasonably beyond Sublandlord's and/or Prime Landlords' control.

H. Each and every right and remedy of Sublandlord under this Sublease shall be cumulative and in addition to every other right and remedy herein contained or now or hereafter existing at law or in equity, by statute or otherwise.

I. At any time and from time to time Subtenant shall, within ten (10) days after a written request by Sublandlord, execute, acknowledge and deliver to Sublandlord a written statement certifying (i) that this Sublease has not been modified and is in full force and effect or, if modified, that this Sublease is in full force and effect as modified, and specifying such modifications, (ii) the dates to which the Fixed Rent and Additional Rent and other charges have been paid, (iii) that to the best of Subtenant's knowledge, no defaults exist under this Sublease or, if any do exist, the nature of such default and (iv) as to such other matters as Sublandlord may reasonably request.

J. Subtenant agrees that in executing this Sublease, it has not relied upon any statements, representations, covenants or warranties made by Sublandlord or any person acting on behalf of Sublandlord other than those, if any, expressly set forth in this Sublease and on such investigations, examinations and inspections as Subtenant has chosen to make or has made.

K. If there are any provisions of this Sublease that are inconsistent with the Prime Lease, the provisions of this Sublease shall govern unless to do so would result in a default under the Prime Lease in which case the terms of the Prime Lease shall govern.

L. This Sublease may be executed in any number of counterparts with the same effect as if both parties had signed the same documents. All counterparts shall be construed together and shall constitute one Sublease.

M. This Sublease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Sublease to be drafted. Each covenant, agreement, obligation or other provision of this Sublease shall be deemed and construed as a separate and independent covenant of the party bound by, undertaking or making the same, which covenant, agreement, obligation or other provision shall be construed and interpreted in the context of the Sublease as a whole. All terms and words used in this Sublease, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

N. The parties hereby waive any rights that they may have to trial by jury in any summary action or any other action, proceeding or counterclaim (other than mandatory counterclaims) arising out of or in any way connected with this Sublease, the relationship of Sublandlord and Subtenant, the Sublease Premises and the use and occupancy thereof, and any claim for injury or damages, to the extent permitted under applicable law.

3 2 . **Execution of Sublease.** This Sublease is submitted to Subtenant for signature with the understanding that it shall not bind Sublandlord or Subtenant unless and until it is duly executed by both Subtenant and Sublandlord, the conditions regarding Prime Landlord's approval of this Sublease set forth herein shall have been satisfied and an executed copy of this Sublease is delivered to Subtenant.

**[no further text on this page]**

IN WITNESS WHEREOF, the parties hereto have duly executed this Sublease as of the day and year first above written.

**SUBLANDLORD:**

ENZON PHARMACEUTICALS, INC.

By: /s/ George W. Hebard III  
Name: George W. Hebard III  
Title: Interim Principal Executive Officer

**SUBTENANT:**

AXCELLERATE PHARMA, LLC

By: /s/ Salvatore La Rosa  
Name: Salvatore La Rosa  
Title: Director



**EXHIBIT A**

**Prime Lease  
(and copy of May 2012 Consent Letter from Prime Landlord)**

**EXHIBIT B**

**Sublease Premises**

**EXHIBIT C**

**Anticipated Expenses**

1. **One boiler needs a new heat exchange – covered on warranty (billing is expected to be for labor only);**
2. **One boiler needs motherboard replacement;**
3. **Potential roof repair/replacement; and**
4. **Possible security system alteration and upgrades.**

**EXHIBIT D**

**Form of Letter of Credit**

\_\_\_\_\_, 2013

ENZON PHARMACEUTICALS, INC. f/k/a Enzon, Inc.

\_\_\_\_\_

Attn: \_\_\_\_\_

Re: Clean Irrevocable Letter of Credit No. \_\_\_\_\_

Gentlemen:

We hereby establish our Clean Irrevocable Letter of Credit No. \_\_\_\_\_ in your favor for the account of \_\_\_\_\_ (the "Tenant"), up to the aggregate amount of \$ \_\_\_\_\_. You may draw upon such Letter of Credit at sight (or by facsimile machine sent to fax. no.: \_\_\_\_\_) on or before \_\_\_\_\_, \_\_\_\_\_, upon the presentation of your draft. We will honor the same without requiring anything further of any party or person and regardless of any contrary claims, demands or instructions. You may make partial or full drawings not to exceed the foregoing aggregate amount.

This Letter of Credit expires at the close of banking business on \_\_\_\_\_, \_\_\_\_\_ (hereinafter, as such date may be extended pursuant to the provisions hereof, the "Expiration Date"). It is a condition of this Letter of Credit that the Expiration Date of this Letter of Credit shall be deemed automatically extended for additional periods of one (1) year each from the Expiration Date through and ending \_\_\_\_\_, \_\_\_\_\_, unless not less than \_\_\_\_\_ (\_\_\_\_) days prior to the then prevailing Expiration Date, we shall notify you in writing, by registered or certified mail, that we elect not to extend this Letter of Credit for any such additional period. In such latter event, you may draw the full aggregate amount of this Letter of Credit.

This Letter of Credit is binding upon, and shall inure to the benefit of, the parties and their successors and assigns. This Letter of Credit may be transferred by you, as beneficiary hereof, upon prior written notice to us, without any additional charge. This Letter of Credit sets forth our entire undertaking and shall not be modified, amended or expanded by reference to any other document, instrument or agreement.

[NAME OF BANK]

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Its \_\_\_\_\_, duly authorized

**EXHIBIT E**

**Equipment**

## SEPARATION AGREEMENT

This Separation Agreement (this "Agreement") is made as of the 27th day of September, 2013, between Enzon Pharmaceuticals, Inc., a Delaware corporation, with offices in Bridgewater, New Jersey (the "Company"), and Andrew Rackear (the "Executive").

## BACKGROUND

- A. This Agreement constitutes the agreement between the Company and the Executive concerning the Executive's separation from employment with the Company.
- B. This Agreement supercedes and replaces the General Severance Agreement, dated September 22, 2010, between the Executive and the Company.
- C. The Company desires to ensure that it can rely on the continued services of the Executive to assist with a transition in the business of the Company, in order to avoid potentially material liabilities, obligations or losses that might arise from such transition if the Company is not able to rely on employees who have experience with the operations of the Company.
- D. The Executive desires to assure himself of financial support following the termination of his employment with the Company.

## TERMS

In consideration of the foregoing premises and for other good and valuable consideration, the Company and Executive agree as follows:

1. Term of Agreement. The term of this Agreement (the "Term") shall commence on the date hereof as first written above and shall continue through the Separation Date. The term "Separation Date" means a date determined by the Chairman of the Compensation Committee of the Company (the "Chairman") in his absolute discretion occurring not earlier than October 1, 2013 and not later than December 31, 2013. The Company shall provide the Executive with not less than two (2) weeks advance written notice of the occurrence of the Separation Date.
  2. Continuation of Employment. During the Term, the Executive's employment shall continue on substantially the same terms and conditions as are in effect on the date hereof, subject to changes, if any, required by law. The Executive's employment shall terminate on the Separation Date.
  3. Payments and Benefits Upon Termination.
    - (a) Subject to the continued employment of the Executive through the Separation Date, the Company shall:
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(i) pay to the Executive in cash in a lump sum an amount equal to the sum of: (A) his base salary as in effect on the date hereof (the "Base Salary") through the Separation Date, to the extent theretore unpaid; (B) subject to affirmation by Chairman that Executive has performed his transition responsibilities responsibly and in good faith, a pro-rated portion (based on the portion of the year elapsed through the Separation Date) of his target bonus for 2013 of \$122,000 (the "Target Bonus"); and (C) \$705,000 (such amount, "the Severance Payment"), representing one and one-half times the sum of the Base Salary and Target Bonus. A portion of the Severance Payment in the amount of \$100,000 shall be paid on the six month anniversary of the Separation Date subject to the Condition. For purposes of this Agreement, the "Condition" means that the Executive shall not have materially breached his obligations hereunder after reasonable notice and a reasonable opportunity to cure. The remainder of the payment provided for by this paragraph 3(a)(i) shall be paid on the Separation Date;

(ii) cause each outstanding and unvested equity-based compensation award granted to the Executive to continue to vest in accordance with its terms subject to the Condition;

(iii) commencing on the Separation Date, on an after-tax basis, pay the total premium cost for medical and dental coverage of the same type as in effect on the date hereof under COBRA under the Company's applicable health plan, if any, for a period of eighteen (18) months, or if COBRA coverage is not available, promptly reimburse the Executive on an after-tax basis for the cost reasonably incurred by him for comparable coverage obtained from another provider; provided, that the Company shall have no obligation under this paragraph (iii) beginning as of the date Executive becomes eligible to obtain comparable benefits from a subsequent employer; and

(iv) on the Separation Date pay the Executive eight thousand dollars (\$8,000.00) in respect of outplacement assistance.

(b) In the event of the termination of the Executive's employment by the Company without Cause prior to the Separation Date, the Executive shall be entitled to all of the payments and benefits described in clauses (i) through (iv) of Section 3(a) above at the times specified therein without regard to the Condition. For purposes of this Agreement, the term "Cause" shall mean:

(i) the willful engaging by Executive in illegal conduct or gross misconduct which is demonstrably and materially injurious to the Company; or

(ii) Executive's willful refusal or inability to perform the duties of his position as an executive employed by the Company (other than any such failure resulting from illness or incapacity), which refusal is demonstrably and materially injurious to the Company; or

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(iii) Executive's material breach of his obligations under this Agreement or any employment agreement between the Company and Executive, which breach is demonstrably and materially injurious to the Company;

(iv) Executive's failure, where applicable, to maintain Executive's immigration status with the U.S. Immigration and Naturalization Service or the Executive's failure to maintain valid employment authorization to provide services to the Company.

For purposes of this Agreement, no act or failure to act on Executive's part shall be deemed "willful" unless done, or omitted to be done, by Executive not in good faith and without reasonable belief that Executive's action of omission was in the best interest of the Company.

4. General Release. In consideration of the benefits Executive will receive under this Agreement, to which Executive would not otherwise be entitled, Executive hereby releases and discharges Company, from any and all claims and/or causes of action, known and unknown, which Executive may have or could claim to have against the Company up to and including the date of signing this Agreement. This general release includes, but is not limited to, all claims arising from or during Executive's employment or as a result of the end of Executive's employment and all claims arising under federal, state or local laws prohibiting employment discrimination and/or harassment based upon age, race, sex, religion, handicap, national origin, sexual orientation, veteran status, or any other protected characteristic, including but not limited to any and all claims arising under Title VII of the Civil Rights Act of 1964 and 1991, the Age Discrimination in Employment Act, the Employee Retirement Income Security Act of 1974, the Americans with Disabilities Act, the Rehabilitation Act, the Equal Pay Act, the Family and Medical Leave Act, the Fair Labor Standard Act, the Sarbanes-Oxley Act, the Health Insurance Portability and Accountability Act, the New Jersey Law Against Discrimination, the New Jersey Conscientious Employee Protection Act, the New Jersey Family Leave Act, New Jersey Paid Leave Insurance Act, any applicable state wage and hour laws, and/or any other state, federal, or municipal employment discrimination statutes (including but not limited to claims based on age, sex, attainment of benefit plan rights, race, national origin, religion, handicap, sexual orientation, sexual harassment, marital status, retaliation, and veteran status), and/or any other federal, state, or local statute, law, ordinance, or regulation and/or pursuant to any other theory whatsoever, including but not limited to claims related to breach of implied or express employment contracts, breach of the implied covenant of good faith and fair dealing, defamation, wrongful discharge, constructive discharge, negligence of any kind, intentional infliction of emotional distress, whistleblowing, estoppel or detrimental reliance, public policy, constitutional or tort claims, violation of the penal statutes and common law claims, or pursuant to any other theory or claim whatsoever, arising out of or related to employment with the Company and/or any other occurrence from the beginning of time to the date of this Agreement, whether presently asserted or otherwise. This Agreement specifically includes any and all claims, demands, obligations, and/or causes of action for damages or penalties relating to or in any way connected with the matters referred to herein, whether or not now known or suspected to exist, and whether or not specifically or particularly described or referred to herein. Executive expressly waives any right or claim of right to assert hereafter that any claim, demand, obligation, damage, liability and/or cause of action has, through ignorance, oversight or error, been omitted from the terms of this Agreement. Executive represents that he has not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity, any claim, known or unknown to exist, or any portion thereof or interest therein, which such person has or may have had against the Company. This Agreement and release does not, however, require Executive to waive the right to file a charge with or participate before the Equal Employment Opportunity Commission, provided, however, that Executive gives up the right to recover damages and attorneys' fees from such a proceeding. Nor does this Agreement and Release require Executive to waive vested rights, if any, to pension, retiree, health or similar benefits under the Company's existing plans or Executive's right to enforce this Agreement. Unless otherwise prohibited by law, Executive agrees that should Executive file a lawsuit in court which is found to be barred in whole or part by this Agreement, Executive will pay back to the Company any and all sums paid by the Company to Executive or on Executive's behalf pursuant to this Agreement and Executive will pay the legal fees incurred by the Company in defending those claims found to be barred.

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5. Provision of Consulting Services. Executive agrees to render to the Company following the Separation Date such reasonable consulting services as the Company may from time to time reasonably request. In consideration of such services, Company agrees to pay to Executive a fee of \$250 per hour for each hour or portion of an hour worked. The Company agrees to reimburse Executive for his reasonable expenses incurred in connection with his performance of services hereunder, provided that any such expense in excess of one thousand dollars (\$1,000) must be pre-approved by the Company. Executive agrees to retain and provide the Company with evidence of his performance of services and any such expenses reasonably acceptable to the Company as a condition to his entitlement to any compensation hereunder.

6. Indemnification and Insurance. The Company shall indemnify Executive and hold him harmless from and against any claim, liability and expense (including, without limitation, reasonable attorney fees) made against or incurred by him in connection with his employment by the Company. Such indemnification shall be provided in a manner and to an extent that is not less favorable to the Executive as the indemnification protection that is afforded by the Company to any other officer of comparable title and that is consistent with industry custom and standards. The Company shall also reimburse the Executive for the reasonable cost of malpractice insurance at a level appropriate in connection with the provision of the services contemplated hereunder.

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7. Section 409A.

(a) Anything in this Agreement to the contrary notwithstanding, if at the time of Executive's separation from service within the meaning of Section 409A of the Code, the Company determines that Executive is a "specified employee" within the meaning of Section 409A(a)(2)(B)(i) of the Code, then to the extent any payment or benefit that the Executive becomes entitled to under this Agreement on account of the Executive's separation from service would be considered deferred compensation subject to the 20 percent additional tax imposed pursuant to Section 409A(a) of the Code as a result of the application of Section 409A(a)(2)(B)(i) of the Code, such payment shall not be payable and such benefit shall not be provided until the date that is the earlier of (A) six months and one day after the Executive's separation from service, or (B) Executive's death. It is the intention of the parties that none of the payments provided herein be considered deferred compensation subject to such tax.

(b) To the extent that any payment or benefit described in this Agreement constitutes "non-qualified deferred compensation" under Section 409A of the Code, and to the extent that such payment or benefit is payable upon Executive's termination of employment, then such payments or benefits shall be payable only upon the Executive's "separation from service." The determination of whether and when a separation from service has occurred shall be made in accordance with the presumptions set forth in Treasury Regulation Section 1.409A-1(h).

(c) The parties intend that this Agreement will be administered in accordance with Section 409A of the Code. To the extent that any provision of this Agreement is ambiguous as to its compliance with Section 409A of the Code, the provision shall be read in such a manner so that all payments hereunder comply with Section 409A of the Code. The parties agree that this Agreement may be amended, as reasonably requested by either party, and as may be necessary to fully comply with Section 409A of the Code and all related rules and regulations in order to preserve the payments and benefits provided hereunder without additional cost to either party.

(d) The Company makes no representation or warranty and shall have no liability to the Executive or any other person if any provisions of this Agreement are determined to constitute deferred compensation subject to Section 409A of the Code but do not satisfy an exemption from, or the conditions of such Section.

8. Miscellaneous.

(a) No Funding. Nothing contained in this Agreement or otherwise shall require the Company to segregate, earmark or otherwise set aside any funds or other assets to provide for any payments required to be made under this Agreement, and the rights of Executive to any benefits hereunder shall be solely those of a general, unsecured creditor of the Company.

(b) Beneficiaries. In the event of Executive's death, any amount or benefit payable or distributable to Executive pursuant to this Agreement shall be paid to the beneficiary designated by Executive for such purpose in the last written instrument received by the Company prior to Executive's death, if any, or, if no beneficiary has been designated, to Executive's estate, but such designation shall not be deemed to supersede any beneficiary designation under any benefit plan of the Company.

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(c) Entire Agreement. This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior understandings, agreements or representations, written or oral, relating to the subject matter hereof.

(d) Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which taken together shall constitute one and the same agreement, and any party hereto may execute this Agreement by signing any such counterpart.

(e) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision of this Agreement is held to be invalid, illegal or unenforceable under any applicable law or rule, the validity, legality and enforceability of the other provision of this Agreement will not be affected or impaired thereby.

(f) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives and, to the extent permitted by Section 7(g), successors and assigns. The Company will require its successors to expressly assume its obligations under this Agreement.

(g) Assignability. Neither this Agreement nor any right, remedy, obligation or liability arising hereunder or by reason hereof shall be assignable (including by operation of law) by either party without the prior written consent of the other party to this Agreement.

(h) Modification, Amendment, Waiver or Termination. No provision of this Agreement may be modified, amended, waived or terminated except by an instrument in writing signed by the parties to this Agreement. No course of dealing between the parties will modify, amend, waive or terminate any provision of this Agreement or any rights or obligations of any party under or by reason of this Agreement. No delay on the part of the Company in exercising any right hereunder shall operate as a waiver of such right. No waiver, express or implied, by the Company of any right or any breach by Executive shall constitute a waiver of any other right or breach by Executive.

(i) Notices. All notices, consents, requests, instructions, approvals or other communications provided for herein shall be in writing and delivered by personal delivery, overnight courier, mail, electronic facsimile or e-mail addressed to the receiving party at the address set forth herein. All such communications shall be effective when received.

Address for the Executive:  
105 Lincoln Rd.  
Westfield, NJ 07090

Address for the Company:

Enzon Pharmaceuticals, Inc.  
685 Route 202/206  
Bridgewater, New Jersey 08807

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Attn:

Any party may change the address set forth above by notice to each other party given as provided herein.

(j) Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

(k) Governing Law. ALL MATTERS RELATING TO THE INTERPRETATION, CONSTRUCTION, VALIDITY AND ENFORCEMENT OF THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW JERSEY, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW PROVISIONS THEREOF.

(l) Arbitration. Any claim or controversy arising out of or relating to this Agreement or the breach hereof shall be settled by arbitration in accordance with the laws of the State of New Jersey. Such arbitration shall be conducted in the State of New Jersey in accordance with the rules then existing of the American Arbitration Association. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event of any dispute arising under this Agreement, the respective parties shall be responsible for the payment of their own legal fees and disbursements.

(m) Third-Party Benefit. Nothing in this Agreement, express or implied, is intended to confer upon any third party any rights, remedies, obligations or liabilities of any nature whatsoever.

(n) Withholding Taxes. The Company may withhold from any benefits payable under this Agreement or any other agreement all federal, state, city or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

(o) No Right to Continued Employment. Executive understands that this Agreement is not an employment contract and nothing contained herein creates any right to continuous employment with the Company, or to employment by the Company for any specified period of time.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first set forth above.

ENZON PHARMACEUTICALS, INC.

/s/ Robert LeBuhn

By: Robert LeBuhn

Chairman, Compensation Committee

/s/ Andrew Rackear

Andrew Rackear

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

I, George W. Hebard III, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended September 30, 2013 of Enzon Pharmaceuticals, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. I am 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 my supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to me 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 my 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 my 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. I have disclosed, based on my 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.

November 12, 2013

/s/ George W. Hebard III  
George W. Hebard III  
Interim Principal Executive Officer and  
Interim Chief Operating Officer  
(Principal Executive Officer and Principal Financial Officer)

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

In connection with the Quarterly Report of Enzon Pharmaceuticals, Inc. (the Company) on Form 10-Q for the quarterly period ended September 30, 2013 as filed with the Securities and Exchange Commission on the date hereof (the Report), I, George W. Hebard III, Interim Principal Executive Officer and Interim Chief Operating Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

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

November 12, 2013

/s/ George W. Hebard III  
\_\_\_\_\_  
George W. Hebard III  
Interim Principal Executive Officer and  
Interim Chief Operating Officer  
(Principal Executive Officer and Principal Financial Officer)

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 has been provided to Enzon Pharmaceuticals, Inc. and will be furnished to the Securities Exchange Commission or its staff upon request.

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