

# ACCESS INTEGRATED TECHNOLOGIES INC

## FORM 10KSB (Annual Report (Small Business Issuers))

Filed 6/29/2006 For Period Ending 3/31/2006

Address	55 MADISON AVENUE SUITE 300 MORRISTOWN, New Jersey 07960
Telephone	973-290-0080
CIK	0001173204
Industry	Business Services
Sector	Services
Fiscal Year	03/31

Powered By **EDGAR**Online

<http://www.edgar-online.com/>

© Copyright 2006. All Rights Reserved.

Distribution and use of this document restricted under EDGAR Onlines Terms of Use.

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549**

**FORM 10-KSB**

(Mark One)

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

**FOR THE FISCAL YEAR ENDED: MARCH 31, 2006**

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

For the transition period from --- to ---

*COMMISSION FILE NUMBER: 000-51910*

---

**ACCESS INTEGRATED TECHNOLOGIES, INC.**

(Name of Small Business Issuer in its Charter)

---

DELAWARE  
(State or other jurisdiction  
of incorporation or organization)

22-3720962  
(I.R.S. Employer Identification No.)

**55 MADISON AVENUE, SUITE 300, MORRISTOWN, NEW JERSEY 07960**

(Address of principal executive offices)

(973) 290-0080

(Issuer's telephone number, including area code)

**SECURITIES REGISTERED PURSUANT TO SECTION 12(B) OF THE ACT:**

NONE

**SECURITIES REGISTERED PURSUANT TO SECTION 12(G) OF THE ACT:**

**CLASS A COMMON STOCK, PAR VALUE \$0.001 PER SHARE**

Check whether the issuer is not required to file reports pursuant to Section 13  
or 15(d) of the Exchange Act.

Check whether the issuer: (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the past 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

Check if there is no disclosure of delinquent filers in response to Item 405 of Regulation S-B contained in this form, and no disclosure will be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-KSB or any amendment to this Form 10-KSB.

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

Issuer's revenues for the fiscal year ended March 31, 2006 were \$16,794,865.

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the issuer based on a price of \$10.55 per share, as of June 23, 2006, the closing price of such common equity on the Nasdaq National Market, was approximately \$197,391,787. For purposes of the foregoing calculation, all directors, officers and shareholders who beneficially own 10% of the shares of such common equity have been deemed to be affiliates, but the Company disclaims that any of such persons are affiliates.

As of June 23, 2006, 22,141,572 shares of Class A Common Stock, \$0.001 par value, and 825,811 shares of Class B Common Stock, \$0.001 par value, were outstanding.

#### **DOCUMENTS INCORPORATED BY REFERENCE**

Certain information required by Items 9, 10, 11, 12, 13, and 14 of Form 10-KSB is incorporated by reference into Part III hereof from the registrant's Proxy Statement for the 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.

Transitional Small Business Disclosure Format (check one): Yes  No

# ACCESS INTEGRATED TECHNOLOGIES, INC.

## TABLE OF CONTENTS

	PAGE
FORWARD-LOOKING STATEMENTS.....	3
PART I	
ITEM 1. Business.....	4
ITEM 2. Property.....	14
ITEM 3. Legal Proceedings.....	15
ITEM 4. Submission of Matters to a Vote of Shareholders.....	15
PART II	
ITEM 5. Market for Common Equity and Related Shareholder Matters.....	16
ITEM 6. Management's Discussion and Analysis of Financial Condition and Results of Operations.....	18
ITEM 7. Consolidated Financial Statements.....	24
ITEM 8. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.....	25
ITEM 8A. Controls and Procedures.....	25
ITEM 8B. Other Information.....	25
PART III	
ITEM 9. Directors, Executive Officers and Control Persons; Compliance with Section 16(a) of the Exchange Act.....	25
ITEM 10. Executive Compensation.....	25
ITEM 11. Security Ownership of Certain Beneficial Owners and Management and Related Shareholder Matters.....	25
ITEM 12. Certain Relationships and Related Transactions.....	26
ITEM 13. Exhibits.....	26
ITEM 14. Principal Accountant Fees and Services.....	26
SIGNATURES.....	27

## FORWARD-LOOKING STATEMENTS

This report contains forward-looking statements within the meaning of the federal securities laws. These include statements about our expectations, beliefs, intentions or strategies for the future, which are indicated by words or phrases such as "believes," "anticipates," "expects," "intends," "plans," "will," "estimates," and similar words. Forward-looking statements are based on current expectations and are indicated by words or phrases such as "believe," "expect," "may," "will," "should," "seek," "plan," "intend" or "anticipate" or the negative thereof or comparable terminology, or by discussion of strategy. Forward-looking statements represent as of the date of this report our judgment relating to, among other things, future results of operations, growth plans, sales, capital requirements and general industry and business conditions applicable to us. Such forward-looking statements are based largely on our current expectations and are inherently subject to risks and uncertainties. Our actual results could differ materially from those that are anticipated or projected as a result of certain risks and uncertainties, including, but not limited to, a number of factors, such as:

- o successful execution of our business strategy, particularly for new endeavors;
- o the performance of our targeted markets;
- o competitive product and pricing pressures;
- o changes in business relationships with our major customers;
- o successful integration of acquired businesses;
- o economic and market conditions;
- o the effect of our indebtedness on our financial condition and financial flexibility, including, but not limited to, the ability to obtain necessary financing for our business; and
- o the other risks and uncertainties that are set forth in Item 1, "Business" and Item 6, "Management's Discussion and Analysis of Financial Condition and Results of Operations".

Except as otherwise required to be disclosed in periodic reports required to be filed by public companies with the SEC pursuant to the SEC's rules, we have no duty to update these statements, and we undertake no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. In light of these risks and uncertainties, we cannot assure you that the forward-looking information contained in this report will in fact transpire.

In this report, "AccessIT," "we," "us," "our" and the "Company" refers to Access Integrated Technologies, Inc. and its subsidiaries unless the context otherwise requires.

## PART I

### ITEM 1. BUSINESS

#### OVERVIEW

AccessIT was incorporated in Delaware on March 31, 2000. We are a leading provider of fully managed storage, electronic delivery and software services and technology solutions for owners and distributors of digital content to movie theaters and other venues. To date, we have generated revenues from two primary businesses, media services ("Media Services") and internet data center ("IDC" or "data center") services. Our Media Services business provides software, services and technology solutions to the motion picture and television industries, primarily to facilitate the transition from analog (film) to digital cinema. Our Data Center Services are comprised of three leased IDCs that provide corporate customers with secure and fail-safe off-site locations to house their computer and telecommunications equipment, as well as related services such as equipment monitoring and back-up and protection of customers' data. These existing businesses have positioned us at what we believe to be the forefront of an emerging industry opportunity relating to the delivery and management of digital cinema and other content to entertainment and other remote venues worldwide. This is currently our primary strategic focus.

Digital Cinema Initiatives, LLC ("DCI") was created in March 2002 as a joint venture of seven motion picture studios: Buena Vista Pictures Distribution (Disney), Twentieth Century Fox Film Corporation (Fox), Metro-Goldwyn-Mayer, Paramount Pictures, Sony Pictures Entertainment, Universal Studios, and Warner Bros. Studios. The primary purpose of DCI was to recommend uniform industry-wide specifications for digital cinema, in order to provide real benefits to theater audiences, theater owners, filmmakers and distributors. In June 2005, DCI announced recommendations regarding the final overall system requirements and specifications for digital cinema (the "DCI Recommendations"). The DCI Recommendations define technical specifications and requirements recommended for the mastering of, distribution of, and theatrical playback of digital cinema content. AccessIT's processes and Systems (as defined below) operate in accordance with the DCI Recommendations.

In June 2005, in anticipation of the DCI Recommendations, we entered into a digital cinema framework agreement (the "Framework Agreement") with Christie Digital Systems USA, Inc. ("Christie") through our then-newly formed indirectly wholly-owned subsidiary, Christie/AIX, Inc. ("Christie/AIX") to purchase Christie's digital cinema projection systems (the "Systems") at agreed-upon prices to be installed nationwide (our "Digital Cinema Roll-Out").

Distributors can send us digital cinema movie content or alternative digital content as a digital cinema distribution master ("DCDM"), which the distributors developed under the DCI Recommendations and are encrypted and transported to exhibitors.

We believe our Digital Cinema Roll-Out requires four key components:

1. Distribution management software
2. Exhibition management software
3. Managed digital media delivery
4. A common platform to make hardware and software work together

Each of these four key components are provided within our Media Services and Data Center Services.

#### MEDIA SERVICES

The Media Services segment of our business consists of two units: the Digital Media Delivery Services and Exhibition and Distribution Management Software. Digital Media Delivery Services is comprised of FiberSat Global Services, Inc. d/b/a AccessIT Satellite and Support Services, ("AccessIT Satellite"), Access Digital Media, Inc. ("AccessDM"), ADM Cinema Corporation ("ADM Cinema") d/b/a the Pavilion Theatre (the "Pavilion Theatre") and Christie/AIX. Exhibition and Distribution Management Software is comprised of Hollywood Software, Inc. d/b/a AccessIT Software ("AccessIT SW") and certain software provided by AccessDM. As of March 31, 2006, AccessDM and AccessIT Satellite will together be known as our Digital Media Services Division ("DMS").

DIGITAL MEDIA DELIVERY SERVICES

OPERATIONS OF:	SERVICES PROVIDED:
DMS	Stores and distributes digital content to movie theaters and other venues having digital projection equipment and provides satellite-based broadband video, data and Internet transmission, encryption management services, video network origination and management services and a virtual booking center to outsource the booking and scheduling of satellite and fiber networks and provides forensic recovery services for content owners.
Pavilion Theatre	A fully functioning nine-screen movie theatre and showcase to demonstrate and test our integrated digital cinema solutions.
Christie/AIX	Financing vehicle and administrator for our Digital Cinema Roll-Out to motion picture exhibitors, collects virtual print fees ("VPFs") from motion picture studios and other content providers.

In March 2004, AccessDM acquired certain digital cinema related assets of the Boeing Company (the "Boeing Digital Asset Acquisition").

In November 2004, we acquired certain assets and liabilities of FiberSat Global Services, LLC (the "FiberSat Acquisition").

In February 2005, through ADM Cinema, we acquired substantially all of the assets of the Pavilion Theatre located in the Park Slope section of Brooklyn, New York from Pritchard Square Cinema, LLC (the "Pavilion Theatre Acquisition").

In June 2005, we formed Christie/AIX to purchase Systems for our Digital Cinema Roll-Out, under the Framework Agreement with Christie. In September 2005, pursuant to a second amendment to the Framework Agreement, Christie and Christie/AIX agreed to extend the number of Systems which may be ordered to 4,000 Systems.

Each System, purchased from Christie, consists of a Digital Light Processor (or DLP) Cinema(TM) 2K projector, capable of both 2-D and 3-D display, a digital cinema server, and such other components and software and any applicable upgrades along with a central library server, with our Theatre Command Center software installed, connecting all Systems within a theatre complex, together with a storage array, computer rack, uninterrupted power source, main switch and patch panel.

**PRODUCTS**

Current proprietary software of DMS for digital media delivery consists of the following:

PROPRIETARY SOFTWARE PRODUCT:	PURPOSE:
Digital Express e-Courier Services (SM)	Provides worldwide delivery of digital content, including movies, advertisements and alternative content such as concerts, seminars and sporting events to movie theaters and other venues having digital projection equipment.

The Digital Express e-Courier Services (SM) software makes interaction between the content originator (such as the motion picture studio) and the exhibitor easier:

- o Programming is viewed, booked, scheduled and electronically delivered through Digital Express e-Courier Services (SM).
- o Once received, DCDMs are prepared for distribution employing wrapper technology, including the application of an additional layer of Advanced Encryption Standard encryption, for added security.
- o We maintain digital content storage and support services at our IDCs, which are equipped with state-of-the-art EMC Symmetrix and StorageTek hardware, standby power supplies and environmental controls that provide fail-safe, uninterrupted service.
- o Through our IDCs, we provide digital content delivery via multiple tier-1 carriers utilizing both terrestrial (copper and fiber networks) as well

as satellite links, which ensures cost-effective and reliable on-time delivery of all digital content, regardless of size or number of remote destinations.

o Designed to provide transparent control over the delivery process, Digital Express e-Courier Services(SM) provides comprehensive, real-time monitoring capabilities including a fully customizable, automatic event notification system, delivering important status information to customers through a variety of connected devices including cell phones, e-mail or pagers.

Current licensed software of Christie/AIX consists of the following:

LICENSED PRODUCT:	PURPOSE:
Cinefence	o Detection of audio and video watermarks in content distributed through digital cinema.

In February 2006, Christie/AIX entered into an agreement with Philips Electronics Nederland B.V. ("Philips") for a non-exclusive, worldwide right to use software license for Philips' software Cinefence (the "Cinefence License"). The Cinefence License is for an initial period of twelve years and renews automatically each year unless terminated by either party upon written notice. Cinefence is a watermarking detector for the detection of audio and video watermarks in content distributed through digital cinema.

## MARKET OPPORTUNITY

According to the Motion Picture Association, on average, there were approximately 530 new movie releases for each of the past two years. The average major movie is released to approximately 4,000 screens in the United States and 8,000 screens worldwide. According to the National Association of Theatre Owners, there are approximately 105,000 screens worldwide that play major movie releases, with approximately 36,000 screens located in the United States.

We believe that:

- o the demand for digital content delivery will increase as the movie, advertising and entertainment industries continue to convert to a digital format in order to achieve cost savings, greater flexibility and/or improved image quality;

- o digital content delivery eventually will replace, or at least become more prevalent than, the current method used for film delivery since existing film delivery generally involves the time-consuming, somewhat expensive and cumbersome process of receiving bulk printed film, rebuilding the film into shipping reels, packaging the film reels into canisters and physically delivering the film reels by traditional ground modes of transportation to movie theaters;

- o the expanding use of digital content delivery will lead to an increasing need for digital content delivery services, as the movie exhibition industry now has the capability to present advertisements, trailers and alternative entertainment in a digital format and in a commercially viable manner;

- o motion picture exhibitors may be able to profit from the presentation of new and/or additional advertising in their movie theaters and that alternative entertainment at movie theaters may both expand their hours of operation and increase their occupancy rates;

- o the demand for our digital content delivery services is directly related to the number of movie releases each year, the number of movie screens those movies are shown on and the transition to digital presentations in those movie theatres;

- o the cost to deliver digital movies to movie theatres will be much less than the cost to print and deliver analog movie prints, and such lesser cost will provide the economic model to drive the conversion from analog to digital cinema (according to Nash Information Services, LLC., the average film print costs \$2,000 per print); and

- o illegal off-the-screen recording of movies with handheld camcorders now costs the movie exhibition industry an estimated \$3.5 billion annually.

To date, in connection with our Digital Cinema Roll-Out, we have entered into digital cinema deployment agreements with six motion picture studios for the distribution of digital movie releases to motion picture exhibitors equipped with Systems, and providing for payment of virtual print fees to Christie/AIX. As of March 31, 2006, we have entered into master license agreements with six motion picture exhibitors for the placement of Systems in movie theatres covering a total of 2,531 screens (includes screens at AccessIT's Pavilion Theatre) and we have installed 210 Systems. It is our intention to complete the first 2,000 to 2,500 System installations by April 2007 and complete all 4,000 System installations by October 31, 2007. Christie/AIX incorporates Cinefence into the Systems deployed with motion picture exhibitors participating in our Digital Cinema Roll-Out.

## INTELLECTUAL PROPERTY

AccessDM has received United States service mark registration for the following:  
Digital Express e-Courier Services (SM) and "The courier for the Digital Era"(SM).

AccessDM has applied for service mark registrations in respect of the name AccessDM, Access Digital Media and "Theatre Command Center". As of March 31, 2006, AccessDM has not yet received United States service mark registration for these service marks.

## **CUSTOMERS**

The Digital Media Delivery Service businesses currently provide services mainly to the general public, the broadcast and cable television and communications industries and motion picture studios. For the fiscal year ended March 31, 2006, the Pavilion Theatre's customers (the general public) and DMS comprised of 74% and 24% of the Digital Media Delivery Service revenues, respectively. Three customers, Globecom Network Services Corporation, LATV, LLC. and McKibben Consulting, each represented 10% or more of DMS' revenues and together generated 58% of DMS revenues. We do not have any other relationships with these customers. These three customer contracts are due to expire in fiscal year 2007 and we have not received any indication whether these contracts will be renewed.

## **COMPETITION**

Companies that have developed forms of digital content delivery to entertainment venues and include:

- o Technicolor Digital Cinema, an affiliate of the Thomson Company, which has developed distribution technology and support services for the physical delivery of digital movies to motion picture exhibitors;
- o National CineMedia, LLC ("NCM"), a venture of AMC, Cinemark USA, Inc. and Regal, which have joined to work on the development of a digital cinema business plan, primarily concentrated on in-theatre advertising, business meetings and non-feature film content distribution; and
- o DELUXE Laboratories, a wholly owned subsidiary of the Rank Group Plc, which has developed distribution technology and support services for the physical delivery of digital movies to motion picture exhibitors.

These competitors have significantly greater financial, marketing and managerial resources than we do, have generated greater revenue and are better known than we are. However, we believe that DMS, through its technology and management experience, its development of software capable of delivering digital content worldwide, its development of the Theatre Command Center software, and the complement of AccessIT SW's software, differentiate us from our competitors by providing a competitive alternative to their forms of digital content delivery.

We expect to co-market our Digital Media Delivery Services to the current and prospective customers of AccessIT SW, using marketing and sales efforts and resources of both companies, which would enable owners of digital content to securely deliver such digital content to their customers and, thereafter, to manage and track data regarding the presentation of the digital content, including different forms of audio and/or visual entertainment. As the digital content industry continues to develop, we may engage in other marketing methods, such as advertising and service bundling, and may hire additional sales personnel.

## **SEASONALITY**

Digital Media Delivery Service revenues derived from our Pavilion Theatre and from the collection of VPFs from motion picture studios are seasonal, coinciding with the timing of releases of movies by the motion picture studios. Generally, motion picture studios release the most marketable movies during the summer and the holiday season. The unexpected emergence of a hit movie during other periods can alter the traditional trend. The timing of movie releases can have a significant effect on our results of operations, and the results of one quarter are not necessarily indicative of results for the next quarter or any other quarter. The seasonality of motion picture exhibition, however, has become less pronounced as the motion picture studios are releasing movies somewhat more evenly throughout the year.

## **GOVERNMENT REGULATION**

The distribution of movies is in large part regulated by federal and state antitrust laws and has been the subject of numerous antitrust cases. Motion picture studios offer and license movies to motion picture exhibitors, on a movie-by-movie and theatre-by-theatre basis. Consequently, motion picture exhibitors cannot assure themselves of a supply of movies by entering into long-term arrangements with motion picture studios, but must negotiate for licenses on a movie-by-movie basis. AccessIT Satellite maintains a Federal Communications Commission ("FCC") broadcast license related to our satellite transmission of content and should we violate any FCC laws, we may be subject to fines and/or forfeiture of our broadcast license.

Our Pavilion Theatre must comply with Title III of the Americans with Disabilities Act of 1990 (the "ADA") to the extent that such property is "public accommodations" and/or "commercial facilities" as defined by the ADA. Compliance

with the ADA requires that public accommodations "reasonably accommodate" individuals with disabilities and that new construction or alterations made to "commercial facilities" conform to accessibility guidelines unless "structurally impracticable" for new construction or technically infeasible for alterations. Non-compliance with the ADA could result in the imposition of injunctive relief, fines, award of damages to private litigants and additional capital expenditures to remedy such non-compliance. We believe that we are in substantial compliance with all current applicable regulations relating to accommodations for the disabled and we intend to comply with future regulations in that regard.

Our Digital Media Delivery Service businesses are also subject to federal, state and local laws governing such matters as wages, working conditions, citizenship and health and sanitation requirements. We believe that we are in substantial compliance with all of such laws.

The nature of our Digital Media Delivery Service businesses does not subject us to environmental laws in any material manner.

## EXHIBITION AND DISTRIBUTION MANAGEMENT SOFTWARE

OPERATIONS OF:	SERVICES PROVIDED:
AccessIT SW	Develops and licenses software to the motion picture distribution and exhibition industries, provides services as an Application Service Provider ("ASP Service"), and provides software enhancements and consulting services.
DMS	Provides software for in-theatre management of movies and other content.

In November 2003, we acquired all of the capital stock of AccessIT SW, a leading provider of proprietary transactional support software and consulting services for distributors and exhibitors of filmed entertainment in the United States and Canada (the "AccessIT SW Acquisition").

## PRODUCTS

AccessIT SW provides proprietary software applications and services to support customers of varying sizes, through software licenses, its ASP Service in which it hosts the application in one of our IDCs and client access via the Internet and provides outsourced film distribution services, called IndieDirect. Current proprietary software of AccessIT SW consists of the following:

PROPRIETARY SOFTWARE PRODUCT:	PURPOSE:
Theatrical Distribution System ("TDS")	Enables United States motion picture studios to plan, book and account for movie releases and to collect and analyze related financial operations data and interfaces with DMS' Digital Express e-Courier Services (SM) software.
Theatrical Distribution System (Global) ("TDSg")	Enables international motion picture studios to plan, book and account for movie releases and to collect and analyze related financial operations data and interfaces with DMS' Digital Express e-Courier Services (SM) software.
Exhibition Management System(TM) ("EMS(TM)")	Manages all key aspects of film planning, scheduling, booking and motion picture studios payment for exhibitors.
EMSa	Web-enabled version of EMS(TM).
Motion Picture Planning System ("MPPS")	Plans and initiates movie release strategies using various movie criteria and historical performance data.
Media Manager System ("MMS")	Facilitates the planning and tracking of newspaper advertising campaigns.
Digi-Central	Online marketplace in which buyers can search for available digital content, initiate transactions and coordinate delivery via DMS.
DISTRIBUTED SOFTWARE PRODUCT:	PURPOSE:

Vista Cinema Software  
("Vista")

Theatre ticketing software.

Current proprietary software of DMS for exhibition management consists of the following:

PROPRIETARY SOFTWARE PRODUCT:	PURPOSE:
Theatre Command Center ("TCC")	Provides in-theatre management for use by digitally-equipped movie theaters and interfaces with DMS' DigitalExpress e-Courier Services (SM) software.

## EXHIBITION MANAGEMENT

We believe that our EMS(TM) system is one of the most powerful and comprehensive systems available to manage all key elements of motion picture exhibition. This fully supported solution can exchange information with every financial, ticketing, point-of-sale, distributor and data system to eliminate manual processes. Also, EMS(TM) is designed to create innovative revenue opportunities for motion picture exhibitors from the presentation of new and/or additional advertising and alternative entertainment in their movie theaters due to the expanding use of digital content delivery.

Our TCC system, provides in-theatre management for digitally-equipped movie theaters, enabling one to control all the screens in a movie theatre, manage content and version review, show building, program scheduling and encryption security key management from a central terminal, whether located in the projection booth, the theatre manager's office or both.

## DOMESTIC THEATRICAL DISTRIBUTION MANAGEMENT

AccessIT SW's TDS product is currently licensed to several motion picture studios, including 20th Century Fox, the Weinstein Company, Paramount Pictures and Universal Studios. These studios comprised approximately 33.4%, 11.5%, 8.0% and 5.2%, respectively, of AccessIT SW's revenues for the fiscal year ended March 31, 2006. Several distributors utilize AccessIT SW's products through its ASP Service, including IFC Films, Newmarket Films, Magnolia Pictures, Gold Circle Films, Maple Pictures and IFS. In addition, AccessIT SW licenses to customers other distribution-related software, including MPPS and MMS, which further automate and manage related aspects of movie distribution, including advertising, strategic theater selection and competitive release planning.

AccessIT SW also provides outsourced movie distribution services, specifically for independent film distributors and producers, through IndieDirect. The IndieDirect staff uses the TDS distribution software to provide back office movie booking, tracking, reporting, settlement, and receivables management services.

## INTERNATIONAL THEATRICAL DISTRIBUTION MANAGEMENT

In 2004, AccessIT SW began developing TDSg, an international version of our successful TDS application, to support worldwide movie distribution and has the capability to run either from a single central location or multiple locations. In December 2004, AccessIT SW signed an agreement to license TDSg to 20th Century Fox, who will implement the software in fourteen overseas territories, encompassing eighteen foreign offices, over approximately eighteen months. As with our North American TDS solution, the TDSg system seamlessly integrates with AccessIT's digital content delivery services, significantly enhancing our international market opportunities.

## DISTRIBUTED SOFTWARE

AccessIT SW also distributes Vista, a theatre ticketing solution, developed by Vista Entertainment Solutions Limited ("Vista Entertainment") which is based in New Zealand. AccessIT SW is currently the only United States-based distributor of Vista to the United States theatre market. Under our distribution agreement with Vista Entertainment, AccessIT SW earns a percentage of license fees, maintenance fees and consulting fees generated from each Vista product we sell.

## RESEARCH AND DEVELOPMENT

Research and development was \$666 thousand and \$300 thousand for the fiscal years ended March 31, 2005 and 2006, respectively, and was comprised mainly of personnel costs and third party contracted services attributable to research and development efforts at AccessIT SW related to the development of our digital software applications and various product enhancements to TDS and EMS(TM).

## **MARKET OPPORTUNITY**

The customers for AccessIT SW's existing software and consulting services consist principally of worldwide motion picture studios and North American motion picture exhibitor chains. Upon the completion of TDSg, our international version of TDS, we will have the ability to support worldwide movie distribution.

We believe that:

- o AccessIT SW's products are becoming the industry standard method by which motion picture studios and exhibitors plan, manage and monitor operations and data regarding the presentation of theatrical entertainment. Based upon certain industry figures, distributors using AccessIT SW's TDS software, cumulatively managed 39.6% and 44.2% of the 2004 and 2005 United States theater box office revenues, respectively);
- o by adapting this system to serve the expanding digital entertainment industry, AccessIT SW's products and services will be accepted as an important component in the digital content delivery and management business;
- o the continued transition to digital content delivery will require a high degree of coordination among content providers, customers and intermediary service providers;
- o producing, buying and delivering media content through worldwide distribution channels is a highly fragmented and inefficient process; and
- o technologies created by AccessIT SW and the continuing development of and general transition to digital forms of media will help the digital content delivery and management business become increasingly streamlined, automated and enhanced.

## **INTELLECTUAL PROPERTY**

AccessIT SW currently has intellectual property consisting of:

- o licensable software products, including TDS, TDSg, EMS(TM), MPPS and the MMS;
- o domain names, including EPayTV.com, EpayTV.net, HollywoodSoftware.com, HollywoodSoftware.net, Indie-Coop.com, Indie-Coop.net, Indiedirect.com, IPayTV.com; PersonalEDI.com, RightsMart.com, RightsMart.net, TheatricalDistribution.com and Vistapos.com;
- o unregistered trademarks and service marks, including Coop Advertising V1.04, EMS ASP, Exhibitor Management System, Hollywood SW, Inc., HollywoodSoftware.com, Indie Co-op, Media Manager, On-Line Release Schedule, RightsMart, TDS and TheatricalDistribution.com; and
- o logos, including those in respect of Hollywood SW, TDS and EMS(TM).

## **CUSTOMERS**

Exhibition and Distribution Management Software customers are principally worldwide motion picture studios. For the fiscal year ended March 31, 2006, two customers, Twentieth Century Fox and the Weinstein Company, each represented 10% or more of Exhibition and Distribution Management Software revenues and together generated 45% of AccessIT SW's revenues. We do not have any other relationships with these customers. We expect to continue to conduct business with both of these customers in fiscal year 2007.

## **COMPETITION**

Within the major motion picture studios and exhibition circuits, AccessIT SW's principal competitors for its products are in-house development teams, which generally are assisted by outside contractors and other third-parties. Most motion picture studios that do not use the TDS software use their own in-house developed systems. Internationally, AccessIT SW is aware of one vendor based in the Netherlands providing similar software on a smaller scale. AccessIT SW's movie exhibition product, EMS(TM), competes principally with customized solutions developed by the large exhibition circuits and at least one other competitor that has been targeting mid- to small-sized motion picture exhibitors. We believe that AccessIT SW, through its technology and management experience, may differentiate itself by providing a competitive alternative to their forms of digital content delivery and management business.

## GOVERNMENT REGULATION

Except for the requirement of compliance with United States export controls relating to the export of high technology products, we are not subject to government approval procedures or other regulations for the licensing of our exhibition and distribution management software products.

Our Exhibition and Distribution Management Software businesses are also subject to federal, state and local laws governing such matters as wages, working conditions, citizenship and health and sanitation requirements. We believe that we are in substantial compliance with all of such laws.

The nature of our Exhibition and Distribution Management Software business does not subject us to environmental laws in any material manner.

## DATA CENTER SERVICES

The Data Center Services segment of our business consists of two units: our IDCs or Data Centers and Managed Services.

OPERATIONS OF:	SERVICES PROVIDED:
AccessIT	Provides services through its three IDCs including the license of data center space, provision of power, data connections to other businesses, and the installation of equipment.
Managed Services	Provides information technology consulting services and managed network monitoring services through its Global Network Command Center ("GNCC").

In January 2004, we acquired Core Technology Services, Inc. ("Managed Services"), a managed service provider of information technologies (the "Managed Services Acquisition") which operates a 24x7 GNCC, capable of running the networks and systems of large corporate clients. The four largest customers of Managed Services accounted for approximately 64% of its revenues. The service capabilities of Managed Services have been integrated with our IDCs.

In January 2006, we purchased certain web hosting assets which have been integrated into the operations of Managed Services.

## DATA CENTERS

We currently operate three IDCs, one in New Jersey and two in New York City. We have exited six other leased IDCs in which KMC Telecom ("KMC") was the sole or the primary IDC customer because KMC did not renew its contracts, which expired on December 31, 2005. These six IDC leases expired between December 31, 2005 and April 30, 2006 and were intended to terminate in conjunction with the associated KMC contracts. In addition, we maintain an IDC in Chatsworth, California that is dedicated to AccessIT's delivery of movies and other digital content to motion picture exhibitors worldwide. Our IDCs are leased facilities through which we, for monthly and variable fees, provide our customers with:

- o secure and fail-safe locations for their computer and telecommunications equipment by using back-up power generators as well as back-up battery power and specialized air conditioning systems;
- o voice and data transmission services from a choice of network providers;
- o computer and telecommunications equipment monitoring services; and
- o storage, back-up and protection services for their programs and data, including our AccessStorage-On-Demand managed storage services to store and copy data.

We provide our customers with flexible space in our IDCs to house data and voice transmission equipment, as well as their computer equipment. Our customers may choose from a variety of space offerings, including a single-locking cabinet, a private cage (under 500 square feet) or a private suite (over 500 square feet). IDC services require an initial installation fee and a monthly charge based on the size of the space selected by the customer.

We also offer additional services for which our customers pay additional monthly service charges. These services include:

- o additional power availability;

o access to our IDC staff for a variety of tasks such as equipment rebooting, power cycling, card swapping and performing emergency equipment replacements;

- o the ability to connect cables (both fiber and copper) directly to another IDC customer for voice and data transmission services; and

- o the ability to use our risers, which are pipes used to connect cables (both fiber optic and copper) from our customers' computer equipment to other companies' computer equipment located outside of our IDCs but within the buildings that our IDCs are located.

We provide IDC services under agreements generally having terms of one to ten years. As of March 31, 2006, we had 68 contracts, with 58 separate customers, each requiring payment of monthly fees, with a weighted average remaining term of 9 months.

## **MARKET OPPORTUNITY**

We believe that:

- o the overall market for IDC services has been largely driven by the rapid growth in Internet usage and a significant shift by companies to outsourcing or engaging third parties to provide their data center services, as these services distract them from their core businesses and require significant investment; and

- o the demand for services that store data will continue to grow as a result of companies limited data center floor space, limited qualified staff resources, budgeting constraints, regulatory requirements and disaster recovery requirements.

## **CUSTOMERS**

Our IDC customers include major and mid-level networks and ISPs, various users of network services, traditional voice and data transmission providers, long distance carriers and commercial businesses. For the fiscal year ended March 31, 2006, two customers each represented 10% or more of Data Center Service revenues, KMC and AT&T, which together generated 44% of our Data Center Service revenues. We do not have any relationship with these customers other than as customers. KMC did not renew its contracts, which expired on December 31, 2005.

Additionally, we have two other large data center customer contracts that will expire before July 1, 2006, which currently provide approximately \$105 thousand of monthly revenue. We anticipate that these contracts will not be renewed, however, we anticipate entering into new contracts for IDC and Managed Services business to partially offset these non-renewed contracts.

## **MANAGED SERVICES**

We believe that the breadth of services in the IDCs is a critical competitive advantage. We have developed two distinct Managed Services offerings, Network and Systems Management and Managed Storage Services.

## **NETWORK AND SYSTEMS MANAGEMENT**

We offer our customers the economies of scale of the GNCC with an advanced engineering staff. Our network and systems management services include:

- o network architecture and design;

- o systems and network monitoring and management;

- o data and voice integration;

- o project management;

- o auditing and assessment;

- o on site support for hardware installation and repair, software installation and update and a 24x7 user help desk;

- o a 24x7 Citrix server farm (a collection of computer servers); and

- o fully managed web hosting.

## **MANAGED STORAGE SERVICES**

Our managed storage services, known as AccessStorage-on-Demand, include:

- o hardware and software from such industry leaders as EMC Symmetrix, StorageTek and Veritas;
- o pricing on a per-gigabyte of usage basis which provides customers with reliable primary data storage that is connected to their computers;
- o the latest storage area network ("SAN") technology and SAN monitoring by our GNCC; and
- o a disaster recovery plan for customers that have their computers located within one of our IDCs by providing them with a tape back-up copy of their data that may then be sent to the customer's computer if the customer's data is lost, damaged or inaccessible.

All managed storage services are available separately or may be bundled together with other services. Monthly pricing is based on the type of storage (tape or disk), the capacity used and the level of accessibility required.

## **MARKET OPPORTUNITY**

We believe that:

- o this low-cost and customizable alternative to designing, implementing, and maintaining a large scale network infrastructure enables our clients to focus on information technology business development, rather than the underlying communications infrastructure; and
- o our ability to offer clients the benefits of a SAN storage system at a fraction of the cost of building it themselves, allows our clients to focus on their core business.

## **INTELLECTUAL PROPERTY**

AccessIT has received United States service mark registration for the following service marks: Access Integrated Technologies, AccessSecure; AccessSafe; AccessBackup; AccessBusiness Continuance; AccessVault; AccessContent; AccessColocenter; AccessDataVault; AccessColo; and AccessStore.

## **CUSTOMERS**

Our Managed Services customers mainly include those of our IDCs and the motion picture studio customers of our Media Services. For the fiscal year ended March 31, 2006, two customers, Rothschild, Inc. and the Weinstein Company, each represented 10% or more of Managed Service revenues and together generated 47% of our Managed Service revenues. We do not have any other relationships with these customers. We expect to continue to conduct business with both of these customers in fiscal 2007.

## **COMPETITION**

Our Data Center Services compete with traditional colocation providers, who are carrier-owned or have agreements with specific carriers, as well as neutral colocation providers, who offer a wide variety of carriers, ISPs and web hosting facilities. There are also many data centers owned and operated by smaller data center companies, landlords and communications carriers. The larger data center operators, with data centers in the New York-New Jersey area, include Switch and Data, Inc., Equinix, Inc., Globix Corporation and AboveNet, Inc. Many data center operators offer managed services to clients who co-locate servers in the operator owned data center. Our focus is on delivery of managed services inside our IDCs as a lead product for primary data center services and to also offer those services to clients who have servers outside our IDCs allowing us to offer remote server and network monitoring, server and network management and disaster recovery services.

The competitors mentioned above have greater financial, technical, marketing and managerial resources than we do. These competitors also generate greater revenue and are better known than we are. However, we believe that our data center services, by offering IDCs along with related data center services, may differentiate us from the above companies by providing a competitive bundled solution.

## GOVERNMENT REGULATION

Our Data Center Services businesses are also subject to federal, state and local laws governing such matters as wages, working conditions, citizenship and health and sanitation requirements. We believe that we are in substantial compliance with all of such laws.

The nature of our Data Center Services business does not subject us to environmental laws in any material manner.

## EMPLOYEES

As of March 31, 2006, we had 140 employees, of which 54, working primarily at the Pavilion Theatre, are part-time and 86 are full-time. Of our full-time employees, 13 are in sales and marketing, 39 are in operations, 12 are in research and development and technical services, and 22 are in finance and administration. The Pavilion Theatre has a collective bargaining agreement with one union which covers three union projectionists, one of whom is a full-time employee. Such agreement has expired and has not yet been renewed.

## ITEM 2. PROPERTY

Our businesses operated from the following leased properties at March 31, 2006.

### MEDIA SERVICES

Operations of:	Location:	Facility Type:	Expires:	Square Feet:
DMS	Chatsworth, California	Administrative offices, technical operations center, and warehouse (1)	March 2012 (3)	13,455
Pavilion Theatre	Brooklyn Borough of New York City	Nine-screen movie theatre	July 2022 (4)	31,120
Christie/AIX (2)				
AccessIT SW	Auburn Hills, Michigan	Administrative offices	October 2010 (5)	1,203
	Hollywood, California	Administrative offices	December 2010 (6)	7,412

### DATA CENTER SERVICES

Operations of:	Location:	Facility Type:	Expires:	Square Feet:
AccessIT	Jersey City, New Jersey	IDC facility	May 2009 (7)	12,198
	Manhattan Borough of New York City	IDC facility	July 2010 (8)	11,450
	Brooklyn Borough of New York City	IDC facility	July 2015 (7)	30,520
Managed Services (9)				

### CORPORATE

Operations of:	Location:	Facility Type:	Expires:	Square Feet:
AccessIT	Morristown, New Jersey	Executive offices	May 2009 (10)	5,237

(1) Location contains a data center which we use as a dedicated digital content delivery site.

(2) Employees share office space with AccessIT SW in Hollywood, California.

(3) Lease, expiring March 2007, was renewed in March 2006 for an additional five-year term, with an option to renew for an additional five years with six months prior written notice at the then prevailing market rental rate.

(4) Lease has options to renew for two additional ten-year terms and contains a provision for the payment of additional rent if box office revenues exceed certain levels.

(5) Lease has an option to renew for up to an additional five years with 180 days prior written notice at 95% of the then prevailing market rental rate.

(6) An amendment to the lease for an additional 1,122 square feet was completed in January 2006 and has an option to renew for one additional three-year term with nine months prior written notice at the then prevailing market rental rate.

(7) There is no lease renewal provision.

(8) Lease has options to renew for two additional five-year terms with twelve months prior written notice at the then prevailing market rental rate.

(9) Operations of Managed Services work out of AccessIT's leased IDC's.

(10) Lease has an option to renew for one additional four-year term with seven months prior written notice at the then prevailing market rental rate.

We believe that we have sufficient space to conduct our business for the foreseeable future. All of our leased properties are, in the opinion of our management, in satisfactory condition and adequately covered by insurance. In April 2006, we leased an additional space in Los Angeles, California on a month-to-month basis which expires April 2007.

We do not own any real estate or invest in real estate or related investments.

### **ITEM 3. LEGAL PROCEEDINGS**

On July 2, 2004, we received notice that certain creditors of NorVergence, Inc. ("NorVergence"), one of our IDC customers, filed an involuntary bankruptcy petition against NorVergence. On July 14, 2004, NorVergence agreed to the entry of an order granting relief under Chapter 11 of the United States Bankruptcy Code and then converted the Chapter 11 reorganization to Chapter 7 liquidation. We have a first security interest in NorVergence's accounts receivable.

On January 26, 2005, the U.S. Bankruptcy Court for the District of New Jersey in the matter of NorVergence, approved a motion for the trustee to pay us \$121 thousand for past due amounts owed to us by NorVergence. We received such payment from the trustee in February 2005. Additionally, we were granted the right to pursue collection of NorVergence's customer accounts receivable and in settlement of the Company's claim, for deferred and future payments due from NorVergence, we will retain any amounts collected. As of March 31, 2006, we have collected approximately \$37 thousand of our claim against NorVergence's customer accounts receivable.

We do not believe we will be able to recover any material additional amounts from our claim against NorVergence's customer accounts receivable.

### **ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SHAREHOLDERS**

None.

## PART II

### ITEM 5. MARKET FOR COMMON EQUITY AND RELATED SHAREHOLDER MATTERS

#### CLASS A COMMON STOCK

Until the close of business on April 17, 2006, our Class A common stock ("Class A Common Stock") traded publicly on the American Stock Exchange ("AMEX") under the trading symbol "AIX". The following table shows the high and low sales prices per share of our Class A Common Stock as reported by the AMEX for the periods indicated:

	For the fiscal years ended March 31,			
	2005		2006	
	HIGH	LOW	HIGH	LOW
April 1 - June 30.....	\$5.20	\$4.10	\$10.01	\$5.46
July 1 -September 30.....	\$5.15	\$3.20	\$14.20	\$9.06
October 1 - December 31.....	\$4.17	\$3.75	\$11.55	\$6.60
January 1 - March 31.....	\$7.15	\$3.25	\$14.25	\$10.15

Effective April 18, 2006, the Company's Class A Common Stock began trading publicly on the Nasdaq National Market ("NASDAQ") under the trading symbol "AIXD". The last reported closing price per share of our Class A Common Stock as reported by NASDAQ on June 23, 2006 was \$10.55 per share. As of June 23, 2006, there were approximately 111 holders of record of our Class A Common Stock.

#### CLASS B COMMON STOCK

There is no public trading market for our Class B common stock ("Class B Common Stock"). Each outstanding share of Class B Common Stock may be converted into one share of Class A Common Stock at any time, and from time to time, at the option of the holder. As of June 23, 2006, there was one holder of our Class B Common Stock.

#### DIVIDEND POLICY

We have never paid any cash dividends on our Class A Common Stock or Class B Common Stock (together the "Common Stock") and do not anticipate paying any on our Common Stock in the foreseeable future. Any future payment of dividends on our Common Stock will be in the sole discretion of our board of directors (the "Board").

#### EQUITY COMPENSATION PLANS

The following table sets forth certain information, as of March 31, 2006, regarding the shares of AccessIT's Class A Common Stock and AccessDM's common stock authorized for issuance under their respective equity compensation plans.

Plan	Number of shares of common stock issuable upon exercise of outstanding options	Weighted average of exercise price of outstanding options	Number of shares of common stock remaining available for future issuance
AccessIT Amended and Restated 2000 Stock Option Plan ("the Plan") approved by shareholders.....	1,100,000 (1)(2)	\$6.61	-- (2)
AccessIT compensation plans not approved by shareholders.....	N/A	N/A	N/A
AccessDM compensation plan approved by AccessDM's shareholders.....	1,055,000 (3)(5)	\$0.95 (4)	945,000 (3)
AccessDM compensation plans not approved by AccessDM's shareholders.....	N/A	N/A	N/A

- (1) Shares of AccessIT Class A Common Stock.
- (2) The issuance of an additional 371,747 stock options is subject to shareholder approval at the Company's 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.
- (3) Shares of AccessDM common stock.
- (4) Since there is no public trading market for AccessDM's common stock, the fair market value of AccessDM's common stock on the date of grant was determined by an appraisal of such options.
- (5) As of March 31, 2006, there were 3,750,000 shares of AccessDM's common stock issued and outstanding.

### **ACCESSIT STOCK OPTION PLAN**

Our Board adopted the Plan, on June 1, 2000 and, in July 2000, our shareholders approved the Plan by written consent. Under the Plan, we may grant both incentive and non-statutory stock options to our employees, non-employee directors and consultants. The primary purpose of the Plan is to enable us to attract, retain and motivate our employees, non-employee directors and consultants. On June 9, 2005, the Board approved the expansion of the Plan from 850,000 to 1,100,000 options, which was approved by the shareholders at the Company's 2005 Annual Meeting held on September 15, 2005. As of March 31, 2006, the number of stock options granted under the Plan exceeded the Plan's approved limit of 1,100,000 options. The Company intends to obtain shareholder approval to expand the Plan at the Company's 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.

Under the Plan, no participant may be granted incentive stock options ("ISOs") with an aggregate fair market value, as of the date on which such options were granted, of more than \$100,000 becoming exercisable for the first time in any given calendar year. Stock options granted under the Plan expire ten years following the date of grant (or such shorter period of time as may be provided in a stock option agreement or five years in the case of ISOs granted to shareholders who own greater than 10% of the total combined voting power of the Company) and are subject to restrictions on transfer. Stock options granted under the Plan vest generally over periods up to three years. The Plan is administered by our Board.

The Plan provides for the granting of ISOs with exercise prices of not less than 100% of the fair market value of our Class A Common Stock on the date of grant. ISOs granted to shareholders of more than 10% of the total combined voting power of our Company must have exercise prices of not less than 110% of the fair market value of our Class A Common Stock on the date of grant. ISOs and non-statutory stock options granted under the Plan are subject to vesting provisions, and exercise is subject to the continuous service of the participant. The exercise prices and vesting periods (if any) for non-statutory options are set at the discretion of our Board. Upon a change of control of the Company, all stock options (incentive and non-statutory) that have not previously vested will vest immediately and become fully exercisable. In connection with the grants of stock options under the Plan, we and the participants have executed stock option agreements setting forth the terms of the grants.

### **ACCESSDM STOCK OPTION PLAN**

AccessDM's Board adopted its stock option plan ("the AccessDM Plan") on May 13, 2003 and its shareholders approved the AccessDM Plan on May 13, 2003. Under the AccessDM Plan, AccessDM grants stock options to its employees, non-employee directors and consultants. The AccessDM Plan authorizes up to 2,000,000 shares of AccessDM common stock for issuance upon the exercise of options granted under the AccessDM Plan. As of March 31, 2006, AccessDM has issued options to purchase 1,055,000 of its shares to employees, and there were options to purchase 945,000 shares of AccessDM common stock available for grant under the AccessDM Plan.

Under the AccessDM Plan, stock options covering no more than 500,000 shares may be granted to any participant in any single calendar year and no participant may be granted ISOs with an aggregate fair market value, as of the date on which such options were granted, of more than \$100,000 becoming exercisable for the first time in any given calendar year. Stock options granted under the AccessDM Plan expire ten years following the date of grant (or such shorter period of time as may be provided in a stock option agreement or five years in the case of ISOs granted to shareholders who own greater than 10% of the total combined voting power of AccessDM and are subject to restrictions on transfer. Stock options granted under the AccessDM Plan vest generally over periods up to three years. The AccessDM Plan is administered by AccessDM's Board.

The AccessDM Plan provides for the granting of ISOs with exercise prices of not less than 100% of the fair market value of AccessDM's common stock on the date of grant. ISOs granted to holders of more than 10% of the total combined voting power of AccessDM must have exercise prices of not less than 110% of the fair market value of AccessDM common stock on the date of grant. ISOs and non-statutory stock options granted under the AccessDM Plan are subject to vesting provisions, and exercise is subject to the continuous service of the participants. The exercise prices and vesting periods (if any) for non-statutory options are set at the discretion of AccessDM's Board. Upon a change of control of AccessDM, all stock options (incentive and non-statutory) that have not

previously vested will vest immediately and become fully exercisable. In connection with the grants of stock options under the AccessDM Plan, AccessDM and the participants have executed stock option agreements setting forth the terms of the grants.

## SALES OF UNREGISTERED SECURITIES

All of our equity securities sold by us during the fiscal year ended March 31, 2006, that were not registered under the Securities Act of 1933, as amended (the "Securities Act"), have been previously reported in our quarterly reports on Form 10-QSB and current reports on Form 8-K.

## PURCHASE OF EQUITY SECURITIES

There were no purchases of shares of our Class A Common Stock made by us or on our behalf during the three months ended March 31, 2006. We do not anticipate purchasing any shares of our Class A Common Stock in the foreseeable future.

## ITEM 6. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### OVERVIEW

AccessIT was incorporated in Delaware on March 31, 2000. We are a leading provider of fully managed storage, electronic delivery and software services and technology solutions for owners and distributors of digital content to movie theaters and other venues. To date, we have generated revenues from two primary businesses, media services ("Media Services") and internet data center ("IDC" or "data center") services. Our Media Services business provides software, services and technology solutions to the motion picture and television industries, primarily to facilitate the transition from analog (film) to digital cinema. Our Data Center Services are comprised of three leased IDCs that provide corporate customers with secure and fail-safe off-site locations to house their computer and telecommunications equipment, as well as related services such as equipment monitoring and back-up and protection of customers' data. These existing businesses have positioned us at what we believe to be the forefront of an emerging industry opportunity relating to the delivery and management of digital cinema and other content to entertainment and other remote venues worldwide. This is currently our primary strategic focus.

Our primary business focus is to create a secure, managed and complete digital cinema system that consists of software to book, track and perform record keeping functions for digital content in theatres, electronically deliver digital content to multiple locations primarily via satellite and provide the content management software for in-theatre playback systems for the digital cinema marketplace. This digital cinema system is intended to use all of our businesses.

We have two reportable segments: Media Services, which represents the operations of AccessIT SW, AccessIT Satellite, AccessDM, the Pavilion Theatre and Christie/AIX, and Data Center Services, which consists of the operations of our three IDCs and the operations of Managed Services. Revenues for our reportable segments were (\$ in thousands):

	Fiscal years ending March 31,			
	2005		2006	
Revenues:				
Media Services	\$4,043	38%	\$9,909	59%
Data Center Services	6,608	62%	6,886	41%
Total Consolidated	\$10,651		\$16,795	

In November 2005, we received notification from KMC that they would not renew the contracts for six out of seven IDC sites which were licensed by KMC, which contracts expired on December 31, 2005. In addition, certain other data center customer contracts will expire over the next several months, and we have not yet received indications of whether or on which terms these contracts will be renewed. Through December 31, 2005, the average monthly revenue from KMC for the expired contracts was approximately \$144 thousand. Additionally, we have two other large data center customer contracts that will expire before July 1, 2006, which currently provide approximately \$105 thousand of total monthly revenue. We anticipate that these contracts will not be renewed, however, we anticipate entering into new contracts for IDC and Managed Services business to partially offset these non-renewed contracts.

In connection with the expiration of the six KMC contracts, we have exited the six leased IDC's in which KMC was the sole or primary IDC customer. These six leases expired between December 31, 2005 and April 30, 2006 and were intended to

terminate in conjunction with the associated KMC contract. We did not incur any significant costs in connection with the exit from the six IDC's.

We have incurred net losses of \$6.8 million and \$16.8 million in the fiscal years ended March 31, 2005 and 2006, respectively, and we have an accumulated deficit of \$38.3 million as of March 31, 2006. We anticipate that, with our recent acquisitions and the operations of AccessDM and Christie/AIX, our results of operations will improve. As we grow, we expect our operating costs and general and administrative expenses will also increase for the foreseeable future, but as a lower percentage of revenue. In order to achieve and sustain profitable operations, we will need to generate more revenues than we have in prior years and we may need to obtain additional financing.

## RESULTS OF OPERATIONS FOR THE FISCAL YEARS ENDED MARCH 31, 2005 AND 2006

The following table sets forth, for the period indicated, the comparative changes to amounts included in our consolidated statements of operations.

(\$ in thousands)	Summary Operating Results For the Fiscal Years Ended March 31,			
	2005	2006	Increase/(Decrease)	
			\$	%
Revenues:				
Media services .....	\$ 4,043	\$ 9,909	\$ 5,866	145%
Data center services .....	6,608	6,886	278	4%
Total revenues .....	10,651	16,795	6,144	58%
Costs of revenues (exclusive of depreciation and amortization):				
Media services .....	1,696	6,738	5,042	297%
Data center services .....	4,115	4,812	697	17%
Total costs of revenues .....	5,811	11,550	5,739	99%
Gross profit (exclusive of depreciation and amortization): .....	4,840	5,245	405	8%
Costs and expenses:				
Selling, general and administrative .....	5,607	8,972	3,365	60%
Provision for doubtful accounts .....	640	186	(454)	(71)%
Research and development .....	666	300	(366)	(55)%
Non-cash stock-based compensation .....	4	--	(4)	(100)%
Depreciation and amortization .....	3,623	5,001	1,378	38%
Interest expense .....	605	2,152	1,547	256%
Non-cash interest expense .....	832	1,407	575	69%
Debt conversion expense.....	--	6,269	6,269	--
Minority interest in loss of subsidiary ..	(10)	--	10	100%
Total costs and expenses .....	11,967	24,287	12,320	103%
Other income:				
Interest income .....	5	316	311	6,220%
Other income, net .....	23	1,603	1,580	6,870%
Income tax benefit .....	311	311	--	0%
Total other income .....	339	2,230	1,891	558%
Net loss .....	\$ (6,788)	\$ (16,812)	\$ (10,024)	148%

## **TOTAL REVENUES**

Total revenues were \$10.7 million and \$16.8 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$6.1 million or 58%. The increase was primarily in the Media Services segment, driven largely by box office and concession sales of the Pavilion Theatre which was acquired in February 2005 and was part of AccessIT for less than two months during the fiscal year ended March 31, 2005, data and Internet transmission and encryption services of AccessIT Satellite which was acquired in November 2004, TDSg license fees of AccessIT SW and existing Media Services operations. The increase in Data Center Services was primarily attributable to increased Managed Services revenue.

## **COSTS OF REVENUES**

Total costs of revenues were \$5.8 million and \$11.5 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$5.7 million or 99%. The increase was in Media Services most of which was attributable to film rent, concession expenses, payroll and other operating costs of the Pavilion Theatre, which was acquired in February 2005 and was part of AccessIT for less than two months during the fiscal year ended March 31, 2005, payroll and other operating costs of AccessIT Satellite which was acquired in November 2004 and software amortization and staffing costs for additional resources hired at AccessIT SW. The remaining increase in cost of revenues was attributable to higher data circuit expenses combined with additional personnel and other operating costs required to support the additional customers of our Data Center Services business.

## **SELLING, GENERAL AND ADMINISTRATIVE EXPENSES**

Total selling, general and administrative expenses were \$5.6 million and \$9.0 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$3.4 million or 60%. The increase was primarily due to increased company-wide staffing costs, including the acquisitions of the Pavilion Theatre and AccessIT Satellite and the creation of Christie/AIX to support the digital cinema business. We also added personnel at AccessIT SW and in our corporate offices, primarily in the areas of finance, administration and software development. As of March 31, 2005 and 2006 we had 93 and 140 employees, respectively, of which 34 and 54 were part-time employees, respectively.

## **DEPRECIATION AND AMORTIZATION EXPENSE**

Total depreciation and amortization expense was \$3.6 million and \$5.0 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$1.4 million or 38%. The increase was attributable to the depreciation and amortization of the assets from the acquisitions of the Pavilion Theatre and AccessIT Satellite and various other asset additions to support the digital cinema business.

## **INTEREST EXPENSE**

Total interest expense was \$0.6 million and \$2.1 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$1.5 million or 256%. The increase was attributable to the capital lease associated with the operations of the Pavilion Theatre, the write-off of the remaining unamortized debt issuance costs of the Convertible Debentures which were converted into shares of Class A Common Stock in August 2005 (see Note 7), partially offset by reduced interest expense resulting from the conversion of all the 6% Convertible Notes into shares of Class A Common Stock in September 2005 (see Note 7).

## **NON-CASH INTEREST EXPENSE**

Total non-cash interest expense was \$0.8 million and \$1.4 million for the fiscal years ended March 31, 2005 and 2006, respectively, an increase of \$0.6 million or 69%. The increase was due to the accretion of the remaining debt issuance discount resulting from the Convertible Debentures Warrants which were exercised into shares of Class A Common Stock in August 2005.

## **DEBT CONVERSION EXPENSE**

Total debt conversion expense was \$0 and \$6.3 million for the fiscal years ended March 31, 2005 and 2006, respectively. The increase represents the value of the New Shares, the New Warrants, the Placement Agent Shares and professional fees incurred in connection with the Conversion Agreement in August 2005 (see Note 7).

## **OTHER INCOME, NET**

Total other income, net was \$23 thousand and \$1.6 million for the fiscal years ended March 31, 2005 and 2006, respectively. The increase represents the decreased fair value of the New Warrants, reduced by the increased fair value of July 2005 Private Placement Warrants (see Note 9).

## **LIQUIDITY AND CAPITAL RESOURCES**

We have incurred operating losses in each year since we commenced our operations. Since our inception, we have financed our operations substantially through the private placement of shares of our common and preferred stock, the issuance of promissory notes, our initial public offering and subsequent private and public offerings, notes payable and Common Stock used to fund various acquisitions. In March 2006, Christie/AIX received a commitment from General Electric Capital Corporation ("GE Capital") (see Note 8) to underwrite up to \$217.0 million of a senior secured financing, consisting of a \$217.0 million Senior Secured Multi Draw Term Loan (the "Facility") and based upon the terms of the commitment, it is anticipated that the Facility would be due May 2013. Proceeds from the Facility will be used for the purchase and installation of up to 70% of the cost of Systems in connection with our Digital Cinema Roll-Out. The remaining cost would be funded from other sources of capital. The commitment is subject to the completion of a definitive credit agreement on terms acceptable to all parties.

In July 2005, we received gross proceeds of \$18.1 million from the July 2005 Private Placement. We are using the net proceeds of \$16.7 million, primarily to fund the capital investments in connection with our Digital Cinema Roll-Out and for working capital and general corporate purposes.

In December 2005, the Company filed a shelf registration statement on Form S-3 with the SEC (the "Shelf"), which was declared effective on January 13, 2006. The Shelf provided that the Company may offer and sell in one or more offerings up to \$75.0 million of any combination of the following securities: Class A Common Stock, preferred stock in one or more series and warrants to purchase common stock or preferred stock. We intend to use the proceeds from sales of securities under this shelf registration for the purchase, installation and maintenance of Systems by Christie/AIX in connection with our Digital Cinema Roll-Out, and for general working capital and corporate purposes, including, from time to time, extinguishment of corporate debt and acquisitions in line with our corporate business plan.

In January 2006, in connection with the Shelf, the Company entered into: (1) a placement agency agreement to issue and sell up to 1,145,000 registered shares of Class A Common Stock at a price to the public of \$10.70 per share to certain institutional and other accredited investors, and (2) a purchase agreement with an underwriter for 355,000 registered shares of Class A Common Stock at a price to the public of \$10.70 per share (together the "January 2006 Offering") for gross aggregate proceeds of \$16.1 million. The offering and sale of the 1,500,000 shares was completed on January 25, 2006. The Company intends to use the estimated net proceeds of approximately \$14.5 million, for the purchase, installation and maintenance of Systems by Christie/AIX in connection with our Digital Cinema Roll-Out and for general corporate purposes. The securities were offered by the Company pursuant to the Shelf.

In March 2006, in connection with the Shelf, the Company entered into a purchase agreement with two underwriters for 5,126,086 registered shares of Class A Common Stock at a price to the public of \$10.00 per share (the "March 2006 Offering") for gross proceeds of \$51.3 million, which was completed on March 17, 2006. The Company granted the underwriters a 30-day option to purchase up to an additional 768,913 shares of Class A Common Stock at a price to the public of \$10.00 per share (the "March 2006 Second Offering") to cover over-allotments, which was exercised by the underwriters on March 21, 2006 for gross proceeds of \$7.7 million and was completed on March 24, 2006. The Company intends to use the estimated net proceeds from the March 2006 Offering and the March 2006 Second Offering of approximately \$54.8 million, for the purchase, installation and maintenance of Systems by Christie/AIX in connection with our Digital Cinema Roll-Out and for general corporate purposes. The securities were offered by the Company pursuant to the Shelf.

As a result of the January 2006 Offering, the March 2006 Offering and the March 2006 Second Offering, substantially all of the Shelf amount of \$75.0 million has been utilized. The de minimus remainder has been withdrawn.

As of March 31, 2006, we have paid \$21.1 million for Systems ordered in connection with our Digital Cinema Roll-Out.

As of March 31, 2006, we had cash, cash equivalents and investments of \$60.6 million and our working capital was \$48.9 million.

Operating activities used net cash of \$3.3 million and \$5.3 million for the fiscal years ended March 31, 2005 and 2006, respectively. The increase in cash used by operating activities was primarily due to an increased net loss from

operations and increased prepaids and other current assets offset by the change in accounts payable and accrued expenses along with adjustments not requiring cash, specifically depreciation and amortization, non-cash interest expense and debt conversion expense.

Investing activities used net cash of \$5.9 million and \$51.1 million for the fiscal years ended March 31, 2005 and 2006, respectively. The increase was due to additional computer related equipment and other assets, primarily in connection with our Digital Cinema Roll-Out and the purchase of available-for-sale securities. We anticipate that we will experience an increase in our capital expenditures consistent with the anticipated growth in our operations, infrastructure and personnel mainly in the support of our Digital Cinema Roll-Out.

Financing activities provided net cash of \$11.6 million for the fiscal year ended March 31, 2005 primarily due to the June 2004 Private Placement and the November 2004 Private Placement, less repayments of notes payable and capital lease obligations. Net cash provided by financing activities of \$88.2 million for the fiscal year ended March 31, 2006 was primarily due to the net proceeds from the July 2005 Private Placement, January 2006 Offering, the March 2006 Offering and the March 2006 Second Offering and various warrants exercised, offset slightly by the repayments of notes payable and capital lease obligations. We have acquired property and equipment under non-cancelable long-term capital lease obligations that expire at various dates through July 2022. As of March 31, 2006, we had outstanding capital lease obligations of \$6.1 million. Our capital lease obligations are at the following locations and in the following principal amounts (\$ in thousands):

Location	Purpose of capital lease	Outstanding Capital Lease Obligation
The Pavilion Theatre	For building, land and improvements	\$6,041
Corporate Office	For telephone equipment	21
Managed Services	For computer equipment used in IDC's	5
		-----
		\$6,067
		=====

As of March 31, 2006, minimum future capital lease payments (including interest) totaled \$18.7 million, are due as follows (\$ in thousands):

Fiscal years ending March 31,	
2007.....	\$ 1,137
2008.....	1,128
2009.....	1,128
2010.....	1,128
2011.....	1,128
Thereafter.....	13,012
	-----
	\$18,661
	=====

The Company's businesses operate from leased properties under non-cancelable operating lease agreements (see Item 2. Properties). The Company accounts for rent abatements and increasing base rentals using the straight-line method over the life of the lease. The difference between the straight-line rent expense and the amount paid is recorded as a deferred rent liability. As of March 31, 2006, obligations under non-cancelable operating leases totaled \$15.0 million, are due as follows (\$ in thousands):

Fiscal years ending March 31,	
2007.....	\$ 2,675
2008.....	2,732
2009.....	2,770
2010.....	2,270
2011.....	1,377
Thereafter.....	3,223
	-----
	\$15,047
	=====

Total rent expense was \$2.2 million and \$2.6 million for the fiscal years ended March 31, 2005 and 2006, respectively.

As of March 31, 2006, purchase obligations for Systems ordered in connection with our Digital Cinema Roll-Out, and not included in our consolidated financial statements totaled \$25.1 million.

Management expects that we will continue to generate losses for the foreseeable future due to depreciation and amortization, interest on Systems purchased under our senior credit facility (see Note 8), software development, the continued efforts related to the identification of acquisition targets, marketing and promotional activities and the development of relationships with other businesses. Certain of these costs could be reduced if working capital decreased. We may attempt to raise additional capital from various sources for future acquisitions or for working capital as necessary, but there is no assurance that such financing will be completed as contemplated or under terms acceptable to us, or our existing shareholders. Failure to generate additional revenues, raise additional capital or manage discretionary spending could have a material adverse effect on our ability to continue as a going concern and to achieve our intended business objectives.

Our management believes that the net proceeds generated by our recent financing transactions, in January 2006 and March 2006, combined with our cash on hand and cash receipts from existing operations, will be sufficient to permit us meet our obligations through March 31, 2007.

## **SEASONALITY**

Media services revenues derived from our Pavilion Theatre and from the collection of VPFs from motion picture studios are usually seasonal, coinciding with the timing of releases of movies by the motion picture studios. Generally, motion picture studios release the most marketable movies during the summer and the holiday season. The unexpected emergence of a hit movie during other periods can alter the traditional trend. The timing of movie releases can have a significant effect on our results of operations, and the results of one quarter are not necessarily indicative of results for the next quarter or any other quarter. We believe the seasonality of motion picture exhibition, however, is becoming less pronounced as the motion picture studios are releasing movies somewhat more evenly throughout the year.

## **SUBSEQUENT EVENTS**

In April 2006, we issued 23,445 shares of unregistered Class A Common Stock, in connection with our purchase in January 2006 of the domain name, website, customer list and the IP address space of Ezzi.net and certain data center related computer equipment of R & S International, Inc. (together the "Access Digital Server Assets").

In May 2006 and June 2006, we ordered additional Systems from Christie for an estimated aggregate total purchase price of approximately \$34.6 million.

In June 2006, the Company through its indirectly wholly-owned subsidiary, PLX Acquisition Corp., purchased substantially all the assets of PLX Systems Inc. ("PLX"). PLX provides the essential technology, expertise and core competencies in intellectual property ("IP") rights and royalty management, expanding the Company's ability to bring new forms of content to movie-goers in addition to supporting IP license contract management, royalty processing, revenue reporting and billing. The purchase price, including estimated transaction costs, was approximately \$1.6 million.

## **OFF-BALANCE SHEET ARRANGEMENTS**

We are not a party to any off-balance sheet arrangements.

**ITEM 7. CONSOLIDATED FINANCIAL STATEMENTS**

**ACCESS INTEGRATED TECHNOLOGIES, INC.  
INDEX TO FINANCIAL STATEMENTS**

Report of Independent Registered Public Accounting Firm..... F-1

Consolidated Balance Sheets at March 31, 2005 and 2006..... F-2

Consolidated Statements of Operations for the fiscal years ended  
March 31, 2005 and 2006..... F-3

Consolidated Statements of Cash Flows for the fiscal years ended  
March 31, 2005 and 2006 ..... F-4

Consolidated Statements of Stockholders' Equity for the fiscal years  
ended March 31, 2005 and 2006 ..... F-5

Notes to Consolidated Financial Statements ..... F-7

## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders Access Integrated Technologies, Inc.

We have audited the accompanying consolidated balance sheets of Access Integrated Technologies, Inc. and subsidiaries (the "Company") as of March 31, 2006 and 2005 and the related consolidated statements of operations, cash flows and stockholders' equity for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

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

In our opinion, the financial statements enumerated above present fairly, in all material respects, the consolidated financial position of Access Integrated Technologies, Inc. and subsidiaries as of March 31, 2006 and 2005, and the consolidated results of their operations and their consolidated cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

*/s/ Eisner LLP*

*Florham Park, New Jersey  
June 1, 2006*

ACCESS INTEGRATED TECHNOLOGIES, INC.  
CONSOLIDATED BALANCE SHEETS  
(In thousands, except for share data)

	March 31,	
	2005	2006
ASSETS		
Current assets		
Cash and cash equivalents.....	\$4,779	\$36,641
Investment securities.....	--	24,000
Accounts receivable, net.....	947	1,593
Prepaid and other current assets.....	762	700
Note receivable, current portion.....	--	43
Unbilled revenue.....	550	1,492
	-----	-----
Total current assets	7,038	64,469
Property and equipment, net.....		
Intangible assets, net.....	14,261	44,551
Capitalized software costs, net.....	3,337	2,056
Goodwill.....	1,622	1,680
Deferred costs.....	10,363	9,310
Note receivable, net of current portion.....	726	148
Unbilled revenue, net of current portion.....	--	1,122
Security deposits.....	69	42
Restricted cash.....	361	389
	-----	-----
Total assets	\$37,777	\$123,947
	=====	=====
LIABILITIES, REDEEMABLE STOCK AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable and accrued expenses.....	\$2,415	\$13,282
Current portion of notes payable.....	1,415	1,203
Current portion of customer security deposits.....	116	176
Current portion of capital leases.....	432	89
Current portion of deferred revenue.....	884	768
Current portion of deferred rent expense.....	42	100
	-----	-----
Total current liabilities	5,304	15,618
Notes payable, net of current portion.....		
Customer security deposits, net of current portion.....	12,682	1,948
Deferred revenue, net of current portion.....	161	40
Capital leases, net of current portion.....	95	66
Deferred rent expense, net of current portion.....	6,058	5,978
Deferred tax liability.....	970	918
	-----	-----
Total liabilities	26,480	25,466
	-----	-----
Commitments and contingencies (Note 10)		
Redeemable Class A common stock, 53,534 and 0 shares issued and outstanding at March 31, 2005 and March 31, 2006, respectively.....	250	--
Stockholders' Equity		
Class A common stock, \$0.001 par value per share; 40,000,000 shares authorized; 9,433,328 and 22,059,567 shares issued and 9,381,888 and 22,008,127 shares outstanding at March 31, 2005 and March 31, 2006, respectively.....	9	22
Class B common stock, \$0.001 par value per share; 15,000,000 shares authorized; 965,811 and 925,811 shares issued and outstanding, at March 31, 2005 and March 31, 2006, respectively.....	1	1
Additional paid-in capital.....	32,696	136,929
Treasury stock, at cost; 51,440 shares.....	(172)	(172)
Accumulated deficit.....	(21,487)	(38,299)
	-----	-----
Total stockholders' equity	11,047	98,481
	-----	-----
Total liabilities, redeemable stock and stockholders' equity	\$37,777	\$123,947
	=====	=====

See accompanying notes to Consolidated Financial Statements

ACCESS INTEGRATED TECHNOLOGIES, INC.  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(In thousands, except for share and per share data)

	For the Fiscal Years Ended March 31,	
	2005	2006
Revenues:		
Media services.....	\$4,043	\$9,909
Data center services.....	6,608	6,886
Total revenues	10,651	16,795
Costs of revenues (exclusive of depreciation and amortization):		
Media services.....	1,696	6,738
Data center services.....	4,115	4,812
Total costs of revenues	5,811	11,550
Gross profit (exclusive of depreciation and amortization):	4,840	5,245
Operating expenses:		
Selling, general and administrative.....	5,607	8,972
Provision for doubtful accounts.....	640	186
Research and development.....	666	300
Non-cash stock-based compensation.....	4	--
Depreciation and amortization.....	3,623	5,001
Total operating expenses	10,540	14,459
Loss before other income (expense)	(5,700)	(9,214)
Interest income.....	5	316
Interest expense.....	(605)	(2,152)
Non-cash interest expense.....	(832)	(1,407)
Debt conversion expense.....	--	(6,269)
Other income, net.....	23	1,603
Loss before income tax benefit and minority interest	(7,109)	(17,123)
Income tax benefit.....	311	311
Net loss before minority interest in subsidiary	(6,798)	(16,812)
Minority interest in loss of subsidiary.....	10	--
Net loss	\$(6,788)	\$(16,812)
Net loss per common share:		
Basic and diluted.....	\$(0.70)	\$(1.19)
Weighted average number of common shares outstanding:		
Basic and diluted.....	9,668,876	14,086,001

See accompanying notes to Consolidated Financial Statements

ACCESS INTEGRATED TECHNOLOGIES, INC.  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(In thousands)

	For the fiscal years ended March 31,	
	2005	2006
Cash flows from operating activities		
Net loss	\$(6,788)	\$(16,812)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization.....	3,623	5,001
Amortization of software development costs.....	369	547
Amortization of deferred tax liability.....	(311)	(311)
Provision for doubtful accounts.....	550	186
Non-cash stock-based compensation.....	4	--
Non-cash interest expense	832	1,407
Minority interest.....	(10)	--
Net fair value change of Class A common stock warrants.....	(91)	(1,660)
Debt conversion expense.....	--	6,269
Debt issuance costs included in interest expense.....	--	730
Changes in operating assets and liabilities:		
Accounts receivable.....	(455)	(832)
Prepays and other current assets.....	(422)	(111)
Unbilled revenue.....	(252)	(915)
Other assets.....	(782)	(218)
Accounts payable and accrued expenses.....	387	1,662
Other liabilities.....	88	(200)
Net cash used in operating activities	(3,258)	(5,257)
Cash flows from investing activities		
Purchases of property and equipment.....	(1,932)	(26,065)
Purchases of intangible assets.....	(38)	(21)
Additions to capitalized software costs.....	(561)	(606)
Acquisition of FiberSat Global Services LLC, net of cash acquired...	(508)	--
Acquisition of the Pavilion Theatre, net of cash acquired.....	(2,886)	--
Purchase of available-for-sale securities.....	--	(24,000)
Restricted short-term investment.....	--	(180)
Note receivable for digital projections.....	--	(231)
Net cash used in investing activities	(5,925)	(51,103)
Cash flows from financing activities		
Net proceeds from issuance of notes payable and warrants.....	7,600	--
Repayment of notes payable.....	(579)	(1,697)
Principal payments on capital leases.....	(284)	(424)
Repurchase of Class A common stock.....	(172)	--
Net proceeds from issuance of Class A common stock.....	5,067	90,343
Net cash provided by financing activities	11,632	88,222
Net increase in cash and cash equivalents	2,449	31,862
Cash and cash equivalents at beginning of period	2,330	4,779
Cash and cash equivalents at end of period	\$4,779	\$36,641

See accompanying notes to Consolidated Financial Statements

ACCESS INTEGRATED TECHNOLOGIES, INC.  
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY  
(In thousands, except share data)

	Class A Common Stock		Class B Common Stock		Treasury Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stock- holders' Equity
	Shares	Amount	Shares	Amount	Shares	Amount			
Balances as of March 31, 2004	7,281,730	\$7	1,005,811	\$1	--	\$--	\$24,271	\$(14,699)	\$ 9,580
Issuance of common stock, net .....	1,500,298	2	--	--	--	--	4,951	--	4,953
Purchase of treasury stock .....	--	--	--	--	(51,440)	(172)	--	--	(172)
Issuance of common stock in exchange for AccessDM common stock .....	31,300	--	--	--	--	--	--	--	--
Issuance of common stock in connection with the FiberSat Acquisition .....	540,000	--	--	--	--	--	1,624	--	1,624
Issuance of common stock for goods and services .....	--	--	--	--	--	--	4	--	4
Issuance of warrants attached to convertible notes payable .....	--	--	--	--	--	--	1,109	--	1,109
Beneficial conversion feature on convertible notes payable .....	--	--	--	--	--	--	605	--	605
Conversion of Class B shares to Class A ....	40,000	--	(40,000)	--	--	--	--	--	--
Issuance of common stock in connection with the Pavilion Theatre Acquisition .....	40,000	--	--	--	--	--	132	--	132
Net loss .....	--	--	--	--	--	--	--	(6,788)	(6,788)
Balances as of March 31, 2005	9,433,328	\$9	965,811	\$1	(51,440)	\$(172)	\$32,696	\$(21,487)	\$ 11,047

See accompanying notes to Consolidated Financial Statements

ACCESS INTEGRATED TECHNOLOGIES, INC.  
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY  
(In thousands, except share data)

	Class A Common Stock		Class B Common Stock		Treasury Stock		Additional Paid-In Capital	Accumulated Deficit	Total Stock- holders' Equity
	Shares	Amount	Shares	Amount	Shares	Amount			
Balances as of March 31, 2005	9,433,328	\$9	965,811	\$1	(51,440)	\$(172)	\$32,696	\$(21,487)	\$11,047
Issuance of common stock in connection with exercise of warrants and stock options.....	395,305	--	--	--	--	--	1,801	--	1,801
Issuance of common stock in connection with the July 2005 Private Placement.....	1,909,115	2	--	--	--	--	16,719	--	16,721
Issuance of common stock in connection with the January 2006 Offering.....	1,500,000	2	--	--	--	--	14,495	--	14,497
Issuance of common stock in connection with the March 2006 Offering and the March 2006 Second Offering.....	5,894,999	6	--	--	--	--	54,753	--	54,759
Issuance of common stock in lieu of redeeming the Boeing Shares.....	53,534	--	--	--	--	--	250	--	250
Issuance of common stock in payment of interest on Convertible Debentures.....	17,758	--	--	--	--	--	146	--	146
Issuance of common stock in connection with the conversion of the Convertible Debentures.....	2,507,657	3	--	--	--	--	11,040	--	11,043
Issuance of common stock in connection with the conversion of the 6% Convertible Notes..	307,871	--	--	--	--	--	1,699	--	1,699
Conversion of Class B shares to Class A....	40,000	--	(40,000)	--	--	--	--	--	--
Transfer to equity of liability relating to warrants upon registration effectiveness....	--	--	--	--	--	--	3,330	--	3,330
Net loss.....	--	--	--	--	--	--	--	(16,812)	(16,812)
Balances as of March 31, 2006	22,059,567	\$22	925,811	\$1	(51,440)	\$(172)	\$136,929	\$(38,299)	\$98,481

See accompanying notes to Consolidated Financial Statements

(\$ in thousands, except for per share data)

## 1. NATURE OF OPERATIONS

AccessIT was incorporated in Delaware on March 31, 2000. We are a leading provider of fully managed storage, electronic delivery and software services and technology solutions for owners and distributors of digital content to movie theaters and other venues. The terms "Company", "we," "us," and "our" refer to AccessIT and its subsidiaries unless the context otherwise requires. To date, we have generated revenues from two primary businesses, media services ("Media Services") and internet data center ("IDC" or "data center") services. Our Media Services business provides software, services and technology solutions to the television and motion picture industries, primarily to facilitate the transition from analog (film) to digital cinema. Our Data Center Services are comprised of three leased IDCs that provide corporate customers with secure and fail-safe off-site locations to house their computer and telecommunications equipment, as well as related services such as equipment monitoring and back-up and protection of customers' data. These existing businesses have positioned us at what we believe to be the forefront of an emerging industry opportunity relating to the delivery and management of digital cinema and other content to entertainment and other remote venues worldwide. This is currently our primary strategic focus.

## 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### BASIS OF PRESENTATION AND CONSOLIDATION

For the fiscal years ended March 31, 2005 and 2006, the Company incurred net losses of \$6,788 and \$16,812 respectively, and cash used in operating activities of \$3,258 and \$5,257, respectively. In addition, the Company has an accumulated deficit of \$38,299 as of March 31, 2006. At March 31, 2006, the Company also has debt service requirements (including interest) of \$2,504. Management expects that the Company will continue to generate losses for the foreseeable future. Certain of these costs could be reduced if working capital decreased. Based on the Company's cash position at March 31, 2006, and expected cash flows from operations; management believes that the Company has the ability to meet its obligations through March 31, 2007. The Company may attempt to raise additional capital from various sources for future acquisitions, equipment requirements related to our Digital Cinema Roll-Out or for working capital as necessary. There is no assurance that such financing will be completed as contemplated or under terms acceptable to the Company or its existing shareholders. Failure to generate additional revenues, raise additional capital or manage discretionary spending could have a material adverse effect on the Company's ability to continue as a going concern and to achieve its intended business objectives. The accompanying consolidated financial statements do not reflect any adjustments which may result from the outcome of such uncertainties.

Our consolidated financial statements are prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP") for financial information and in accordance with Regulation S-B. In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair presentation have been included.

Our consolidated financial statements include the accounts of AccessIT, DMS, AccessIT SW, Managed Services, the Pavilion Theatre and Christie/AIX. We have eliminated all intercompany transactions and balances.

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. The Company's most significant estimates related to software revenue recognition, capitalization of software development costs, amortization and impairment testing of intangible assets and depreciation of fixed assets. On an on-going basis, we evaluate our estimates, including those related to the carrying values of our fixed assets and intangible assets, the valuation of deferred tax liabilities, and the valuation of assets acquired and liabilities assumed in purchase business combinations. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances made, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results could differ from these estimates under different assumptions or conditions.

### CASH AND CASH EQUIVALENTS

The Company considers all highly liquid investments with an original maturity of three months or less to be "cash equivalents." The carrying amount of the Company's cash equivalents approximates fair value due to the short maturities of these investments and consists primarily of money market funds and other overnight investments. The Company maintains cash deposits with major banks,

which from time to time may exceed federally insured limits. The Company periodically assesses the financial condition of the institutions and believes that the risk of any loss is minimal.

## **INVESTMENT SECURITIES**

The items classified as investment securities are principally auction rate perpetual preferred securities. The Company classifies all investment securities as available-for-sale. Securities accounted for as available-for-sale are required to be reported at fair value with unrealized gains and losses, net of taxes, excluded from net income and shown separately as a component of accumulated other comprehensive income within stockholders' equity. The securities that the Company has classified as available-for-sale generally trade at par and as a result typically do not have any realized or unrealized gains or losses.

## **PROPERTY AND EQUIPMENT**

Property and equipment are stated at original cost, less accumulated depreciation. Depreciation expense is computed using the straight-line method over the estimated useful lives of the respective assets as follows:

Computer equipment.....	3-5 years
Digital cinema projection systems.....	10 years
Machinery and equipment.....	3-10 years
Furniture and fixtures.....	3-6 years

Leasehold improvements and assets under capital leases are being amortized over the shorter of the lease term or the estimated useful life of the underlying assets ranging from two to 17 years. Maintenance and repair costs are charged to expense as incurred. Major renewals, betterments and additions are capitalized.

## **FAIR VALUE OF FINANCIAL INSTRUMENTS**

The carrying amounts of the Company's financial instruments, which include cash and cash equivalents, investment securities, accounts receivable, accounts payable, accrued expenses and other obligations, approximate their fair value due to the short-term maturities of the related instruments. The Company's customer base is primarily composed of businesses throughout the United States. The Company routinely assesses the financial strength of its customers and the status of its accounts receivable and, based upon factors surrounding the credit risk, establishes an allowance, if required, for uncollectible accounts and, as a result, believes that its accounts receivable credit risk exposure beyond such allowance is limited. Based on borrowing rates currently available to the Company for loans with similar terms, the carrying value of notes payable and capital lease obligations approximates fair value.

## **IMPAIRMENT OF LONG-LIVED ASSETS**

The Company reviews the recoverability of its long-lived assets on a periodic basis in order to identify business conditions which may indicate a possible impairment. The assessment for potential impairment is based primarily on the Company's ability to recover the carrying value of its long-lived assets from expected future undiscounted cash flows. If the total expected future undiscounted cash flows are less than the carrying amount of the assets, a loss is recognized for the difference between the fair value (computed based upon the expected future undiscounted cash flows) and the carrying value of the assets.

## **BUSINESS COMBINATIONS AND INTANGIBLE ASSETS**

We have adopted Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations" ("SFAS No. 141") and SFAS No. 142, "Goodwill and other Intangible Assets" ("SFAS No. 142"). SFAS No. 141 requires all business combinations to be accounted for using the purchase method of accounting and that certain intangible assets acquired in a business combination must be recognized as assets separate from goodwill. SFAS No. 142 addresses the recognition and measurement of goodwill and other intangible assets subsequent to their acquisition. SFAS No. 142 also addresses the initial recognition and measurement of intangible assets acquired outside of a business combination, whether acquired individually or with a group of other assets. This statement provides that intangible assets with indefinite lives and goodwill will not be amortized but will be tested at least annually for impairment. If impairment is indicated, then the asset will be written down to its fair value, typically based upon its future expected discounted cash flows. As of March 31, 2006, our finite-lived intangible assets consisted of customer agreements, covenants not to compete, Federal Communications Commission licenses (for satellite transmission services), trade names and trademarks, and a liquor license (for the Pavilion Theatre) which are estimated to have useful lives ranging from two to ten years. In addition, we have recorded goodwill in connection with the acquisitions of AccessIT SW, Managed Services, AccessIT Satellite, and the Pavilion Theatre. Goodwill related to the acquisition of the Pavilion Theatre

was reduced in September 2005 in connection with the early retirement of the outstanding note payable (see Note 7).

## CAPITALIZED SOFTWARE DEVELOPMENT COSTS

### INTERNAL USE SOFTWARE

The Company accounts for these software development costs under Statement of Position ("SOP") 98-1, "Accounting for the Costs of Computer Software Developed or Obtained for Internal Use" ("SOP 98-1"). SOP 98-1, states that there are three distinct stages to the software development process for internal use software. The first stage, the preliminary project stage, includes the conceptual formulation, design and testing of alternatives. The second stage, or the program instruction phase, includes the development of the detailed functional specifications, coding and testing. The final stage, the implementation stage, includes the activities associated with placing a software project into service. All activities included within the preliminary project stage would be considered research and development and expensed as incurred. During the program instruction phase, all costs incurred until the software is substantially complete and ready for use, including all necessary testing, are capitalized and amortized on a straight-line basis over estimated lives ranging from three to five years. We have not sold, leased or licensed software developed for internal use to our customers and we have no intention of doing so in the future.

### SOFTWARE TO BE SOLD, LICENSED OR OTHERWISE MARKETED

The Company accounts for these software development costs under SFAS No. 86, "Accounting for the Costs of Computer Software to Be Sold, Leased, or Otherwise Marketed" ("SFAS No. 86"). SFAS No. 86 states software development costs that are incurred subsequent to establishing technological feasibility are capitalized until the product is available for general release. Amounts capitalized as software development costs are amortized periodically using the greater of revenues during the period compared to the total estimated revenues to be earned or on a straight-line basis over estimated lives ranging from three to five years. The Company reviews capitalized software costs for impairment on a periodic basis. To the extent that the carrying amount exceeds the estimated net realizable value of the capitalized software cost, an impairment charge is recorded. No impairment charge was recorded for the fiscal years ended March 31, 2005 and 2006, respectively. Amortization of capitalized software development costs, included in costs of revenues, for the fiscal years ended March 31, 2005 and 2006 amounted to \$369 and \$547, respectively. Revenues relating to customized software development contracts are recognized on a percentage-of-completion method of accounting using the cost to date to the total estimated cost approach. As of March 31, 2006, unbilled receivables under such customized software development contracts aggregated \$1,492.

## REVENUE RECOGNITION

### MEDIA SERVICES

Our Media Services revenues are generated as follows:

OPERATIONS OF:	REVENUES CONSIST OF:	ACCOUNTED FOR IN ACCORDANCE WITH:
AccessIT SW	(1) software licensing, including customer licenses and ASP Service agreements,	SOP 97-2, "Software Revenue Recognition"
	(2) software maintenance contracts, and	Staff Accounting Bulletin ("SAB") No. 104 "Revenue Recognition in Financial Statements" ("SAB No. 104").
	(3) professional consulting services, which includes systems implementation, training, custom software development services and other professional services	
DMS	(1) satellite delivery revenues,	SAB No. 104
	(2) data encryption and preparation fee revenues,	
	(3) landing fees for delivery to each movie theatre,	
	(4) satellite network monitoring and	
	(5) maintenance fees	

OPERATIONS OF:	REVENUES CONSIST OF:	ACCOUNTED FOR IN ACCORDANCE WITH:
Pavilion Theatre	(1) movie theatre admission revenues and (2) concession food and beverage revenues	SAB No. 104
Christie/AIX	(1) virtual print fees and other fees	SAB No. 104

Software licensing revenue is recognized when the following criteria are met:

(a) persuasive evidence of an arrangement exists, (b) delivery has occurred and no significant obligations remain, (c) the fee is fixed or determinable and (d) collection is determined to be probable. Significant upfront fees are received in addition to periodic amounts upon achievement of contractual events for licensing of the Company's products. Such amounts are deferred until the revenue recognition criteria have been met, which typically occurs upon delivery and acceptance.

Revenues relating to customized software development contracts are recognized on a percentage-of-completion method of accounting.

Deferred revenue is recorded in cases where: (1) a portion or the entire contract amount cannot be recognized as revenue, due to non-delivery or acceptance of licensed software or custom programming, (2) incomplete implementation of ASP Service arrangements, or (3) unexpired pro-rata periods of maintenance, minimum ASP Service fees or website subscription fees. As license fees, maintenance fees, minimum ASP Service fees and website subscription fees are often paid in advance, a portion of this revenue is deferred until the contract ends. Such amounts are classified as deferred revenue and are recognized as revenue in accordance with the Company's revenue recognition policies described above.

## DATA CENTER SERVICES

Our Data Center Services revenues are generated as follows:

OPERATIONS OF:	REVENUES CONSIST OF:	ACCOUNTED FOR IN ACCORDANCE WITH:
AccessIT	(1) license fees for data center space, (2) riser access charges, (3) electric and cross connect fees, and (4) non-recurring installation and consulting fees	SAB No. 104
Managed Services	(1) network monitoring, (2) maintenance fees, and (3) non-recurring installation and consulting fees	SAB No. 104

AccessIT's revenues are recognized ratably over the term of the contract, generally one to nine years. Certain customer contracts contain periodic increases in the amount of license fees for data center space to be paid, and are recognized as license fee revenues on a straight-line basis over the term of the contracts. Installation fees are recognized on a time and materials basis in the period in which the services were provided and represent the culmination of the earnings process as no significant obligations remain. Amounts collected prior to satisfying revenue recognition criteria are classified as deferred revenue. Amounts satisfying revenue recognition criteria prior to billing are classified as unbilled revenue. Managed Services' revenues, which consist of monthly recurring billings pursuant to network monitoring and maintenance contracts, are recognized as revenues in the month earned, and other non-recurring billings which are recognized on a time and materials basis as revenues, in the period in which the services were provided.

## RESEARCH AND DEVELOPMENT

Research and development expenses were \$666 and \$300, respectively, for the fiscal years ended March 31, 2005 and 2006 and were comprised mainly of personnel costs and third party contracted services attributable to research and development efforts at AccessIT SW related to the development of our digital software applications and various product enhancements to TDS and EMS(TM).

## INCOME TAXES

The Company accounts for income taxes under the SFAS No. 109, "Accounting for Income Taxes" ("SFAS 109"). Under SFAS 109, deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. 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. Under SFAS 109, the effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that included the enactment date.

## NET LOSS PER SHARE AVAILABLE TO COMMON STOCKHOLDERS

Computations of basic and diluted net loss per share of the Company's Common Stock have been made in accordance with SFAS No. 128, "Earnings Per Share". Basic and diluted net losses per share have been calculated as follows:

$$\text{Basic and diluted net loss per share} = \frac{\text{Net loss}}{\text{Weighted average number of common shares outstanding during the period}}$$

Shares issued and reacquired during the period are weighted for the portion of the period that they were outstanding.

The Company has incurred net losses for the fiscal years ended March 31, 2005 and 2006 and, therefore, the impact of dilutive potential common shares from outstanding stock options, warrants (prior to the application of the treasury stock method), and convertible notes (on an as-converted basis) were excluded from the computation as it would be anti-dilutive. Potentially dilutive shares excluded from the computations aggregated 3,922,661 and 2,712,993 for the fiscal years ended March 31, 2005 and 2006, respectively.

## STOCK-BASED COMPENSATION

The Company has two stock-based employee compensation plans, which are described more fully in Note 9. The Company accounts for its stock-based employee compensation plans in accordance with the provisions of Accounting Principles Board ("APB") Opinion No. 25, "Accounting for Stock Issued to Employees" ("APB Opinion No. 25"), and related interpretations. As such, non-cash stock-based compensation expense is recorded on the date of the stock option grant, only if the current fair value of the underlying common stock exceeds the exercise price of the stock option. The Company has adopted the disclosure standards of SFAS No. 148 "Accounting for Stock-Based Compensation - Transaction and Disclosures", which amends SFAS No. 123, "Accounting for Stock-Based Compensation" ("SFAS No. 123"), which requires the Company to provide pro forma net loss and earnings per share disclosures for stock option grants made in 1995 and future years as if the fair-value based method of accounting for stock options as defined in SFAS No. 123 had been applied.

The following table illustrates the effect on net loss and net loss per share if the Company had applied the fair-value recognition provisions of SFAS No. 123 to stock-based compensation:

	As of March 31,	
	2005	2006
Net loss as reported.....	\$(6,788)	\$(16,812)
Add: Non-cash stock-based compensation expense included in net loss.....	4	--
Less: Non-cash stock-based compensation expense determined under fair-value based method.....	(647)	(4,866)
Pro forma net loss	\$(7,431)	\$(21,678)
	=====	=====
Basic and diluted net loss per share:		
As reported.....	\$(0.70)	\$(1.19)
Pro forma.....	\$(0.77)	\$(1.54)

The Company estimated the fair value of stock options at the date of each grant using a Black-Scholes option valuation model with the following assumptions:

	As of March 31,	
	2005	2006
Weighted-average risk-free interest rate.....	4.3%	4.2%
Dividend yield.....	--	--
Expected life (years).....	10	10
Weighted-average expected volatility.....	110%	88.4%

Effective March 8, 2006, the compensation committee of our Board approved the acceleration of the vesting of all unvested stock options awarded under our stock incentive plans. The primary purpose of the acceleration was to eliminate the impact of \$3,098 of future non-cash stock-based compensation expense, of which \$1,410 is related to stock options held by our executive officers and members of the Board, that would have been recognized over the next three years as the stock options vested as a result of adopting SFAS No. 123 (revised 2004), "Share-Based Payment", which is a revision of SFAS No. 123, Accounting for Stock-Based Compensation ("SFAS No. 123(R)"). This amount was instead reflected in the pro forma footnote disclosure above for the fiscal year ended March 31, 2006, as permitted under the transitional guidance provided by SFAS No. 123(R). We will not be required to recognize future compensation expense for the accelerated stock options under SFAS No. 123(R) unless further modifications are made to the stock options, which are not anticipated.

### 3. ACQUISITIONS

On January 1, 2006, the Company purchased the domain name, website, customer list and the IP address space of Ezzi.net and certain data center related computer equipment of R & S International, Inc. (together the "Access Digital Server Assets"). The Access Digital Server Assets were acquired to complement our existing Data Center Services business and are primarily used for web hosting applications. The purchase price included a cash payment of \$140 and 23,445 shares of unregistered Class A Common Stock to be issued in April 2006. Based on targeted cash flows associated with the Access Digital Server Assets through March 31, 2008, the Company may be required to make additional payments up to the maximum sum of \$900. The Company is in the process of evaluating the net tangible and intangible assets acquired.

### 4. CONSOLIDATED BALANCE SHEET COMPONENTS

#### CASH AND CASH EQUIVALENTS

Cash and cash equivalents consisted of the following:

	As of March 31,	
	2005	2006
Bank balances.....	\$4,779	\$3,574
Money market funds.....	--	33,067
Total cash and cash equivalents	\$4,779	\$36,641

As of March 31, 2005 and 2006, cost approximated fair value of cash and cash equivalents.

#### INVESTMENTS

Investments consisted of the following:

	As of March 31,	
	2005	2006
Available-for-sale securities .....	\$--	\$24,000

As of March 31, 2006, cost approximated fair value of investments.

## RESTRICTED CASH

The Company had \$0 and \$180 of restricted cash as of March 31, 2005 and 2006, respectively, in the form of a bank certificate of deposit underlying an outstanding bank standby letter of credit for an office space lease for AccessIT SW.

## ACCOUNTS RECEIVABLE

Accounts receivable, net consisted of the following:

	As of March 31,	
	2005	2006
Trade receivables.....	\$1,695	\$1,697
Allowance for doubtful accounts.....	(131)	(104)
Advance billings.....	(617)	--
Total accounts receivable, net	\$947	\$1,593

Advance billings represent the amount of customer billings for revenues not yet earned. In December 2005, KMC did not renew any of their IDC contracts. In March 2006, the Company and KMC agreed to a payment of \$65 to satisfy the net amount due to the Company of \$164.

## PREPAID EXPENSES AND OTHER CURRENT ASSETS

Prepaid expenses and other current assets consisted of the following:

	As of March 31,	
	2005	2006
Prepaid insurance.....	\$215	\$228
Customer deposits.....	10	--
Deferred costs, current.....	321	--
Concession - inventory.....	5	12
Other current assets.....	211	460
Total prepaid expenses and other current assets	\$762	\$700

## PROPERTY AND EQUIPMENT, NET

Property and equipment, net was comprised of the following:

	As of March 31,	
	2005	2006
Land.....	\$1,500	\$1,500
Building and improvements.....	4,600	4,600
Leasehold improvements.....	4,158	4,726
Computer equipment and software.....	2,642	4,793
Digital cinema projection systems.....	-	29,230
Machinery and equipment.....	5,254	7,248
Furniture and fixtures.....	474	511
	18,628	52,608
Less - accumulated depreciation.....	(4,367)	(8,057)
Total property and equipment, net	\$14,261	\$44,551

Land and building and improvements represent the Company's capital lease for the Pavilion Theater. Leasehold improvements consist primarily of costs incurred in

the construction of the Company's IDCs and from the Managed Services Acquisition. Computer equipment and software consists primarily of software used in the Company's Managed Storage Services business, the Cinefence License, and from the AccessIT SW, Managed Services and Boeing Digital Asset Acquisitions. Digital cinema projection systems consist entirely of equipment purchased in connection with our Digital Cinema Roll-Out. Machinery and equipment consists primarily of costs incurred for equipment used at the IDCs, and from the Boeing Digital Asset and FiberSat Acquisitions. For the fiscal years ended March 31, 2005 and 2006, depreciation expense amounted to \$2,105 and \$3,693, respectively.

## INTANGIBLE ASSETS, NET

Intangible assets, net consisted of the following:

	As of March 31,	
	2005	2006
Trademarks.....	\$68	\$79
Corporate trade names.....	180	180
Customer contracts.....	4,236	4,239
Covenants not to compete.....	1,909	1,910
	6,393	6,408
Less - accumulated amortization.....	(3,056)	(4,352)
Total intangible assets, net	\$3,337	\$2,056

For the fiscal years ended March 31, 2005 and 2006, amortization expense amounted to \$1,518 and \$1,308, respectively. The change in customer contracts and covenants not to compete of \$4, related to additional earn-out in connection with the Boeing Digital Asset Acquisition. The Boeing Company is entitled to an additional earn-out of 20% of gross revenues generated from assets of the Boeing Digital Asset Acquisition through March 2008. For the fiscal years ended March 31, 2005 and 2006, the Boeing Company was entitled to an additional earn-out \$58 and \$21, respectively.

## CAPITALIZED SOFTWARE COST, NET

Capitalized software costs, net consisted of the following:

	As of March 31,	
	2005	2006
Capitalized software.....	\$2,109	\$2,715
Less - accumulated amortization.....	(487)	(1,035)
Total capitalized software costs, net	\$1,622	\$1,680

For the years ended March 31, 2005 and 2006, amortization of software costs, which is included in costs of revenues, amounted to \$369 and \$547, respectively.

## ACCOUNTS PAYABLE AND ACCRUED EXPENSES

Accounts payable and accrued expenses consisted of the following:

	As of March 31,	
	2005	2006
Accounts payable.....	\$1,118	\$7,523
Accrued compensation and benefits.....	392	597
Accrued taxes payable.....	9	32
Interest payable.....	134	39
Accrued other expenses.....	762	5,091
Total accounts payable and accrued expenses	\$2,415	\$13,282

Included in accounts payable and accrued other expenses is \$4,778 and \$3,146, respectively, for digital cinema projection systems ordered

from Christie in connection with our Digital Cinema Roll-Out. In addition, included in accrued other expenses is \$934 for installation costs from Christie.

## 5. RECENT ACCOUNTING PRONOUNCEMENTS

In December 2004, the Financial Accounting Standards Board (the "FASB") issued SFAS No. 153, "Exchange of Non-Monetary Assets, an Amendment of APB Opinion No. 29" ("SFAS 153"). SFAS 153 addresses the measurement of exchanges of non-monetary assets and redefines the scope of transactions that should be measured on the fair value of the assets exchanged. The provisions of this statement are effective for non-monetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. The effective date for the Company to adopt SFAS 153 due to its fiscal reporting first interim or annual reporting period is April 1, 2006. The Company adopted SFAS 153 on April 1, 2006 and does not anticipate that its adoption will have a material effect on its financial position or results of operations.

In December 2004, the FASB issued SFAS 123(R) which revises the original guidance contained in SFAS 123 and supersedes APB No. 25, and its related implementation guidance. Under SFAS 123(R), the Company will be required to measure the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions) and recognize such cost in the statement of operations over the period during which an employee is required to provide service in exchange for the reward (usually the vesting period). Pro forma disclosure is no longer an alternative.

SFAS 123(R) permits the Company to adopt its requirements using one of two methods:

1. A "modified prospective" method in which non-cash stock-based compensation cost is recognized beginning with the April 1, 2006 adoption date (a) based on the requirements of SFAS 123(R) for all share-based payments granted after April 1, 2006 and (b) based on the requirements of SFAS 123 for all awards granted to employees prior to April 1, 2006 that remain unvested on the adoption date.
2. A "modified retrospective" method which includes the requirements of the modified prospective method described above, but also permits entities to restate based on the amounts previously recognized under SFAS 123 for purposes of pro forma disclosures either (a) all prior periods presented or (b) prior interim periods of the year of adoption.

The company adopted SFAS 123(R) on April 1, 2006 using the modified prospective method.

As permitted by SFAS 123, until March 31, 2006, the Company accounted for share-based payments to employees using APB No. 25's intrinsic value method and, as such, generally recognized no non-cash stock-based compensation expense on grants of employee stock options. Accordingly, the adoption of SFAS 123(R) may have a significant impact on the Company's results of operations, although it will have no impact on its overall financial position. The impact of adoption of SFAS 123(R) cannot be predicted at this time because it will depend on the future levels of share-based grants. However, had we adopted SFAS 123(R) in prior periods, the impact of SFAS 123(R) would have approximated the impact of SFAS 123 as described in the disclosure of pro forma net loss above (see Note 2).

In May 2005, the FASB issued SFAS No. 154, "Accounting Changes and Error Corrections," ("SFAS 154"). SFAS 154 establishes, unless impracticable, retrospective application as the required method for reporting a change in accounting principle in the absence of explicit transition requirements specific to the newly adopted accounting principle. The statement also addresses the reporting of a correction of error by restating previously issued financial statements. SFAS 154 is effective for accounting changes and corrections of errors made in fiscal years beginning after December 15, 2005. The Company adopted SFAS 154 on April 1, 2006 and does not anticipate that its adoption will have a material effect on its financial position or results of operations. In February 2006, the FASB issued SFAS No. 155, "Accounting for Certain Hybrid Financial Instruments" ("SFAS 155"). SFAS 155 amends FASB Statements No. 133 and No. 140. SFAS 155 permits fair value remeasurement for any hybrid financial instrument that contains an embedded derivative that otherwise would require bifurcation, clarifies which interest-only strips and principal-only strips are not subject to the requirements of Statement No. 133, establishes a requirement to evaluate interests in securitized financial assets to identify interests that are freestanding derivatives or that are hybrid financial instruments that contain an embedded derivative requiring bifurcation, clarifies that concentrations of credit risk in the form of subordination are not embedded derivatives and amends Statement No. 140 to eliminate the prohibition on a qualifying special-purpose entity from holding a derivative financial instrument that pertains to a beneficial interest other than another derivative financial instrument. SFAS 155 is effective for all financial instruments acquired or issued after the beginning of an entity's first fiscal year that begins after September 15, 2006. The Company does not believe it will be affected by the adoption of SFAS 155.

In March 2006, the FASB issued SFAS No. 156 "Accounting for Servicing of Financial Assets - an amendment of FASB Statement No. 140" ("SFAS 156"). SFAS 156 requires recognition of servicing assets and servicing liabilities whenever it becomes obligated to service a financial asset by entering into a servicing contract upon: (1) a transfer of the servicer's assets that meets the requirements for sale accounting; (2) a transfer of the servicer's assets to a special purpose vehicle in a guaranteed mortgage securitization if the transferor retains all resulting securities and classifies them as available-for-sale or trading securities; or (3) an acquisition of financial

asset servicing obligations not related to financial assets of the servicer or its affiliates. In such circumstances, SFAS No. 156 requires, if practicable, an entity to measure the servicing assets and liabilities at fair value. Thereafter, an entity may value the assets using either (1) the current amortization method, with fair value assessment of impairment or increased obligation as of each reporting date, or (2) a new fair value method, with servicing assets and liabilities measured at fair value on each reporting date and changes in fair value in earnings reported for the period in which they occur. SFAS 156 must be adopted as of the beginning of an entity's first fiscal year that begins after September 15, 2006. Earlier adoption is permitted if an entity has not yet issued financial statements (including interim statements) for any fiscal year period. The Company does not believe it will be affected by the adoption of SFAS 156.

## 6. NOTES RECEIVABLE

Notes receivable consisted of the following:

Note Receivable (as defined below)	As of March 31, 2005		As of March 31, 2006	
	Current Portion	Long Term Portion	Current Portion	Long Term Portion
Exhibitor Note.....	\$--	\$--	\$43	\$188
Exhibitor Install Note.....	--	--	--	934
	\$--	\$--	\$43	\$1,122

In March 2006, in connection with our Digital Cinema Roll-Out, the Company issued to a certain motion picture exhibitor a 7.5% note receivable for \$231 (the "Exhibitor Note"), in return for the Company's payment for certain financed digital projectors. The Exhibitor Note requires monthly principal and interest payments through September 2010.

In connection with our Digital Cinema Roll-Out, Christie/AIX agreed to provide financing to certain motion picture exhibitors upon the billing to the motion picture exhibitors by Christie for the installation costs associated with the placement of the Systems in movie theatres. At March 31, 2006, the Company issued an 8% note receivable for \$934 (the "Exhibitor Install Note") to a certain motion picture exhibitor. Under the Exhibitor Install Note, the motion picture exhibitors would be required to make monthly interest only payments through October 2007 and quarterly principal and interest payments thereafter.

The aggregate principal repayments to the Company on notes receivables are scheduled to be as follows:

For the twelve months ending March 31,

2007.....	\$43
2008.....	84
2009.....	116
2010.....	125
2011.....	114
Thereafter.....	683
	\$1,165

## 7. NOTES PAYABLE

Notes payable consisted of the following:

Note Payable (as defined below)	As of March 31, 2005		As of March 31, 2006	
	Current Portion	Long Term Portion	Current Portion	Long Term Portion
HS Notes.....	\$ 696	\$ 1,796	\$ 753	\$1,187
6% Convertible Notes.....	70	1,666	--	--
Remaining 5-Year Notes.....	29	71	--	--
Boeing Note.....	450	1,081	450	761
Pavilion Note.....	170	1,549	--	--
Convertible Debentures.....	--	6,519	--	--
	\$1,415	\$12,682	\$1,203	\$1,948

In November 2003, the Company issued two 5-year, 8% notes payable aggregating \$3,000 (the "HS Notes") to the founders of AccessIT SW as part of the purchase price for AccessIT SW. During the fiscal years ended March 31, 2005 and 2006, the Company repaid principal of \$512 and \$552 on the HS Notes. As of March 31, 2006, the outstanding principal balance of the HS Notes was \$1,940.

In March 2004, the Company completed an exchange (the "Exchange Offer") of its previously issued 5-year 8% notes (the "5-Year Notes") totaling \$4,405 for either: (1) 6% convertible notes (the "6% Convertible Notes") or (2) Class A Common Stock. Pursuant to the Exchange Offer, the Company issued 6% Convertible Notes with an aggregate principal amount of \$1,736 to several investors, of which \$1,400 was payable to certain officers and directors of the Company. The 6% Convertible Notes were convertible into 307,871 shares of its Class A Common Stock: (1) at any time up to the maturity date at each holder's option or (2) automatically upon the date that the average closing price on the American Stock Exchange ("AMEX") of the Class A Common Stock for thirty consecutive trading days has been equal to or greater than \$12.00. In September 2005, the AMEX 30-day average closing price of the Company's Class A Common Stock exceeded \$12.00, and therefore, the Company converted all of the 6% Convertible Notes into 307,871 shares of Class A Common Stock, of which 248,282 shares of Class A Common Stock were issued to certain officers and directors of the Company. Accordingly, the outstanding principal amount of the 6% Convertible Notes of \$1,699, net of \$32 of unamortized debt issuance costs, was credited to additional paid-in capital. As of March 31, 2006, there were no 6% Convertible Notes outstanding.

The holders of all the HS Notes and certain holders of 5-Year Notes, with an aggregate outstanding principal amount of \$220 (the "Remaining 5-Year Notes") at the time of the Exchange Offer, elected not to participate in the Exchange Offer. Through September 2005, we made early principal repayments totaling \$138 on the Remaining 5-Year Notes and scheduled principal payments of \$12 on the Remaining 5-Year Notes. As of March 31, 2006, there were no Remaining 5-Year Notes outstanding.

In March 2004, in connection with the Boeing Digital Asset Acquisition, the Company issued a 4-year, non-interest bearing note payable with a face amount of \$1,800 (the "Boeing Note"). The estimated fair value of the Boeing Note was determined to be \$1,367 on the closing date. Interest is being imputed, at a rate of 12%, over the term of the Boeing Note, and is being charged to non-cash interest expense. During the fiscal years ended March 31, 2005 and 2006, principal repayments of \$0 and \$450, respectively, were made and non-cash interest expense resulting from the Boeing Note was \$164 and \$130, respectively. As of March 31, 2006, the outstanding balance of the Boeing Note, including imputed interest, was \$1,211.

In February 2005, in connection with the Pavilion Theatre Acquisition, ADM Cinema issued to the seller a 5-year, 8% note payable for \$1,700 (the "Pavilion Note"). Quarterly principal payments of \$42 were to be made over the next five years, with a balloon repayment of \$893. In September 2005, the Company and the seller agreed to an early repayment of the Pavilion Note in exchange for a lump sum payment of \$500. Accordingly, the Company decreased goodwill by \$1,057 and there was no Pavilion Note outstanding as of March 31, 2006.

In February 2005, the Company issued 7% convertible debentures (the "Convertible Debentures") and warrants (the "Convertible Debentures Warrants") to a group of institutional investors for aggregate proceeds of \$7,600. The Convertible Debentures had a 4-year term, with one third of the unconverted principal balance repayable in twelve equal monthly installments beginning three years after the closing. The remaining unconverted principal balance was repayable at maturity. The Company had the option to pay the interest in cash or, if certain conditions were met, by issuing shares of its Class A Common Stock. Through September 2005, the Company issued 17,758 shares of Class A Common Stock as payment of interest, in lieu of cash, based on 93% of the AMEX 5-day average closing price of the Company's Class A Common Stock preceding the interest due date. The Convertible Debentures were initially convertible into 1,867,322 shares Class A Common Stock, based upon a conversion price of \$4.07 per share subject to adjustments from time to time. In addition, there was a beneficial conversion feature of \$605, which the Company recorded to non-cash interest expense during the fiscal year ended March 31, 2005. The offering of the Convertible Debentures and the Convertible Debentures Warrants was exempt from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), under Section 4(2) of the Securities Act and Rule 506 promulgated thereunder. The Company agreed to register the resale of the shares of Class A Common Stock underlying the Convertible Debentures with the SEC. The Company filed a Form S-3 on March 11, 2005, which was declared effective by the SEC on March 21, 2005.

In August 2005, the Company reached an agreement (the "Conversion Agreement") with the investors holding the Convertible Debentures and Convertible Debenture Warrants for the investors to: (1) convert all of their Convertible Debentures into 1,867,322 shares of Class A Common Stock; and (2) exercise all their Convertible Debenture Warrants for \$2,487 into 560,196 shares of Class A Common Stock, and for the Company to: (1) issue to the investors 760,196 warrants to purchase Class A Common Stock at an exercise price of \$11.39 per share (the "New Warrants"); and (2) issue to the investors 71,359 shares of Class A Common Stock (the "New Shares"). Because the issuance of the New Warrants and New Shares, when combined with the shares of Class A Common Stock underlying the Convertible Debentures and the Convertible Debentures Warrants, exceeded 20% of the

Company's then-outstanding shares of Class A Common Stock, under the AMEX's rules, shareholder approval was required to be obtained. The Company obtained such shareholder approval by written consent of a majority of the holders of Common Stock and a Schedule 14(C) Information Statement was required, and was filed with the SEC on October 6, 2005. The Company was required to register the resale of the New Shares and the Class A Common Stock underlying the New Warrants on Form S-3 with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005.

The Company accounted for the Conversion Agreement under the provisions of SFAS No. 84, "Induced Conversions of Convertible Debt", which requires the value of the New Warrants and the New Shares to be recorded as an expense. The New Warrants were valued by an independent appraiser at a value of \$4,990, and the New Shares were valued at \$906, based on the AMEX closing price of the Company's Class A Common Stock on August 26, 2005, the date the Conversion Agreement was finalized. The value of the New Warrants plus \$200 for professional fees and the value of the New Shares were charged to debt conversion expense. Additionally, the Company issued 8,780 shares to the placement agent (the "Placement Agent Shares") involved in the Conversion Agreement, which were valued at \$112, based on the AMEX closing price of the Company's Class A Common Stock on August 26, 2005. The value of the Placement Agent Shares was charged to debt conversion expense. The remaining accretion on the debt issuance discount of the Convertible Debentures Warrants of \$999 was charged to non-cash interest expense, and the remaining unamortized debt issuance costs of \$730 were charged to interest expense. As a result of the Conversion Agreement, there were no Convertible Debentures outstanding as of March 31, 2006.

The aggregate principal repayments on the Company's notes payable are scheduled to be as follows:

For the twelve months ending March 31,

2007.....	\$ 1,203
2008.....	1,108
2009.....	840
2010.....	--
2011.....	--
Thereafter.....	--
	-----
	\$ 3,151
	=====

8. SENIOR CREDIT FACILITY

In March 2006, Christie/AIX received a commitment from General Electric Capital Corporation to underwrite up to \$217 million of a senior secured financing, consisting of a \$217 million Senior Secured Multi Draw Term Loan (the "Facility") and based upon the terms of the commitment, it is anticipated that the Facility would be due May 2013. Proceeds from the Facility will be used for the purchase and installation of up to 70% of the cost of digital cinema projection systems in connection with our Digital Cinema Roll-Out. The remaining cost would be funded from other sources of capital. The commitment is subject to the completion of a definitive credit agreement on terms acceptable to all parties.

Based upon the terms of the commitment, it is anticipated that principal on the Facility would be payable monthly beginning in May 2009. At the Company's option, the interest rate will be based on the London Interbank Offered Rate (LIBOR) plus a range of margin rates or at the published prime rate plus a range of margin rates. The Company would be required to obtain interest rate protection through an interest rate agreement by May 2008, for an amount not less than 50% of the Facility outstanding.

As of March 31, 2006, the Facility had not been finalized.

9. STOCKHOLDERS' EQUITY

**CAPITAL STOCK**

In March 2004, in connection with the Boeing Digital Asset Acquisition, the Company issued 53,534 unregistered shares of Class A Common Stock (the "Boeing Shares") to the Boeing Company ("Boeing"), as part of the purchase price. At any time during the ninety day period beginning March 29, 2005 to June 29, 2005, Boeing had the option to sell the Boeing Shares to the Company in exchange for \$250 in cash, which the Company classified under commitments and contingencies. The ninety day period expired on June 29, 2005, and Boeing did not require the Company to repurchase the Boeing Shares. Accordingly, the amount of \$250 was credited to additional paid-in capital.

In June 2004, the Company issued in a private placement (the "June 2004 Private Placement") 1,217,500 unregistered shares of Class A Common Stock at a sale

price of \$4.00 per share and warrants to the investors for gross proceeds of \$4,870. The total net proceeds to the Company of \$4,044, including fees and expenses to subsequently register the securities, were used for capital investments and for working capital. The Company agreed to register the resale of the shares of Class A Common Stock issued with the SEC. The Company filed a Form SB-2 on July 2, 2004, which was declared effective by the SEC on July 20, 2004.

In August 2004, the Company's Board authorized the repurchase of up to 100,000 shares of Class A Common Stock, which may be purchased at prevailing prices from time-to-time in the open market depending on market conditions and other factors. As of March 31, 2006, the Company has repurchased 51,440 shares of Class A Common Stock for an aggregate purchase price of \$172, including fees, which have been recorded as treasury stock.

In November 2004, the Company entered into a stock purchase agreement (the "November 2004 Private Placement") with accredited investors in a private placement to issue and sell 282,776 shares of Class A Common Stock at \$3.89 per share to the investors for gross proceeds of \$1,100. These shares carried piggyback and demand registration rights, at the sole expense of the investor. The total net proceeds to the Company of \$1,023 were used for the FiberSat Acquisition and for working capital. The investors exercised their piggyback registration rights and the Company registered the resale of the 282,776 shares of Class A Common Stock by filing a Form S-3 on March 11, 2005, which was declared effective by the SEC on March 21, 2005.

In November 2004, the Company issued 540,000 shares of Class A Common Stock in connection with the FiberSat Acquisition, as part of the purchase price. The Company agreed to register the resale of 405,525 of the shares issued in connection with the FiberSat Acquisition with the SEC. The Company filed a Form S-3 on March 11, 2005, which was declared effective by the SEC on March 21, 2005. The Company agreed to register the resale of an additional 99,475 shares issued in connection with the FiberSat Acquisition with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005.

In February 2005, the Company issued 40,000 unregistered shares of Class A Common Stock in connection with the Pavilion Theatre Acquisition as part of the purchase price. As of March 31, 2006, the Company has not registered the resale of these shares issued in connection with the Pavilion Theatre Acquisition under any registration statement filed with the SEC.

In July 2005, the Company entered into a purchase agreement with certain institutional and other accredited investors in a private placement (the "July 2005 Private Placement") to issue and sell 1,909,115 unregistered shares of Class A Common Stock at a sale price of \$9.50 per share and warrants to the investors for gross proceeds of \$18,137. The Company agreed to register the resale of the shares of Class A Common Stock issued with the SEC. The Company filed a Form S-3 on August 18, 2005, which was declared effective by the SEC on August 31, 2005.

In August 2005, in connection with the Conversion Agreement (see Note 7), all Convertible Debentures Warrants were exercised for \$2,487 and the Company issued 560,196 shares of Class A Common Stock. The Company also issued 71,359 New Shares to the investors, and another 8,780 Placement Agent Shares. The Company was required to register the resale of the shares of the Class A Common Stock underlying the Convertible Debentures Warrants with the SEC. The Company filed a Form S-3 on March 11, 2005, which was declared effective by the SEC on March 21, 2005. The Company was also required to register the New Shares and the Placement Agent Shares on Form S-3 with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005.

In September 2005, in connection with the Exchange Offer completed in March 2004 (see Note 7), the AMEX 30-day average closing price of the Company's Class A Common Stock exceeded \$12.00, and therefore, the Company converted all of the 6% Convertible Notes into 307,871 shares of Class A Common Stock, of which 248,282 shares of Class A Common Stock were issued to certain officers and directors of the Company. The Company registered the resale of 59,589 of these shares of Class A Common Stock on Form S-3 with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005.

In December 2005, the Company filed a shelf registration statement on Form S-3 with the SEC (the "Shelf"), which was declared effective on January 13, 2006. The Shelf provided that the Company may offer and sell in one or more offerings up to \$75,000 of any combination of the following securities: Class A Common Stock, preferred stock in one or more series and warrants to purchase Common Stock or preferred stock.

In January 2006, in connection with the Shelf, the Company entered into: (1) a placement agency agreement to issue and sell up to 1,145,000 registered shares of Class A Common Stock at a price to the public of \$10.70 per share to certain institutional and other accredited investors, and (2) a purchase agreement with an underwriter for 355,000 registered shares of Class A Common Stock at a price to the public of \$10.70 per share (together the "January 2006 Offering") for gross aggregate proceeds of \$16,050. The offering and sale of the 1,500,000 shares was completed on January 25, 2006. The securities were offered by the Company, pursuant to the Shelf.

In March 2006, in connection with the Shelf, the Company entered into a purchase agreement with two underwriters for 5,126,086 registered shares of Class A Common Stock at a price to the public of \$10.00 per share (the "March 2006 Offering") for gross proceeds of \$51,261, which was completed on March 17, 2006. The Company granted the underwriters a 30-day option to purchase up to an additional 768,913 shares of Class A Common Stock at a price to the public of \$10.00 per share (the "March 2006 Second Offering") to cover over-allotments, which was exercised by the underwriters on March 21, 2006 for gross proceeds of \$7,689 and was completed on March 24, 2006. The securities were offered by the Company, pursuant to the Shelf.

As a result of the January 2006 Offering, the March 2006 Offering and the March 2006 Second Offering, substantially all of the Shelf amount of \$75.0 million has been utilized. The de minimus remainder has been withdrawn.

## STOCK OPTION PLAN

AccessIT's stock option plan ("the Plan") currently provides for the issuance of up to 1,100,000 options to purchase shares of Class A Common Stock to employees, outside directors and consultants. On June 9, 2005, the Company's Board approved the expansion of the Plan from 850,000 to 1,100,000 options, which was approved by the shareholders at the Company's 2005 Annual Meeting held on September 15, 2005. The Company intends to obtain shareholder approval to expand the Plan at the Company's 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.

The Plan provides for the granting of incentive stock options ("ISOs") with exercise prices not less than the fair market value of our Class A Common Stock on the date of grant. ISOs granted to shareholders of more than 10% of the total combined voting power of our Company must have exercise prices of at least 110% of the fair market value of our Class A Common Stock on the date of grant. ISOs and non-statutory stock options granted under the Plan are subject to vesting provisions, and exercise is subject to the continuous service of the participant. The exercise prices and vesting periods (if any) for non-statutory options are set at the discretion of our Board. Upon a change of control of the Company, all stock options (incentive and non-statutory) that have not previously vested will vest immediately and become fully exercisable. In connection with the grants of stock options under the Plan, the Company and the participants have executed stock option agreements setting forth the terms of the grants.

During the fiscal year ended March 31, 2006, under the Plan, the Company granted 378,753 stock options to its employees and 40,000 stock options to four non-employee members of our Board, all at an exercise price range from \$5.70 to \$13.30 per share.

The following table summarizes the activity of the Plan:

	Shares Under Option	Weighted Average Exercise Price Per Share
	-----	-----
Balance at March 31, 2004.....	520,564	\$6.12
Granted.....	251,667	4.21
Exercised.....	--	--
Cancelled.....	(9,334)	5.27
	-----	-----
Balance at March 31, 2005.....	762,897	\$5.50
Granted.....	418,753 (1)	8.70
Exercised.....	(8,567)	4.91
Cancelled.....	(73,083)	8.48
	-----	-----
Balance at March 31, 2006	1,100,000 (1)	\$6.61
	=====	=====

(1) The issuance of an additional 371,747 stock options is subject to shareholder approval at the Company's 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.

An analysis of all options outstanding under the Plan as of March 31, 2006 is presented below:

Range of Prices	Options Outstanding	Weighted Average Remaining Life in Years	Weighted Average Exercise Price	Options Exercisable	Weighted Average Exercise Price of Options Exercisable
\$2.50 - \$4.81	204,250	6.3	\$3.43	204,250	\$3.43
\$5.00 - \$6.40	420,000	6.5	\$5.25	420,000	\$5.25
\$7.04 - \$9.98	285,897	6.9	\$7.95	285,897	\$7.95
\$10.07 - \$13.30	189,853	6.4	\$11.02	189,853	\$11.02
	1,100,000 (1)	6.5	\$6.61	1,100,000 (1)	\$6.61

(1) The issuance of an additional 371,747 stock options is subject to shareholder approval at the Company's 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006.

As of March 31, 2006, AccessDM's separate stock option plan currently provides for the issuance of up to 2,000,000 options to purchase shares of AccessDM common stock to employees. During the fiscal year ended March 31, 2006, AccessDM issued options to purchase 50,000 shares of AccessDM common stock to an employee at an exercise price to be determined following an appraisal of such options.

	Shares Under Option	Weighted Average Exercise Price Per Share
Balance at March 31, 2004.....	1,000,000	\$0.20
Granted.....	5,000	0.25
Exercised.....	--	--
Cancelled.....	--	--
Balance at March 31, 2005.....	1,005,000	\$0.20
Granted.....	50,000	\$15.88
Exercised.....	--	--
Cancelled.....	--	--
Balance at March 31, 2006	1,055,000(2)	\$0.95(1)

(1) Since there is no public trading market for AccessDM's common stock, the fair market value of AccessDM's common stock on the date of grant is determined by an appraisal of such options.

(2) As of March 31, 2006, there were 3,750,000 shares of AccessDM's common stock issued and outstanding.

In May 2003, AccessDM adopted the 2003 Stock Option Plan (the "AccessDM Plan") under which ISOs and nonstatutory stock options may be granted to employees, outside directors, and consultants. The purpose of the AccessDM Plan is to enable AccessDM to attract, retain and motivate employees, directors, advisors and consultants. AccessDM reserved a total of 2,000,000 shares of AccessDM's common stock for issuance upon the exercise of stock options granted in accordance with the AccessDM Plan. Options granted under the AccessDM Plan expire ten years following the date of grant (five years for shareholders who own greater than 10% of the outstanding stock) and are subject to limitations on transfer. Options granted under the AccessDM Plan vest generally over three-year periods. The AccessDM Plan is administered by AccessDM's Board.

The AccessDM Plan provides for the granting of ISOs with exercise prices not less than the fair market value of AccessDM's common stock on the date of grant. ISOs granted to shareholders of more than 10% of the total combined voting power of AccessDM must have exercise prices of at least 110% of the fair market value of AccessDM common stock on the date of grant. ISOs and non-statutory stock options granted under the AccessDM Plan are subject to vesting provisions, and exercise is subject to the continuous service of the participants. The exercise prices and vesting periods (if any) for non-statutory options are set at the discretion of AccessDM's Board. Upon a change of control of AccessDM, all stock options (incentive and non-statutory) that have not previously vested will vest immediately and become fully exercisable. In connection with the grants of stock options under the AccessDM Plan, AccessDM and the participants have executed stock option agreements setting forth the terms of the grants.

## NON-EMPLOYEE STOCK-BASED COMPENSATION

The Company uses the fair value method to value options granted to non-employees. In connection with our grant of stock options to non-employees, the Company recorded \$4 and \$0 for the fiscal years ended March 31, 2005 and 2006, respectively, to non-cash stock-based compensation expense on an accelerated basis.

The Company's calculations for non-employee stock option grants were made using the Black-Scholes option-pricing model with the following weighted average assumptions for the fiscal year ended March 31, 2005:

Weighted-average risk-free interest rate.....	5.9%
Dividend yield.....	--
Expected life (years).....	10
Weighted-average expected volatility.....	110%

## WARRANTS

Warrants outstanding consisted of the following:

Outstanding Warrant (as defined below)	As of March 31,	
	2005	2006
Underwriter Warrants.....	120,000	3,775
June 2004 Private Placement Warrants.....	304,375	--
Convertible Debenture Warrants.....	560,196	--
July 2005 Private Placement Warrants.....	--	477,275
New Warrants (see Note 7).....	--	760,196
	984,571	1,241,246

In November 2003, in connection with the Company's initial public offering, the Company issued to the underwriter, warrants to purchase up to 120,000 shares of Class A Common Stock at an exercise price of \$6.25 per share (the "Underwriter Warrants"). The Underwriter Warrants were immediately exercisable and expire on November 7, 2007. The exercise price is subject to adjustment in certain circumstances, and in 2004 the exercise price was adjusted to \$6.03 per share. During the twelve months ended March 31, 2006, 49,085 Underwriter Warrants were exercised for an aggregate of \$296 and the Company issued 49,085 shares of Class A Common Stock. In addition, 67,140 Underwriter Warrants were exercised on a cashless basis, which resulted in the issuance of 33,278 shares of Class A Common Stock. As of March 31, 2006, 3,775 Underwriter Warrants remained outstanding.

In connection with the issuance of the 5-Year Notes, the Company issued to the holders of the 5-Year Notes warrants to purchase 440,500 shares of Class A Common Stock (the "5-Year Notes Warrants"). The 5-Year Notes Warrants were issued and were ascribed an estimated fair value of \$2,202, which was recognized as issuance cost and therefore was charged against the carrying value of the related 5-Year Notes. During the fiscal years ended March 31, 2005, and 2006 a total of \$17 and \$43, respectively, was amortized to non-cash interest expense to accrete the remaining value of the 5-Year Notes Warrants to their face value over their expected term. In July 2005, in connection with the early repayment of the Remaining 5-Year Notes, the remaining value of the 5-Year Notes Warrants totaling \$43 was amortized to non-cash interest expense.

In June 2004, in connection with the June 2004 Private Placement, the Company issued to the investors and to the placement agent warrants to purchase an aggregate of 304,375 shares of Class A Common Stock at an exercise price of \$4.80 per share (the "June 2004 Private Placement Warrants"). The Company agreed to register the resale of the shares of the Class A Common Stock underlying the June 2004 Private Placement Warrants with the SEC. The Company filed a Form SB-2 on July 2, 2004, which was declared effective by the SEC on July 20, 2004. During the fiscal year ended March 31, 2006, all of the June 2004 Private Placement Warrants were exercised for \$1,461 in cash, and the Company issued 304,375 shares of Class A Common Stock. As of March 31, 2006, there were no June 2004 Private Placement Warrants outstanding.

In February 2005, in connection with the issuance of the Convertible Debentures (see Note 7), the Company issued warrants to purchase a total of 560,196 shares of Class A Common Stock, at an initial exercise price of \$4.44 per share (the "Convertible Debentures Warrants"), which were subject to adjustments from time to time. Upon the redemption of the Convertible Debentures, the Company may issue additional warrants to purchase shares of Class A Common Stock. The Convertible Debenture Warrants were exercisable beginning on September 9, 2005 for a period of five years thereafter. Based on a valuation from an independent appraiser, the Convertible Debenture Warrants were assigned an estimated fair

value of \$1,109, which is accounted for as a debt issuance discount and is being accreted to non-cash interest expense. The Company agreed to register the Class A Common Stock underlying the Convertible Debentures Warrants with the SEC. The Company filed a Form S-3 on March 11, 2005, and the Form S-3 was declared effective by the SEC on March 21, 2005. In August 2005, in connection with the Conversion Agreement (see Note 7), all the Convertible Debenture Warrants were exercised for \$2,487 and the Company issued 560,196 shares of Class A Common Stock. As of March 31, 2006, there were no Convertible Debenture Warrants outstanding.

In July 2005, in connection with the July 2005 Private Placement, the Company issued warrants to purchase 477,275 shares of Class A Common Stock at an exercise price of \$11.00 per share (the "July 2005 Private Placement Warrants"). The July 2005 Private Placement Warrants are exercisable beginning on February 18, 2006 for a period of five years thereafter. The July 2005 Private Placement Warrants are callable by the Company, provided that the closing price of the Company's Class A Common Stock is \$22.00 per share, 200% of the applicable exercise price, for twenty consecutive trading days. The Company agreed to register the resale of the shares of the Class A Common Stock underlying the July 2005 Private Placement Warrants with the SEC. The Company filed a Form S-3 on August 18, 2005, which was declared effective by the SEC on August 31, 2005. As of March 31, 2006, 477,275 July 2005 Private Placements Warrants remained outstanding.

In accordance with EITF 00-19, "Accounting for Derivative Financial Instruments Indexed To, and Potentially Settled In, a Company's Own Stock" ("EITF 00-19"), and the terms of the July 2005 Private Placement Warrants, the fair value of the July 2005 Private Placement Warrants were initially accounted for as a liability, with an offsetting reduction to the carrying value of the Common Stock. Such liability was reclassified to equity as of the August 31, 2005 effective date of the Form S-3.

The fair value of the July 2005 Private Placement Warrants was estimated to be \$800 on the closing date of the transaction, using the Black-Scholes option-pricing model with the following assumptions: no dividends, risk-free interest rate of 3.84%, the contractual life of 5-years and volatility of 55%. In September 2005, the fair value of the July 2005 Private Placement Warrants was re-measured and estimated to be \$1,050. The increase in the fair value of \$250 was recorded as other expense.

In August 2005, in connection with the Conversion Agreement (see Note 7), all Convertible Debentures Warrants were exercised for \$2,487 and the Company issued 560,196 shares of Class A Common Stock and the Company issued to the investors the New Warrants to purchase 760,196 shares of Class A Common Stock at an exercise price of \$11.39 per share. The Company was required to register the resale of the shares of the Class A Common Stock underlying the Convertible Debentures Warrants with the SEC. The Company filed a Form S-3 on March 11, 2005, which was declared effective by the SEC on March 21, 2005. The New Warrants were immediately exercisable upon issuance and for a period of five years thereafter. The Company was required to register the resale of the shares of Class A Common Stock underlying the New Warrants with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005. As of March 31, 2006, 760,196 New Warrants remained outstanding.

In accordance with EITF 00-19, and the terms of the New Warrants, the fair value of the New Warrants was initially accounted for as a liability, with an offsetting reduction to the carrying value of the Common Stock. Such liability was reclassified to equity as of the December 2, 2005 effective date of the Form S-3. The fair value of the New Warrants was estimated to be \$4,990 on the closing date of the transaction, using the Black-Scholes option-pricing model with the following assumptions: no dividends, risk-free interest rate of 4.01%, a contractual life of 5-years and volatility of 56%. At September 30, 2005, the fair value of the New Warrants was re-measured and estimated to be \$3,490. The decrease in the fair value of \$1,500 was recorded as other income. At December 2, 2005, the fair value of the New Warrants was re-measured and estimated to be \$3,080. The decrease in the fair value of \$410 was recorded as other income.

## 10. COMMITMENTS AND CONTINGENCIES

In June 2005, the Company entered into a digital cinema framework agreement (the "Framework Agreement") with Christie Digital Systems USA, Inc. ("Christie") through our then-newly formed indirectly wholly-owned subsidiary, Christie/AIX, Inc. ("Christie/AIX"), whereby, among other things (1) Christie/AIX would seek to raise financing to purchase 200 of Christie's digital cinema projection systems (the "Systems") at agreed-upon prices; and (2) Christie/AIX would then seek to raise additional debt and/or equity financing to purchase an additional 2,300 Systems at agreed-upon prices. The Framework Agreement allows Christie/AIX to terminate the agreement for several reasons, including failure to: (1) execute definitive agreements with certain film distributors by August 31, 2005 to pay virtual print fees to Christie/AIX for deliveries of digital films made to the Systems, and (2) execute agreements with certain exhibitors by August 31, 2005 to license the Systems or to house them in the exhibitor locations.

In August 2005, an amendment to the Framework Agreement extended the termination provisions through September 30, 2005.

In September 2005, pursuant to a second amendment to the Framework Agreement, Christie and Christie/AIX agreed to eliminate such termination provisions, except to allow for termination in the event that financing cannot be obtained to purchase the Systems. Additionally, the parties agreed to extend the number of systems which may be ordered to 4,000 Systems.

Through March 31, 2006, in connection with our Digital Cinema Roll-Out, we have entered into digital cinema deployment agreements with five motion picture studios, for the distribution of digital movie releases to motion picture exhibitors equipped with Systems, and providing for payment of virtual print fees to Christie/AIX. As of March 31, 2006, we have entered into master license agreements with six motion picture exhibitors for the placement of Systems in movie theatres covering a total of 2,531 screens (includes screens at AccessIT's Pavilion Theatre) and we have installed 210 Systems.

As of March 31, 2006, Christie/AIX has ordered 700 of the Systems from Christie. As of March 31, 2006, the Company has paid \$21,057 towards Systems ordered in connection with our Digital Cinema Roll-Out. Christie/AIX has agreed to provide financing to certain motion picture exhibitors upon the billing to the motion picture exhibitors by Christie for the installation costs associated with the placement of the Systems in movie theatres. The motion picture exhibitors would be required to make monthly interest only payments through October 2007 and quarterly principal and interest payments thereafter. Under a master license agreement with a certain motion picture exhibitor, the Company has agreed to pay the installation costs associated with the placement of the Systems in movie theatres directly to Christie on behalf of the motion picture exhibitor, up to \$14,550, which is expected to be paid over the next two years.

As of March 31, 2006, purchase obligations for the 700 Systems ordered, but not delivered, in connection with our Digital Cinema Roll-Out, and not included in our consolidated financial statements totaled \$25,070.

In November 2005, the Company received notification from KMC Telecom ("KMC") that they would not renew the contracts for six out of seven current IDC sites which were licensed by KMC, which contracts expired on December 31, 2005. From inception through November 3, 2003, the Company had derived all of its revenues from monthly license fees and fees from other ancillary services provided by our IDCs, including fees from various services under the colocation space contract with KMC. In addition, certain other data center customer contracts will expire over the next several months, and the Company has not yet received indications of whether and on which terms these contracts will be renewed. Through December 31, 2005, the average monthly revenue from KMC for the expired contracts was approximately \$144. Additionally, the Company has two other large data center customer contracts that will expire before July 1, 2006, which currently provide approximately \$105 of total monthly revenue.

In connection with the expiration of the six KMC contracts, the Company has exited these six leased IDCs in which KMC was the sole or the primary IDC customer. These six leases expire between December 31, 2005 and April 30, 2006 and were intended to terminate in conjunction with the associated KMC contract. Although there are no assurances, management believes the Company will not incur any significant costs in connection with the exit from the six IDCs. As of March 31, 2006, the Company had security deposits totaling \$30 relating to these six leased IDCs.

**LEASES**

We have acquired property and equipment under non-cancelable long-term capital lease obligations that expire at various dates through July 2022. As of March 31, 2006, we had outstanding capital lease obligations of \$6,067. Our capital lease obligations are at the following locations and in the following principal amounts:

Location	Purpose of capital lease	Outstanding Capital Lease Obligation
-----	-----	-----
The Pavilion Theatre	For building, land and improvements	\$6,041
Corporate Office	For telephone equipment	21
Managed Services	For computer equipment used in IDC's	5
		-----
		\$6,067
		=====

As of March 31, 2006, minimum future capital lease payments (including interest) totaled \$18,661, are due as follows:

Fiscal years ending March 31,	
2007.....	\$ 1,137
2008.....	1,128
2009.....	1,128
2010.....	1,128
2011.....	1,128
Thereafter.....	13,012
	-----
	\$18,661
	=====

Assets recorded under capitalized lease agreements included in property and equipment consists of the following:

	As of March 31,	
	2005	2006
	-----	-----
Land.....	\$1,500	\$1,500
Building.....	4,600	4,600
Computer equipment.....	70	70
Machinery and equipment.....	1,062	1,062
	-----	-----
	7,232	7,232
Less: accumulated amortization.....	(691)	(1,131)
	-----	-----
Net assets under capital lease	\$6,541	\$6,101
	=====	=====

The Company's businesses operate from leased properties under non-cancelable operating lease agreements (see Item 2. Properties). The Company accounts for rent abatements and increasing base rentals using the straight-line method over the life of the lease. The difference between the straight-line rent expense and the amount paid is recorded as a deferred rent liability. As of March 31, 2006, obligations under non-cancelable operating leases totaled \$15,047, are due as follows:

Fiscal years ending March 31,	
2007.....	\$ 2,675
2008.....	2,732
2009.....	2,770
2010.....	2,270
2011.....	1,377
Thereafter.....	3,223
	-----
	\$15,047
	=====

Total rent expense was \$2,192 and \$2,615 for the fiscal years ended March 31, 2005 and 2006, respectively.

#### 11. SUPPLEMENTAL CASH FLOW DISCLOSURE

	For the fiscal years ended March 31,	
	2005	2006
	-----	-----
Interest paid .....	\$ 556	\$1,461
Assets acquired under capital leases.....	\$6,542	\$ --
Issuance of note for the Pavilion Theatre Acquisition.....	\$9,300	\$ --
Reduction of goodwill and other assets relating to the early cancellation of the Pavilion Note .....	\$ --	\$1,232
Issuance of Class A Common Stock for conversion of 6% Convertible Notes .....	\$ --	\$1,699
Issuance of Class A Common Stock for conversion of Convertible Debentures .....	\$ --	\$7,600

	For the fiscal years ended March 31,	
	2005	2006
Issuance of Class A Common Stock in lieu of redeeming the Boeing Shares .....	\$ --	\$ 250
Transfer to equity of liability relating to warrants upon registration statement effectiveness .....	\$ --	\$4,130
Equipment in accounts payable and accrued expenses purchased from Christie .....	\$ --	\$7,924

Note receivable in accounts payable and accrued expenses for installation costs from Christie ..... \$ -- \$ 934

## 12. SEGMENT INFORMATION

Segment information has been prepared in accordance with SFAS No. 131, "Disclosures about Segments of an Enterprise and Related Information". The Company has two reportable segments: Media Services and Data Center Services. The segments were determined based on the products and services provided by each segment. Accounting policies of the segments are the same as those described in Note 2. Performance of the segments is evaluated on operating income before interest, taxes, depreciation and amortization.

The Media Services segment consists of the following:

OPERATIONS OF:	PRODUCTS AND SERVICES PROVIDED:
AccessIT SW	Develops and licenses software to the theatrical distribution and exhibition industries, provides ASP Service, and provides software enhancements and consulting services.
DMS	Stores and distributes digital content to movie theaters and other venues having digital projection equipment and provides satellite-based broadband video, data and Internet transmission, encryption management services, video network origination and management services and a virtual booking center to outsource the booking and scheduling of satellite and fiber networks and provides forensic recovery services for content owners.
Pavilion Theatre	A fully functioning nine-screen movie theatre and showcase to demonstrate our integrated digital cinema solutions.
Christie/AIX	Financing vehicle and administrator for our Digital Cinema Roll-Out to motion picture exhibitors, collects VPFs from motion picture studios.

The Data Center Services segment consists of the following:

OPERATIONS OF:	PRODUCTS AND SERVICES PROVIDED:
AccessIT	Provides services through its three IDCs including the license of data center space, provision of power, data connections to other businesses, and the installation of equipment.

Managed Services Provides information technology consulting services and managed network monitoring services through its global network command center.

Information related to the segments of the Company and its subsidiaries is detailed below:

	For the fiscal years ended March 31,	
	2005	2006
Media Services:		
Loss before interest, taxes, depreciation and amortization .....	\$ (246)	\$ (741)
Depreciation and amortization .....	1,715	3,424
	-----	-----
Loss before other expense .....	\$ (1,961)	\$ (4,165)
Data Center Services:		
Income before interest, taxes, depreciation and amortization .....	\$ 1,651	\$ 1,724
Depreciation and amortization .....	1,807	1,502
	-----	-----
(Loss) income before other expense .....	\$ (156)	\$ 222
Corporate:		
Loss before interest, taxes, depreciation and amortization .....	\$ (3,482)	\$ (5,196)
Depreciation and amortization .....	101	75
	-----	-----
Loss before other expense .....	\$ (3,583)	\$ (5,271)
Total Consolidated:		
Loss before interest, taxes, depreciation and amortization .....	\$ (2,077)	\$ (4,213)
Depreciation and amortization .....	3,623	5,001
	-----	-----
Loss before other expense	\$ (5,700)	\$ (9,214)
	=====	=====
	As of March 31,	
	2005	2006
	-----	-----
Assets:		
Media Services .....	\$ 27,029	\$ 55,818
Data Center Services .....	5,302	6,920
Corporate .....	5,446	61,209
	-----	-----
Total Consolidated Assets	\$ 37,777	\$ 123,947
	=====	=====

### 13. RELATED PARTY TRANSACTIONS

In connection with the Exchange Offer completed in March 2004 (see Note 7), the Company issued 6% Convertible Notes with a principal amount of \$1,736 to several investors, of which \$1,400 is payable to certain officers and directors of the Company. In September 2005, the AMEX 30-day average closing price of the Company's Class A Common Stock exceeded \$12.00, and therefore, the Company converted all of the 6% Convertible Notes into 307,871 shares of Class A Common Stock, of which 248,282 shares of Class A Common Stock were issued to certain officers and directors of the Company. The Company registered the resale of only 59,589 of these shares of Class A Common Stock on Form S-3 with the SEC. The Company filed a Form S-3 on November 16, 2005, which was declared effective by the SEC on December 2, 2005.

A non-employee officer of Christie/AIX is also an officer of Christie, from whom Christie/AIX purchases the Systems for our Digital Cinema Roll-Out. Purchases of such Systems from Christie for the fiscal years ended March 31, 2005 and 2006 totaled \$0 and \$21,057, respectively. This individual is not compensated by Christie/AIX.

## 14. INCOME TAXES

The benefit from income taxes consisted of the following:

	As of March 31,	
	2005	2006
Current .....	\$ --	\$ --
Deferred .....	311	311
Total income tax benefit	\$ 311	\$ 311

Net deferred tax liabilities consisted of the following:

	As of March 31,	
	2005	2006
Deferred tax assets:		
Net operating loss carryforwards .....	\$ 5,689	\$ 9,086
Depreciation and amortization .....	854	1,017
Deferred rent expense .....	435	395
Stock based compensation .....	201	201
Revenue deferral .....	115	466
Other .....	129	206
Total deferred tax assets	\$ 7,423	\$ 11,371
Deferred tax liabilities:		
Intangibles.....	\$ (1,497)	\$ (1,186)
Total deferred tax liabilities	\$ (1,497)	\$ (1,186)
Net deferred tax assets before valuation allowance ..	\$ 5,926	\$ 10,185
Valuation allowance.....	(7,136)	(11,083)
Net deferred tax liabilities	\$ (1,210)	\$ (898)

The Company has provided a valuation allowance for either all or most of its deferred tax assets since realization of future benefits from deductible temporary differences and net operating loss carryovers cannot be sufficiently assured at March 31, 2005 or March 31, 2006. The change in the valuation allowance in the current year was \$3,947.

As of March 31, 2006, the Company has federal and state net operating loss carryforwards of approximately \$21,900 available to reduce future taxable income. The federal net operating loss carryforwards will begin to expire in 2020. Under the provisions of the Internal Revenue Code, certain substantial changes in the Company's ownership may result in a limitation on the amount of net operating loss carryforwards that can be used in future years. Depending on a variety of factors this limitation, if applicable, could cause a portion and/or all of these net operating losses to expire before utilization occurs.

The differences between the United States statutory federal tax rate and the Company's effective tax rate are as follows:

	As of March 31,	
	2005	2006
Tax benefit at the U.S. statutory federal tax rate .....	(34.0)%	(34.0)%
State tax benefit .....	(0.3)	(0.0)
Change in valuation allowance .....	24.4	17.1
Disallowed interest .....	4.5	2.8
Debt conversion expense .....	--	11.9
Other .....	1.1	0.5
Effective tax rate	(4.3)%	(1.7)%

## 15. SUBSEQUENT EVENTS

In April 2006, the Company issued 23,445 shares of unregistered Class A Common Stock, in connection with our purchase the Access Digital Server Assets (see Note 3).



In May 2006 and June 2006, the Company ordered additional Systems from Christie for an estimated aggregate total purchase price of approximately \$34,628.

In June 2006, the Company through its indirectly wholly-owned subsidiary, PLX Acquisition Corp., purchased substantially all the assets of PLX Systems Inc. ("PLX"). PLX provides the essential technology, expertise and core competencies in intellectual property ("IP") rights and royalty management, expanding the Company's ability to bring new forms of content to movie-goers in addition to supporting IP license contract management, royalty processing, revenue reporting and billing. The purchase price, including estimated transaction costs, was approximately \$1.6 million.

## PART II. OTHER INFORMATION

### ITEM 8. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

### ITEM 8A. CONTROLS AND PROCEDURES

As of the end of the period covered by this report, we conducted an evaluation, under the supervision and with the participation of our principal executive officer and principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13(a)-15 and 15(d)-15 of the Exchange Act). Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures are effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified by the SEC.

There was no change in our internal control over financial reporting during our most recently completed fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal controls over financial reporting.

### ITEM 8B. OTHER INFORMATION

None.

## PART III

### ITEM 9. DIRECTORS, EXECUTIVE OFFICERS AND CONTROL PERSONS; COMPLIANCE WITH SECTION 16(A) OF THE EXCHANGE ACT

Except as set forth below, the information required by this item will appear in AccessIT's Proxy Statement for our 2006 Annual Meeting of Stockholders to be held on or about September 14, 2006, which will be filed pursuant to Regulation 14A under the Exchange Act and is incorporated by reference in this report pursuant to General Instruction E(3) of Form 10-KSB (other than the portions thereof not deemed to be "filed" for the purpose of Section 18 of the Exchange Act).

### CODE OF ETHICS

We have adopted a code of ethics applicable to all members of the Board, executive officers and employees. Such code of ethics is available on our Internet website, [www.accessitx.com](http://www.accessitx.com). We intend to disclose any amendment to, or waiver of, a provision of our code of ethics by filing a Form 8-K with the SEC.

### ITEM 10. EXECUTIVE COMPENSATION

Information required by this item will appear in AccessIT's Proxy Statement and is incorporated by reference in this report pursuant to General Instruction E(3) of Form 10-KSB (other than the portions thereof not deemed to be "filed" for the purpose of Section 18 of the Exchange Act).

### ITEM 11. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS

Except as set forth below, the information required by this item will appear in AccessIT's Proxy Statement and is incorporated by reference in this report pursuant to General Instruction E(3) of Form 10-KSB (other than the portions thereof not deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934).

### SECURITIES AUTHORIZED FOR ISSUANCE UNDER EQUITY COMPENSATION PLANS

Information required by this item can be found in an earlier discussion (see

**Part II Item 5 under EQUITY COMPENSATION PLANS).**

## **ITEM 12. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS**

Information required by this item will appear in AccessIT's Proxy Statement and is incorporated by reference in this report pursuant to General Instruction E(3) of Form 10-KSB (other than the portions thereof not deemed to be "filed" for the purpose of Section 18 of the Exchange Act).

## **ITEM 13. EXHIBITS**

The exhibits are listed in the Exhibit Index beginning on page 29 herein.

## **ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

Information required by this item will appear in AccessIT's Proxy Statement and is incorporated by reference in this report pursuant to General Instruction E(3) of Form 10-KSB (other than the portions thereof not deemed to be "filed" for the purpose of Section 18 of the Exchange Act).

## SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the Company caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

### ACCESS INTEGRATED TECHNOLOGIES, INC.

Date: 06/29/06  
-----

BY:/s/ A. Dale Mayo  
-----

A. Dale Mayo  
President and Chief Executive Officer  
and Chairman of the Board of Directors  
(Principal Executive Officer)

Date: 06/29/06  
-----

BY:/s/ Brian D. Pflug  
-----

Brian D. Pflug  
Senior Vice President - Accounting  
& Finance  
(Principal Financial Officer)

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS, that each individual whose signature appears below hereby constitutes and appoints A. Dale Mayo and Gary S. Loffredo, and each of them individually, his or her true and lawful agent, proxy and attorney-in-fact, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to (i) act on, sign and file with the Securities and Exchange Commission any and all amendments to this Report together with all schedules and exhibits thereto, (ii) act on, sign and file with the Securities and Exchange Commission any and all exhibits to this Report and any and all exhibits and schedules thereto, (iii) act on, sign and file any and all such certificates, notices, communications, reports, instruments, agreements and other documents as may be necessary or appropriate in connection therewith and (iv) take any and all such actions which may be necessary or appropriate in connection therewith, granting unto such agents, proxies and attorneys-in-fact, and each of them individually, full power and authority to do and perform each and every act and thing necessary or appropriate to be done, as fully for all intents and purposes as he or she might or could do in person, and hereby approving, ratifying and confirming all that such agents, proxies and attorneys-in-fact, any of them or any of his, her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

**SIGNATURE(S) TITLE(S) DATE**

/s/ A. Dale Mayo ----- A. Dale Mayo	President, Chief Executive Officer and Chairman of the Board of Directors	06/29/06 -----
/s/ Kevin J. Farrell ----- Kevin J. Farrell	Senior Vice President - Facilities and Director	06/27/06 -----
/s/ Gary S. Loffredo ----- Gary S. Loffredo	Senior Vice President - General Counsel, Secretary and Director	06/29/06 -----
/s/ Brian D. Pflug ----- Brian D. Pflug	Senior Vice President - Accounting and Finance	06/29/06 -----
/s/ Wayne L. Clevenger ----- Wayne L. Clevenger	Director	06/29/06 -----
----- Gerald C. Crotty	Director	-----
/s/ Robert Davidoff ----- Robert Davidoff	Director	06/29/06 -----
/s/ Matthew W. Finlay ----- Matthew W. Finlay	Director	06/29/06 -----
/s/ Brett E. Marks ----- Brett E. Marks	Director	06/29/06 -----
/s/ Robert E. Mulholland ----- Robert E. Mulholland	Director	06/27/06 -----

## EXHIBIT INDEX

### EXHIBIT NUMBER DESCRIPTION OF DOCUMENT

- 1.1 -- Form of Underwriting Agreement between the Company and the underwriter to the Company's November 10, 2003 Public Offering. (1)
- 1.2 -- Purchase Agreement dated January 17, 2006, by and between the Company and Craig-Hallum Capital Group LLC. (21)
- 1.3 -- Purchase Agreement, dated March 13, 2006, by and between the Company, Roth Capital Partners LLC and Craig-Hallum Capital Group LLC. (23)
- 2.1 -- Stock Purchase Agreement, dated July 17, 2003, between the Company and Hollywood Software, Inc. and its stockholders. (2)
- 2.2 -- Exchange Agreement, dated as of September 17, 2003, between the Company and MidMark Equity Partners II, L.P. (3)
- 2.3 -- Amendment No. 1 to Stock Purchase Agreement, dated as of November 3, 2003, between and among the Company, Hollywood Software, Inc., the selling stockholders and Joseph Gunnar & Co., LLC. (1)
- 2.4 -- Stock Purchase Agreement, dated as of December 22, 2003, among the Company, Concurrent Technologies, Inc. and Erik B. Levitt. (4)
- 2.5 -- Asset Purchase Agreement, dated as of March 29, 2004, between the Company and The Boeing Company. (5)
- 2.6 -- Form of Exchange Agreement (debt for equity), dated as of March 24, 2004, between the Company and each Investor taking part in the March 24, 2004 exchange offering. (6)
- 2.7 -- Form of Exchange Agreement (debt for debt), dated as of March 24, 2004, between the Company and each investor taking part in the March 24, 2004 exchange offering. (6)
- 2.8 -- Securities Purchase Agreement, dated as of June 2, 2004, among the Company and certain investors. (7)
- 2.9 -- Asset Purchase Agreement, dated as of October 19, 2004, among the Company, FiberSat Global Services, Inc., FiberSat Global Services LLC, Richard Wolfe, Ravi Patel, McKeppen Communications, Globecom Systems, Inc., Timothy Novoselski, Scott Smith and Farina. (11)
- 2.10 -- Asset Purchase Agreement, dated as of December 23, 2004, among ADM Cinema Corporation, Pritchard Square Cinema, LLC and Norman Adie. (13)
- 2.11 -- Stock Purchase Agreement, dated as of October 26, 2004, among the Company and the purchasers identified therein. (13)
- 2.12 -- Securities Purchase Agreement, dated as of February 9, 2005, among the Company and certain investors. (12)
- 2.13 -- Securities Purchase Agreement, dated as of July 19, 2005, among the Company and certain purchasers. (17)
- 2.14 -- Letter Agreement, dated August 29, 2005, among the Company and certain purchasers.\*
- 3.1 -- Fourth Amended and Restated Certificate of Incorporation of the Company.  
(4)
- 3.2 -- Bylaws of the Company. (2)
- 4.1 -- Form of Warrant Agreement (with Warrant Certificates) between the Company and the lead underwriter. (1)
- 4.2 -- Specimen certificate representing Class A common stock. (1)
- 4.3 -- Promissory note issued by the Company to ColoSolutions, Inc., dated November 27, 2002. (2)
- 4.4 -- Promissory note issued by the Company to holders of ten-year warrants.



- 4.6 -- Form of Pledge and Security Agreement between the Company, the selling stockholders of Hollywood Software, Inc. and the pledge agent. (2)
- 4.7 -- Promissory note dated November 3, 2003 issued by the Company to David Gajda. (1)
- 4.8 -- Promissory note dated November 3, 2003 issued by the Company to Robert Jackovich. (1)
- 4.9 -- Pledge and Security Agreement, dated as of November 3, 2003, between the Company and the selling stockholders of Hollywood Software, Inc. (1)
- 4.10 -- Registration Rights Agreement, dated as of January 9, 2004, between the Company and Erik B. Levitt. (4)
- 4.11 -- Promissory note dated March 29, 2004 issued by the Company to The Boeing Company. (5)
- 4.12 -- Registration Rights Agreement, dated as of March 29, 2004, between the Company and The Boeing Company. (5)
- 4.13 -- Form of Subordinated Convertible Promissory Note, dated March 24, 2004, issued by the Company to each investor taking part in the March 24, 2004 exchange offering. (6)
- 4.14 -- Form of Registration Rights Agreement, dated as of March 24, 2004, between the Company and each investor taking part in the March 24, 2004 exchange offering. (6)
- 4.15 -- Form of Warrant, dated June 2004, issued to purchasers pursuant to Securities Purchase Agreement, dated as of June 1, 2004, among the Company and certain investors. (7)
- 4.16 -- Form of Warrant, dated June 2004, issued to placement agent in connection with Securities Purchase Agreement, dated as of June 1, 2004, among the Company and certain investors. (7)
- 4.17 -- Registration Rights Agreement, dated as of June 2004, among the Company and certain investors. (7)
- 4.18 -- Promissory Note, dated November 14, 2003, issued by the Company to David Gajda. (8)
- 4.19 -- Promissory Note, dated November 14, 2003, issued by the Company to Robert Jackovich.(8)
- 4.20 -- Registration Rights Agreement, dated as of November 8, 2004, among the Company and certain investors. (13)
- 4.21 -- Form of Subsidiary Guarantee to be entered into by certain subsidiaries of the Company pursuant to the Securities Purchase Agreement, dated as of February 9, 2005 among the Company and the several investors party thereto.(12)
- 4.22 -- Form of Debenture to be issued to the purchasers pursuant to the Securities Purchase Agreement, dated as of February 9, 2005 among the Company and the several investors party thereto. (12)
- 4.23 -- Form of Warrant to be issued to the purchasers pursuant to the Securities Purchase Agreement, dated as of February 9, 2005 among the Company and the several investors party thereto. (12)
- 4.24 -- Form of Registration Rights Agreement, among the registrant and certain investors pursuant to the Securities Purchase Agreement, dated as of February 9, 2005 among the Company and the several investors party thereto.(12)
- 4.25 -- Form of Warrant, dated July 19, 2005, issued to purchasers pursuant to Securities Purchase Agreement, dated as of July 19, 2005, among the Company and certain purchasers. (17)
- 4.26 -- Registration Rights Agreement, dated as of July 19, 2005 among the Company and certain purchasers. (17)
- 4.27 -- Form of Warrant issued to purchasers pursuant to a letter agreement.

(19)

- 4.28 -- Registration Rights Agreement, dated as of November 16, 2005, among the Company and certain purchasers. (19)
- 10.1 -- Amended and Restated Employment Agreement, dated as of December 15, 2005, between the Company and A. Dale Mayo. (20)

10.2 -- Employment Agreement, dated as of April 10, 2000, between the Company and Kevin Farrell. (2)

10.3 -- Form of Employment Agreements between Hollywood Software, Inc. and David Gajda/Robert Jackovich. (2)

10.4 -- First Amended and Restated 2000 Stock Option Plan of the Company. (2)

- 10.5 -- Amendment No. 1 to the First Amended and Restated 2000 Stock Option Plan of the Company. (3)
- 10.6 -- Amendment No. 2 to the First Amended and Restated 2000 Stock Option Plan of the Company. (15)
- 10.7 -- Amendment No. 3 to the First Amended and Restated 2000 Stock Option Plan of the Company. (22)
- 10.8 -- Form of Stock Option Agreement. (15)
- 10.9 -- Asset Purchase Agreement, dated as of November 16, 2001, between the Company and BridgePoint International (USA), Inc. (2)
- 10.10 -- Asset Purchase Agreement, dated as of October 10, 2002, between the Company, R.E. Stafford, Inc. d/b/a ColoSolutions and Cob Solutions Global Services, Inc. (2)
- 10.11 -- Services Distribution Agreement, dated July 17, 2001, between the Company and Managed Storage International, Inc. (2)
- 10.12 -- License Agreement between the Company and AT&T Corp., dated July 31, 2001. (2)
- 10.13 -- Master Agreement for Colocation Space between the Company (by assignment from Cob Solutions Global Services, Inc.) and KMC Telecom VI LLC dated April II, 2002. (2)
- 10.14 -- License Agreement between the Company (by assignment from Bridgepoint International (USA), Inc.) and Zone Telecom, Inc. dated February 27, 2001.(2)
- 10.15 -- Lease Agreement, dated as of May 23, 2000, between the Company (formerly Fibertech & Wireless, Inc.) and 55 Madison Associates, LLC.

(2)

- 10.16 -- Agreement of Lease, dated as of July 18, 2000, between the Company and 1-10 Industry Associates, LLC. (2)
- 10.17 -- Lease Agreement, dated as of August 28, 2000, between the Company (formerly Fibertech & Wireless, Inc.) and RFG Co. Ltd. (2)
- 10.18 -- Letter Amendment to the Lease Agreement, dated August 28, 2000, between the Company (formerly Fibertech & Wireless, Inc.) and RFG Co. Ltd. (2)
- 10.19 -- First Amendment to the Lease, dated August 28, 2000 between the Company (formerly Fibertech & Wireless, Inc.) and RFG Co.Ltd. dated October 27, 2000. (2)
- 10.20 -- Agreement of Lease, dated as of January 18, 2000, between the Company (by assignment from BridgePoint International (Canada), Inc.) and 75 Broad, LLC. (2)
- 10.21 -- Additional Space and Lease Modification to the Agreement of Lease, dated as of January 18, 2000, between the Company (by assignment from BridgePoint International (Canada), Inc.) and 75 Broad, LLC dated May 16, 2000. (2)
- 10.22 -- Second Additional Space and Lease Modification to the Agreement of Lease, dated as of January 18, 2000, between the Company (by assignment from BridgePoint International (Canada), Inc.) and 75 Broad, LLC dated August 15, 2000. (2)
- 10.23 -- Lease Agreement, dated as of January 17, 2001, as amended, between the Company (by assignment from R. E. Stafford, Inc. d/b/a ColoSolutions) and Union National Plaza I, Inc. (2)
- 10.24 -- Lease Agreement, dated as of February 6, 2001, between the Company (by assignment from R. E. Stafford, Inc. d/b/a ColoSolutions) and Granite -- Wall Street Limited Partnership (successor in interest to Duffy Wall Street L.L.C.). (2)
- 10.25 -- Indenture Agreement, dated as of May 22, 2001, between the Company (by assignment from R.E. Stafford, Inc. d/b/a ColoSolutions) and Research Boulevard Partnership.(2)
- 10.26 -- Lease Agreement, dated as of January 22, 2001, between the Company (by assignment from ColoSolutions L.L.C.) and 340 Associates, L.L.C. (2)
- 10.27 -- Lease Agreement, dated as of September 29, 2002, between the Company (by assignment from R.E. Stafford, Inc. d/b/a

ColoSolutions) and Jerry J. Howard and Eddy D. Howard. (2)

10.28 -- Office Lease, dated as of February 22, 2001, between the Company (by assignment from R. E. Stafford, Inc. d/b/a ColoSolutions) and One Liberty Place, L.C. (2)

- 10.29 -- Commercial Property Lease between Hollywood Software, Inc. and Hollywood Media Center, LLC, dated January 1, 2000. (2)
- 10.30 -- Lease, dated as of February 1, 1999, between Hollywood Software, Inc. and Spieker Properties, L. P. (2)
- 10.31 -- First Amendment to Lease, dated as of February 1, 1999, between Hollywood Software, Inc. and Spieker Properties, L.P. dated May 10, 2000.(2)
- 10.32 -- Second Amendment to Lease, dated as of February 1, 1999, between Hollywood Software, Inc. and Spieker Properties, L.P. dated February 16, 2001. (2)
- 10.33 -- Third Amendment to Lease, dated as of February 1, 1999, between Hollywood Software, Inc. and EOP-BREA Park Centre, L.P. (successor in interest to Spieker Properties, L.P.), dated June 27, 2002. (2)
- 10.34 -- Consulting Agreement between the Company (formerly Fibertech & Wireless, Inc.) and Harvey Marks dated June 2000. (2)
- 10.35 -- Independent Contractor Agreement, dated July 31, 2003, between the Company and Kevin Booth. (2)
- 10.36 -- Universal Transport Exchange License and Option Agreement, dated August 13, 2003, by and between the Company and Universal Access, Inc. (3)
- 10.37 -- Employment Agreement, dated as of January 9, 2004, between the Company and Erik B. Levitt. (4)
- 10.38 -- Confidentiality, Inventions and Noncompete Agreement, dated as of January 9, 2004, between the Company and Erik B. Levitt. (4)
- 10.39 -- Employment Agreement, dated as of November 21, 2003, between the Company and Russell Wintner. (8)
- 10.40 -- Lease Agreement, dated as of August 9, 2002, by and between OLP Brooklyn Pavilion LLC and Pritchard Square Cinema LLC.\*
- 10.41 -- First Amendment to Contract of Sale and Lease Agreement, dated as of August 9, 2002, by and among Pritchard Square LLC, OLP Brooklyn Pavilion LLC and Pritchard Square Cinema, LLC.\*
- 10.42 -- Second Amendment to Contract of Sale and Lease Agreement, dated as of April 2, 2003, by and among Pritchard Square LLC, OLP Brooklyn Pavilion LLC and Pritchard Square Cinema, LLC.\*
- 10.43 -- Third Amendment to Contract of Sale and Lease Agreement, dated as of November 1, 2003, by and among Pritchard Square LLC, OLP Brooklyn Pavilion LLC and Pritchard Square Cinema, LLC.\*
- 10.44 -- Fourth Amendment to Lease Agreement, dated as of February 11, 2005, between ADM Cinema Corporation and OLP Brooklyn Pavilion LLC. (16)
- 10.45 -- Amended and Restated Digital Cinema Framework Agreement, dated as of September 30, 2005, by and among Access Digital Media, Inc., Christie/ AIX, Inc. and Christie Digital Systems USA, Inc. (18)
- 10.46 -- Digital Cinema Deployment Agreement, dated September 14, 2005, by and among Buena Vista Pictures Distribution, Christie/AIX, Inc. and Christie Digital Systems USA, Inc. (18)
- 10.47 -- Digital Cinema Deployment Agreement, dated October 12, 2005, by and between Twentieth Century Fox Film Corporation and Christie/AIX, Inc.
- (18)
- 10.48 -- Placement Agency Agreement, dated as of January 17, 2006, by and between the Company and Craig-Hallum Capital Group LLC. (21)
- 10.49 -- Digital Cinema Agreement, dated as of October 20, 2005, by and between Universal City Studios, LLP and Christie/AIX, Inc. (22)
- 10.50 -- Master License Agreement, dated as of December, 2005, by and between Christie/AIX, Inc. and Carmike Cinemas, Inc. (22)
- 16.1 -- Letter from PricewaterhouseCoopers LLP, dated September 10, 2004 regarding change in certifying accountants. (13)
- 21.1 -- List of Subsidiaries.\*

23.1 -- Consent of Eisner LLP.\*

24.1 -- Powers of Attorney.\* (Contained on signature page)

31.1 -- Officer's Certificate Pursuant to 15 U.S.C. Section 7241, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.\*

31.2 -- Officer's Certificate Pursuant to 15 U.S.C. Section 7241, as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.\*

32.1 -- Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*

32.2 -- Certification Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.\*

\* Filed herewith.

**Documents Incorporated Herein by Reference:**

- (1) Previously filed with the Securities and Exchange Commission on November 4, 2003 as an exhibit to the Company's Amendment No. 3 to Registration Statement on Form SB-2 (File No. 333-107711).
- (2) Previously filed with the Securities and Exchange Commission on August 6, 2003 as an exhibit to the Company's Registration Statement on Form SB-2 (File No. 333-107711).
- (3) Previously filed with the Securities and Exchange Commission on September 22, 2003 as an exhibit to the Company's Amendment No. 1 to Registration Statement on Form SB-2 (File No. 333-107711).
- (4) Previously filed with the Securities and Exchange Commission on February 17, 2004 as an exhibit to the Company's Form 10-QSB for the quarter ended December 31, 2003 (File No. 001-31810).
- (5) Previously filed with the Securities and Exchange Commission on April 2, 2004 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (6) Previously filed with the Securities and Exchange Commission on April 29, 2004 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (7) Previously filed with the Securities and Exchange Commission on June 2, 2004 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (8) Previously filed with the Securities and Exchange Commission on June 25, 2004 as an exhibit to the Company's Form 10-KSB for the fiscal year ended March 31, 2004 (File No. 001-31810).
- (9) Previously filed with the Securities and Exchange Commission on July 2, 2004 as an exhibit to the Company's Registration Statement on Form SB-2 (File No. 333-117115).
- (10) Previously filed with the Securities and Exchange Commission on September 14, 2004 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (11) Previously filed with the Securities and Exchange Commission on November 8, 2004 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (12) Previously filed with the Securities and Exchange Commission on February 10, 2005 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (13) Previously filed with the Securities and Exchange Commission on February 14, 2005 as an exhibit to the Company's Form 10-QSB for the quarter ended December 31, 2004 (File No. 001-31810).
- (14) Previously filed with the Securities and Exchange Commission on March 14, 2005 as an exhibit to the Post-Effective Amendment No. 1 to the Company's Registration Statement on Form SB-2 (File No. 333-117115).

- (15) Previously filed with the Securities and Exchange Commission on April 25, 2005 as an exhibit to the Company's Registration Statement on Form S-8 (File No. 333-124290).
- (16) Previously filed with the Securities and Exchange Commission on April 29, 2005 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (17) Previously filed with the Securities and Exchange Commission on July 22, 2005 as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (18) Previously filed with the Securities and Exchange Commission on November 14, 2005 as an exhibit to the Company's Form 10-QSB for the quarter ended September 30, 2005 (File No. 001-31810).
- (19) Previously filed with the Securities and Exchange Commission on November 16, 2005 as an exhibit to the Company's Registration Statement on Form S-3 (File No. 333-129747).
- (20) Previously filed with the Securities and Exchange Commission on December 21, 2005, as an exhibit to the Company's Form 8-K (File No. 001-31810).
- (21) Previously filed with the Securities and Exchange Commission on January 19, 2006 as an exhibit to the Company's 8-K (File No. 001-31810).
- (22) Previously filed with the Securities and Exchange Commission on February 13, 2006 as an exhibit to the Company's 10-QSB (File No. 001-31810).
- (23) Previously filed with the Securities and Exchange Commission on March 15, 2006 as an exhibit to the Company's 8-K (File No. 001-31810).

**EXHIBIT 21.1**

**LIST OF SUBSIDIARIES**

1. Access Digital Media, Inc., a Delaware corporation and a wholly-owned subsidiary of the Company.
2. Core Technology Services, Inc., a New York corporation and a wholly-owned subsidiary of the Company.
3. Hollywood Software, Inc., d/b/a AccessIT Software, a California corporation and a wholly-owned subsidiary of the Company.
4. FiberSat Global Services Inc., d/b/a AccessIT Satellite and Support Services, a Delaware corporation and a wholly-owned subsidiary of the Company.
5. ADM Cinema Corporation, d/b/a the Pavilion Theatre, a Delaware corporation and a wholly-owned subsidiary of the Company.
6. Christie/AIX, Inc., a Delaware corporation and a wholly-owned subsidiary of Access Digital Media, Inc.
7. PLX Acquisition Corp., a Delaware corporation and a wholly-owned subsidiary of Hollywood Software, Inc.

[AccessIT Letterhead]

August 29, 2005

To: The Investors listed on Schedule A attached hereto (the "INVESTORS")

Re: Access Integrated Technologies, Inc.

Ladies and Gentlemen:

Reference is made to the 7% convertible debentures due 2009 (the "DEBENTURES") and the accompanying warrants (the "OLD WARRANTS") purchased in February 2005 by the Investors from Access Integrated Technologies, Inc. (the "COMPANY") pursuant to the Securities Purchase Agreement and the various Warrant Agreements, each dated as of February 9, 2005, among the Company and the Investors (the "OLD SECURITIES PURCHASE AGREEMENT" and the "OLD WARRANT AGREEMENTS," respectively). The Debentures are convertible into, and the Old Warrants are exercisable for, shares of the Company's Class A common stock (the "COMMON STOCK"). The resale by the Investors of the shares of Common Stock underlying the Debentures and the Old Warrants has been registered by the Company on its Registration Statement on Form S-3, Registration No. 333-123279, which was declared effective by the Securities and Exchange Commission (the "SEC") on March 21, 2005 pursuant to the Registration Rights Agreement dated as of February 9, 2005 among the Company and the Investors (the "OLD REGISTRATION RIGHTS AGREEMENT"). The Company and the Investors, collectively, wish to alter the nature of the investment in the Company made by the Investors. This letter (the "AGREEMENT") sets forth the agreement of the Company and the Investors with respect to the transactions contemplated hereby and shall be effective as of the date hereof.

1. ACTIONS TO BE TAKEN BY INVESTORS. Each of the Investors agrees:

- a. to convert all of its Debentures, in accordance with their terms, as promptly as reasonably practicable following the Effective Date (as that term is defined in Section 5 below) and in any event within three (3) business days following the Effective Date;
- b. to exercise all of their Old Warrants, in accordance with their terms, paying the exercise price for such exercise in cash as promptly as reasonably practicable following the Effective Date and in any event within three (3) business days following the Effective Date;
- c. upon such conversion and exercise and the obtaining of the Applicable Shareholder Approval (as defined in Section 2(a) below), to enter into warrant agreements (the "NEW WARRANT AGREEMENTS") with the Company pursuant to which the Company

will issue to the Investors Series A warrants, as more specifically described below in Section 8 of this Agreement (the "NEW WARRANTS"), to purchase an aggregate of 760,196 shares of Common Stock (the "WARRANT SHARES"), allocated among the Investors as set forth on SCHEDULE A attached hereto;

d. upon such conversion and exercise and the obtaining of the Applicable Shareholder Approval, to enter into a registration rights agreement (the "NEW REGISTRATION RIGHTS AGREEMENT") with the Company as more specifically described below in Section 2(h) and Section 9 of this Agreement; and

e. to take any and all actions reasonably required to complete the actions contemplated in Sections 1(a)-(d) above.

2. ACTIONS TO BE TAKEN BY THE COMPANY. The Company agrees:

a. to submit to its shareholders for approval by written consent the issuance of the New Shares and the New Warrants (the "APPLICABLE SHAREHOLDER APPROVAL") and the listing of the New Shares and the Warrant Shares on the American Stock Exchange ("AMEX");

b. to prepare, file with the SEC and distribute to its shareholders, as promptly as reasonably practicable, and in accordance with the applicable rules and regulations of the SEC, an Information Statement on Schedule 14C (the "INFORMATION STATEMENT") relating to the Applicable Shareholder Approval contemplated by Section 2(a);

c. to obtain, as promptly as reasonably practicable after the expiration of any applicable time periods following distribution of the Information Statement which may be required by Regulation 14C of the SEC, execution of a written consent embodying the Applicable Shareholder Approval by the holders of a sufficient number of shares of Common Stock and/or Class B common stock of the Company to cause its adoption;

d. upon conversion of the Debentures and exercise of the Old Warrants by the Investors, but subject to the provisions of Section 4 below, to deliver to each Investor the appropriate numbers of shares into which its Debentures are convertible, and for which its Old Warrants are exercisable, as set forth on SCHEDULE A attached hereto;

e. to use commercially reasonable efforts to deliver the certificates representing the shares of Common Stock into which the Debentures are converted, and for which the Old Warrants are exercised, electronically by crediting the account of the Investor's prime broker with the Depository Trust Company ("DTC") through DTC's Deposit Withdrawal Agent Commission System if the Company is a participant in such system, and otherwise in accordance with the applicable provisions of the Debentures and the Old Warrant Agreements;

f. upon conversion of the Debentures and exercise of the Old Warrants, and the obtaining of the Applicable Shareholder Approval, but subject to the provisions of Section 5 and Section 6 below, to issue to the Investors an aggregate of 71,359 shares of Common Stock (the "NEW SHARES"), allocated among the Investors as set forth on SCHEDULE A attached hereto;

g. upon conversion of the Debentures, exercise of the Old Warrants and the obtaining of the Applicable Shareholder Approval, but subject to the provisions of Section 5 and Section 6 below, to enter into the New Warrant Agreements with the Investors and, subject to the provisions of Section 5 and Section 6 below, to issue the New Warrants to the Investors;

h. upon the conversion of the Debentures, exercise of the Old Warrants and the obtaining of the Applicable Shareholder Approval, to enter into the New Registration Rights Agreement with the Investors and to register with the SEC the resale by the Investors of the New Shares and the Warrant Shares, as more specifically described below in Section 9 of this Agreement;

i. to seek listing of the New Shares and the Warrant Shares with AMEX as promptly as reasonably practicable following the obtaining of the Applicable Shareholder Approval;

j. to prepare and file with the SEC, within four (4) business days following the date hereof, an appropriate Current Report on Form 8-K with respect to the transactions contemplated by this Agreement; and

k. to take any and all actions reasonably required to complete the actions contemplated in Sections 2(a)-(j) above.

3. WAIVER OF EXERCISE DATE OF OLD WARRANTS. The Company and the Investors hereby waive the requirement that the Old Warrants not be exercisable until September 9, 2005 pursuant to the terms of the Old Warrant Agreements and the Old Warrants and agree that the Old Warrants may be exercised following the Effective Date in connection with, and to the extent necessary to effectuate the terms of, this Agreement and for no other purpose.

4. DELAY IN ISSUANCE OF CERTAIN SHARES OF COMMON STOCK UNDERLYING THE DEBENTURES. Pursuant to AMEX rules, in order for sufficient shares of Common Stock to be issued upon full conversion of the Debentures, the Company needs to seek listing of an aggregate of 14,008 additional shares of Common Stock after obtaining the approval of its shareholders for the issuance of such additional shares (the "AMEX SHARES"). The Company expects to obtain such shareholder approval (the "AMEX SHARE APPROVAL") at its annual meeting of shareholders scheduled to be held on September 15, 2005 and to seek listing

of the AMEX Shares promptly thereafter. The Investors acknowledge and agree that, in connection with the conversion of the Debentures: (a) only shares of Common Stock already listed with the AMEX for issuance upon the conversion of the Debentures may be issued immediately upon such conversion and the AMEX Shares will not be issued until such listing is authorized by the AMEX and (b) accordingly, the aggregate number of AMEX Shares for which issuance will be delayed as described in this Section 4 shall be allocated among the Investors as set forth on SCHEDULE A attached hereto.

5. CONTRACTUAL DELAY IN ISSUANCE OF NEW SHARES AND WARRANTS. Pursuant to a Securities Purchase Agreement dated as of July 19, 2005 to which the Company is a party (the "JULY PURCHASE AGREEMENT"), the Company is contractually obligated not to issue securities, such as the New Shares and the New Warrants, until the Registration Statement on Form S-3, Registration No. 333-127673, filed with the SEC pursuant to the July Purchase Agreement, is declared effective by the SEC (the "EFFECTIVE DATE"). The Investors acknowledge and agree that neither any New Shares nor any New Warrants will be issued until such time as such issuance would not cause the Company to breach the obligation in the July Purchase Agreement described in this Section 5.

6. DELAY IN ISSUANCE OF NEW SHARES AND WARRANTS PENDING APPROVAL AND LISTING. The Investors acknowledge and agree that neither any New Shares nor any New Warrants will be issued until such time as the Applicable Shareholder Approval has been obtained and the listing of the New Shares and the Warrant Shares on the AMEX contemplated by Section 2(i) has been authorized by the AMEX.

7. THE NEW SHARES. The New Shares shall consist of authorized but unissued shares of Common Stock and are being issued to the Investors in reliance on Section 4(2) of the Securities Act of 1933, as amended (the "SECURITIES ACT") and Rule 506 promulgated thereunder.

8. THE NEW WARRANT AGREEMENTS, THE NEW WARRANTS AND THE WARRANT SHARES.

a. The New Warrant Agreements, the New Warrants and the Warrant Shares are being issued to the Investors in reliance on Section 4(2) of the Securities Act and Rule 506 promulgated thereunder.

b. The New Warrant Agreements and the New Warrants shall contain substantially the same terms and conditions as the Old Warrant Agreements and the Old Warrants, respectively, with the following exceptions:

(i) The New Warrant Agreements and the New Warrants shall be dated as of the date hereof and any subsequent dates or time periods referred to therein shall be calculated from the date hereof;

(ii) The number of Warrant Shares shall be reflected in lieu of the number of shares for which the Old Warrants are exercisable;

(iii) The exercise price per share of the New Warrants shall be \$11.39; and

(iv) The New Warrants shall be exercisable immediately upon issuance.

c. The Warrant Shares shall consist of authorized but unissued shares of Common Stock, duly reserved by the Company for issuance in accordance with the terms of the New Warrant Agreements and the New Warrants.

9. REGISTRATION OF THE RESALE OF THE NEW SHARES AND THE WARRANT SHARES. The New Registration Rights Agreement shall contain substantially the same terms and conditions as the Old Registration Rights Agreement, with the following exceptions:

a. The New Registration Rights Agreement shall be dated as of the date hereof and, except as provided in Section 9(c) below, any subsequent dates or time periods referred to therein shall be calculated from the date hereof;

b. The registrable securities reflected in the New Registration Rights Agreement shall consist of the New Shares and the Warrant Shares; and

c. The initial filing of the registration statement required by the New Registration Rights Agreement shall be made by the Company as promptly as reasonably practicable but in no event later than fifteen (15) days from the date on which the Applicable Shareholder Approval is obtained.

10. REPRESENTATIONS AND WARRANTIES OF THE COMPANY. The Company represents and warrants that the signators to the Undertaking attached hereto as EXHIBIT A own sufficient shares of Common Stock and/or Class B common stock of the Company to cause the Applicable Shareholder Approval and the AMEX Share Approval to be obtained. The Company hereby confirms that the representations and warranties made by it in Section 3.1 of the Old Securities Purchase Agreement, as applicable to the transactions contemplated by this Agreement, are true and accurate as of the date hereof, subject to any changes noted in the updated disclosure schedules attached hereto as EXHIBIT B.

11. REPRESENTATIONS AND WARRANTIES OF THE INVESTORS. Each of the Investors, severally and not jointly, hereby:

a. confirms that the representations and warranties made by it in Sections 3.2(b), (c), (d), (e) and (g) of the Old Securities Purchase Agreement, relating to each Investor's status in connection with the private placement exemption relied upon by the Company in issuing the New Shares, New Warrants and Warrant Shares, are true and accurate as of the date hereof; and

b. represents and warrants that it will not directly or indirectly, nor will any persons acting on behalf of or pursuant to any understanding with such Investor engaged in any disposition of the securities of the Company (including, without limitation, any shorts sales involving the Company's securities) from the period beginning August 24, 2005 until the time that the transactions contemplated by this Agreement are publicly disclosed by the Company in the Current Report contemplated by Section 2(j) above.

Each Investor covenants to maintain the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction); provided, that the foregoing shall not be deemed to restrict discussions with, or disclosures to, the other parties to this Agreement.

12. OTHER AGREEMENTS OF THE PARTIES. The Company and each Investor hereby agree that the New Shares, the New Warrants and the Warrant Shares shall be subject to transfer restrictions and legending requirements and related provisions substantially equivalent to those set forth in Section 4.1 of the Old Securities Purchase Agreement.

13. AMENDMENTS; WAIVERS. No provision of this Agreement may be waived or amended except in a written instrument signed, in the case of an amendment, by the Company and each Investor or, in the case of a waiver, by the party against whom enforcement of any such waiver is sought. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of either party to exercise any right hereunder in any manner impair the exercise of any such right.

14. HEADINGS. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

15. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Investor. Any Investor may assign any or all of its rights under this Agreement to any person to whom such Investor assigns or transfers any New Shares, New Warrants or Warrant Shares, provided such transferee agrees in writing to be bound, with respect to such transferred securities, by the provisions hereof that apply to the "Investors."

16. GOVERNING LAW. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof.

17. COUNTERPARTS. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both

parties need not sign the same counterpart. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile signature page were an original thereof.

18. SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable in any respect, the validity and enforceability of the remaining terms and provisions of this Agreement shall not in any way be affected or impaired thereby and the parties will attempt to agree upon a valid and enforceable provision that is a reasonable substitute therefor, and upon so agreeing, shall incorporate such substitute provision in this Agreement.

19. CONSTRUCTION; STATUS. The parties agree that each of them and/or their respective counsel has reviewed and had an opportunity to revise this Agreement and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments hereto. The parties also agree that the Investors are not acting as part of a "group" (as that term is used in Section 13(d) of the Securities Exchange Act of 1934, as amended) in negotiating and entering into this Agreement or acquiring, disposing of or voting any of the New Shares, the Warrant Shares or the shares of Common Stock issued upon conversion of the Debentures or exercise of the Old Warrants. The Company hereby confirms that it understands and agrees that the Investors are not acting as part of any such group.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

Please indicate your agreement with the above terms by signing below.

Very truly yours,

**ACCESS INTEGRATED TECHNOLOGIES, INC.**

By: /s/ A. Dale Mayo

-----  
Name: A. Dale Mayo  
Title: CEO

**Investors:**

**ALEXANDRA GLOBAL  
MASTER FUND, LTD.**

By: /s/ Vishal Breuyani

-----  
Name: Vishal Breuyani  
Title: Portfolio Manager

**AG DOMESTIC CONVERTIBLES, L.P.**

By: /s/ Fred Berger

-----  
Name: Fred Berger  
Title: Authorized Signatory

**AG OFFSHORE CONVERTIBLES, LTD.**

By: /s/ Fred Berger

-----  
Name: Fred Berger  
Title: Authorized Signatory

**Signature Page 1 of 2 to the Letter Agreement**

**BASSO MULTI-STRATEGY  
HOLDING FUND, LTD.**

By: /s/ Howard I. Fischer  
-----  
Name: Howard I. Fischer  
Title: Authorized Representative

**BASSO PRIVATE OPPORTUNITY  
HOLDING FUND LTD.**

By: /s/ Howard I. Fischer  
-----  
Name: Howard I. Fischer  
Title: Authorized Signatory

**CATALYST ASSOCIATES, L.P.**

By: /s/ Michael R. Bruce /s/ Donald E. Hamilton  
-----  
Name: Michael R. Bruce and Donald E. Hamilton  
Title: Managing Members of the General  
Partner CAT Partners LLC

**PEQUOT SCOUT FUND**

By: Pequot Capital Management, Inc.

By: /s/ Daniel Fishbane  
-----  
Name: Daniel Fishbane  
Title: CFO

**PEQUOT NAVIGATOR ONSHORE FUND**

By: Pequot Capital Management, Inc.

By: /s/ Daniel Fishbane  
-----  
Name: Daniel Fishbane  
Title: CFO

**Signature Page 2 of 2 to the Letter Agreement**

## SCHEDULE A

INVESTOR NAME AND ADDRESS	SHARES TO BE ISSUED UPON CONVERSION OF DEBENTURES	SHARES TO BE ISSUED UPON EXERCISE OF OLD WARRANTS	NEW SHARES	WARRANT SHARES	AMEX SHARES SUBJECT TO DELAYED ISSUANCE
Alexandra Global Master Fund, Ltd. c/o Alexandra Investment Management LLC, 767 Third Avenue, 39th Floor New York, New York 10017	184,275	55,283	7,042	75,020	1,383
AG Domestic Convertibles, L.P. 245 Park Avenue, 26th Floor New York, New York 10167	128,993	38,698	4,929	52,514	969
AG Offshore Convertibles, Ltd. 245 Park Avenue, 26th Floor New York, New York 10167	239,558	71,867	9,155	97,525	1,797
Basso Multi-Strategy Holding Fund Ltd. 1266 East Main Street Stamford, Connecticut 06902	622,850	186,855	23,802	253,565	4,670
Basso Private Opportunity Holding Fund Ltd. 1266 East Main Street Stamford, Connecticut 06902	175,676	52,702	6,713	71,518	1,318
Catalyst Associates, L.P. 20 West Avenue Darien, Connecticut 06820	147,420	44,226	5,634	60,015	1,106
Pequot Scout Fund c/o Pequot Capital Management, Inc. 500 Nyala Farm Road Westport, Connecticut 06080	223,071	66,921	8,525	90,813	1,674
Pequot Navigator Onshore Fund c/o Pequot Capital Management, Inc. 500 Nyala Farm Road Westport, Connecticut 06080	145,479	43,644	5,559	59,226	1,091
Totals	1,867,322	560,196	71,359	760,196	14,008

**EXHIBIT A**

**Undertaking**

## UNDERTAKING

A. Access Integrated Technologies, Inc. (the "COMPANY") is entering into an agreement, dated as of the date hereof, with certain investors in the Company named on SCHEDULE A to such agreement (the "INVESTORS"), pursuant to which, among other things, (i) the Investors agree to (A) convert all of the 7% convertible debentures due 2009 of the Company held by them (the "DEBENTURES") and (B) exercise all of the warrants previously issued to them by the Company pursuant to Warrant Agreements, dated as of February 9, 2005 (the "OLD WARRANTS"), and (ii) the Company agrees to issue to the Investors (A) an aggregate of 71,359 shares of its Class A common stock (the "NEW SHARES") and (B) Class A warrants (the "NEW WARRANTS") to purchase an aggregate of 760,196 shares of its Class A common stock (the "WARRANT SHARES") (the "AGREEMENT").

B. Before the Company may issue 14,008 of the shares of common stock to be issued upon full conversion of the Debentures (the "AMEX Shares"), it must obtain shareholder approval for the issuance of the AMEX Shares and the listing of the AMEX Shares on the American Stock Exchange (the "AMEX SHARE APPROVAL"). The Company expects to obtain the AMEX Share Approval at its 2005 Annual Meeting of Stockholders scheduled to be held on September 15, 2005 (the "ANNUAL MEETING").

C. Before the Company may issue the New Shares and the New Warrants to the Investors pursuant to the Agreement, it must obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the American Stock Exchange (the "APPLICABLE SHAREHOLDER APPROVAL"). The Company expects to obtain the Applicable Shareholder Approval by written consent pursuant to Delaware law and Regulation 14C of the Securities and Exchange Commission.

D. As an inducement to the Investors' willingness to enter into the Agreement and convert their Debentures and exercise their Old Warrants prior to the obtaining of the AMEX Share Approval and the Applicable Shareholder Approval, each of the undersigned shareholders of the Company (each, a "SHAREHOLDER", and, collectively, the "SHAREHOLDERS") is executing this undertaking (the "UNDERTAKING") for the benefit of the Investors.

NOW, THEREFORE, intending to be legally bound hereby, the Shareholders agree as follows:

1. Each Shareholder represents and warrants as to himself or itself, separately and not jointly, that (i) he or it was the owner of that number of shares of the Class A and/or Class B common stock of the Company set forth beneath his or its signature below on the record date for the Annual Meeting and is the owner of all such shares on the date hereof, (ii) that he or it has full power to vote all of such shares, and (iii) that he or it will retain ownership of, and full voting power with respect to, all of such shares through the record date for the Applicable Shareholder Approval.
2. Each Shareholder agrees, separately and not jointly, that he or it will vote all shares of Class A and/or Class B common stock of the Company set forth below his or its signature below for (i) approval of the issuance of the AMEX Shares and the listing of the AMEX Shares on the American Stock Exchange at the Annual Meeting, and (ii) approval of the issuance of the New Shares and the New

Warrants to the Investors in accordance with the terms of the Agreement and the listing of the New Shares and the Warrant Shares on the American Stock Exchange in connection with the Company's obtaining of the Applicable Shareholder Approval.

3. Each Shareholder agrees that his or its voting agreement set forth in Section 2 above is irrevocable and shall be deemed to be coupled with an interest.

4. This Undertaking shall terminate upon the earlier to occur of (i) the obtaining of the Applicable Shareholder Approval, or (ii) any termination of the Agreement.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, this Undertaking has been executed by each of the undersigned Shareholders, or a duly authorized officer thereof, as applicable, as of this \_\_\_\_ day of August, 2005.

**SHAREHOLDERS:**

**A. DALE MAYO**

By: /s/ A. Dale Mayo  
-----  
Name: A. Dale Mayo  
No. of Shares Owned: Class A\*: 9,602 Class B\*: 925,811

**MIDMARK EQUITY PARTNERS II, L.P.**

By: MidMark Investments, Inc.

By: /s/ Matthew Finlay  
-----  
Name: Matthew Finlay  
Title: Director  
No. of Shares Owned: Class A\*: 2,214,879 Class B\*: 0

**BRETT E. MARKS**

By: /s/ Brett E. Marks  
-----  
Name: Brett E. Marks  
No. of Shares Owned: Class A\*: 533,563 Class B\*: 0

**KEVIN J. FARRELL**

By: /s/ Kevin J. Farrell  
-----  
Name: Kevin J. Farrell  
No. of Shares Owned: Class A\*: 305,000 Class B\*: 0

---

\*The holders of shares of Class A common stock are entitled to 1 vote for each share held. The holders of shares of Class B common stock are entitled to 10 votes for each share held.

**EXHIBIT B**

**Updated Disclosure Schedules**

## **UPDATED DISCLOSURE SCHEDULES**

The Updated Disclosure Schedules set forth herein, have been revised by the Company to reflect changes to the Disclosure Schedules attached to the Old Securities Purchase Agreement, dated as of February 9, 2005, among the Company and the Investors (the "Agreement") which would be required to be made to make the representations and warranties made by the Company in Section 3.1 to the Old Securities Purchase Agreement, as applicable to the transactions contemplated by this Agreement, true and accurate as of the date hereof. Unless otherwise noted herein, capitalized terms used in the Updated Disclosure Schedules, but not defined therein, shall have the same meanings assigned to such terms in this Agreement.

**SCHEDULE 3.1(A)**

**LIST OF SUBSIDIARIES**

1. Access Digital Media, Inc., a wholly owned subsidiary of the Company.
2. Core Technology Services, Inc., a wholly owned subsidiary of the Company.
3. Hollywood Software, Inc., a wholly owned subsidiary of the Company.
4. ADM Cinema Corporation, a wholly owned subsidiary of the Company.
5. FiberSat Global Services, Inc., a wholly owned subsidiary of the Company.
6. Christie/AIX, Inc., a wholly owned subsidiary of Access Digital Media, Inc.

Pursuant to the following agreements, the Company has granted a security interest in all of the issued and outstanding capital stock of Hollywood Software, Inc. to David Gajda and Robert Jackovich, as secured parties:

1. Stock Purchase Agreement, dated as of July 17, 2003, as amended, among the Company, Hollywood Software, Inc., David Gajda and Robert Jackovich
2. Secured Promissory Note dated November 3, 2003 issued by the Company to David Gajda
3. Secured Promissory Note dated November 3, 2003 issued by the Company to Robert Jackovich
4. Pledge and Security Agreement, dated as of November 3, 2003, between the Company and David Gajda and Robert Jackovich

## **SCHEDULE 3.1(C)**

### **AUTHORIZATION; ENFORCEMENT**

1. The Company obtained the written consent of David Gajda and Robert Jackovich to deem the indebtedness to be incurred by the Company in connection with and under the Debentures to be "Permitted Indebtedness" as such term is defined and construed in each of the (a) Secured Promissory Note, dated as of November 14, 2003 made by the Company in favor of David Gajda, (b) Secured Promissory Note, dated as of November 14, 2003 made by the Company in favor of Robert Jackovich and (c) Pledge and Security Agreement, dated as of November 14, 2003, among the Company, David Gajda, Robert Jackovich and American Stock Transfer & Trust Company.
2. The Company is required to obtain shareholder approval for the issuance of the AMEX Shares and the listing of the AMEX Shares on the American Stock Exchange ("AMEX"). The Company expects to obtain the AMEX Share Approval at its 2005 Annual Meeting of Stockholders scheduled to be held on September 15, 2005.
3. The Company is required to obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the AMEX. The Company expects to obtain the applicable shareholder approval by written consent pursuant to Delaware law and Regulation 14C of the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder (the "Exchange Act").

**SCHEDULE 3.1(E)**

**FILINGS, CONSENTS AND APPROVALS**

1. The Company is required to obtain shareholder approval for the issuance of the AMEX Shares and the listing of the AMEX Shares on the AMEX. The Company expects to obtain the AMEX Share Approval at its 2005 Annual Meeting of Stockholders scheduled to be held on September 15, 2005.
2. The Company is required to obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the AMEX. The Company expects to obtain the applicable shareholder approval by written consent pursuant to Delaware law and Regulation 14C of the Exchange Act.

## SCHEDULE 3.1(G)

## CAPITALIZATION

	AUTHORIZED	ISSUED & OUTSTANDING
Class A Common Stock, Par Value \$.001	40,000,000	11,473,704 (1)
Class B Common Stock, Par Value \$.001	15,000,000	925,811 (2)
Undesignated Common Stock, Par Value \$.001	25,000,000	--
TOTAL COMMON STOCK	80,000,000	12,399,515
Undesignated Preferred Stock, Par Value \$.001	15,000,000	--
TOTAL PREFERRED STOCK	15,000,000	--
TOTAL CAPITAL STOCK	95,000,000	12,399,515
POTENTIALLY ISSUABLE (3):		
Stock Options	850,000	850,000
Plus: options issued pending shareholder approval		91,897
IPO Underwriter's Warrants	120,000	39,608
Conversion of Subordinated Convertible Notes, each dated March 24, 2004	307,871	307,871
Warrants issued in connection with June 2004 private placement	304,375	291,875
Conversion of Convertible Debentures, each dated February 9, 2005	1,867,322	1,867,322
Warrants issued in connection with Convertible Debentures, each dated February 9, 2005	560,196	560,196
Shares issuable as payment of interest on Convertible Notes	456,936	456,936
Warrants issued in connection with July 2005 private placement		
	477,275	477,275
TOTAL POTENTIALLY ISSUABLE	4,851,083	4,942,980
TOTAL POTENTIALLY O/S SHARES	99,851,083	17,342,495

(1) Net of 51,440 shares purchased by the Company and held as treasury stock.

(2) Class B shares are supervoting 10:1 and are convertible to Class A at any time on a 1:1 basis.

(3) Excludes contingently issuable shares related to: Hollywood Software, Inc. earn-out, Hollywood Software, Inc. price protection, Core Technology Services, Inc. earn-out, Core Technology Services, Inc. price protection, FiberSat Global Services, Inc. earn-out, FiberSat Global Services, Inc. price protection, notes exchange, IPO Underwriter's Warrants price protection and June 2004 privately placed Warrants price protection. The amount of these shares is currently not determinable.

**ISSUANCES OF CAPITAL STOCK SINCE JUNE 30, 2005 (FILING PERIOD COVERED IN MOST RECENT FORM 10-QSB FILING):**

1. 1,909,115 shares of Common Stock were issued on July 19, 2005, pursuant to a private placement (see Form 8-K (file no. 001-31810) filed with the Commission on July 22, 2005).

UPON THE ISSUANCE AND SALE OF THE SECURITIES, THE COMPANY (A) MAY BE REQUIRED TO ADJUST THE RESPECTIVE EXERCISE PRICES OF, AND (B) MAY BE OBLIGATED TO ISSUE ADDITIONAL SHARES OF COMMON STOCK UNDER, THE FOLLOWING OUTSTANDING WARRANTS WHICH ARE EXERCISABLE FOR SHARES OF COMMON STOCK:

1. Warrants, exercisable for up to 39,608 shares of Common Stock, issued pursuant to the Underwriter's Warrant Agreement, dated as of November 14, 2003 between the Company and Joseph Gunnar & Co., LLC.(1)

2. Warrants, exercisable for up to 291,875 shares of Common Stock, issued in connection with the Company's private placement dated June 4, 2004.(2)

**OTHER APPROVALS:**

1. The Company is required to obtain shareholder approval for the issuance of the AMEX Shares and the listing of the AMEX Shares on the AMEX. The Company expects to obtain the AMEX Share Approval at its 2005 Annual Meeting of Stockholders scheduled to be held on September 15, 2005.

2. The Company is required to obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the AMEX. The Company expects to obtain the applicable shareholder approval by written consent pursuant to Delaware law and Regulation 14C of the Exchange Act.

**3. VOTING AGREEMENTS:**

See the Undertaking attached as Exhibit A to the Agreement.

---

(1) The exercise price of these warrants is subject to weighted average adjustments for issuances of shares of Common Stock at a price less than the lesser of the exercise price then in effect or the "market price" of the Common Stock on the date immediately prior to such issuance. The initial unadjusted exercise price of these warrants was \$6.25 per share of Common Stock.

(2) Each of these warrants provides that the exercise price is subject to weighted average adjustments for issuances of shares of Common Stock for less than \$4.00 per share. The initial unadjusted exercise price of each of these warrants was \$4.80 per share of Common Stock.

**SCHEDULE 3.1(N)**

**TITLE TO ASSETS**

**Equipment Leases:**

- \$248,927 remaining principal at 6/30/05 under a lease between FiberSat Global Services, Inc. and GE Capital, covering certain equipment used in FiberSat's satellite operations.

- \$7,894 remaining principal at 6/30/05 under a lease between Core Technology Services and American Express, covering certain computer equipment for use in Core Technology Services' operations.

- \$1,293 remaining principal at 6/30/05 under a lease between Core Technology Services and Avaya, covering certain computer equipment for use in Core Technology Services' operations.

**SCHEDULE 3.1(S)**

**CERTAIN FEES**

The Company has agreed to pay to Roth Capital Partners, LLC in connection with the transactions contemplated by this Agreement an advisory fee in the amount of \$100,000, payable in shares of Common Stock with a market value of \$100,000, based on the closing price of the Common Stock on the date of this Agreement.

**SCHEDULE 3.1(T)**

1. The Company is required to obtain shareholder approval for the issuance of the AMEX Shares and the listing of the AMEX Shares on the AMEX. The Company expects to obtain the AMEX Share Approval at its 2005 Annual Meeting of Stockholders scheduled to be held on September 15, 2005.
2. The Company is required to obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the AMEX. The Company expects to obtain the applicable shareholder approval by written consent pursuant to Delaware law and Regulation 14C of the Exchange Act.

**SCHEDULE 3.1(Z)**  
**INTEGRATION**

On November 8, 2004, the Company sold 282,776 shares of Common Stock to two "accredited investors" pursuant to the Rule 506 private placement exemption under the Securities Act (the "November 2004 Offering"). The November 2004 Offering may be integrated under the Securities Act with the offer and sale of securities to be issued in connection with this Agreement. The American Stock Exchange approved for listing the securities offered and sold pursuant to the November 2004 Offering, and a condition to consummation of the transactions contemplated by this Agreement is that the American Stock Exchange approves the offer and sale of the securities to be issued at the Closing.

On July 19, 2005, the Company sold 2,386,390 shares of Common Stock including 477,275 shares of Common Stock underlying warrants, to 24 "accredited investors" pursuant to Rule 506 private placement exemption under the Securities Act (the "July 2005 Offering"). The July 2005 Offering may be integrated under the Securities Act with the offer and sale of securities to be issued in connection with this Agreement.

The Company is required to obtain shareholder approval for the issuance of the New Shares and the New Warrants and the listing of the New Shares and the Warrant Shares on the AMEX. The Company expects to obtain the applicable shareholder approval by written consent pursuant to Delaware law and Regulation 14C of the Exchange Act.

**SCHEDULE 4.9****USE OF NET PROCEEDS**

Gross Proceeds - Warrant Exercises	\$2,487,270
Less:	
AMEX Listing Fee	16,631
Legal, Accounting and other professional fees	100,000
	-----
Working Capital for the Company and its Subsidiaries	\$2,370,639

**EXHIBIT 31.1**

**CERTIFICATION**

I, A. Dale Mayo, President and Chief Executive Officer of Access Integrated Technologies, Inc., certify that:

1. I have reviewed this annual report on Form 10-KSB of Access Integrated Technologies, 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 small business issuer as of, and for, the periods presented in this report;
4. The small business issuer's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the small business issuer and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the small business issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Evaluated the effectiveness of the small business issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (c) Disclosed in this report any change in the small business issuer's internal control over financial reporting that occurred during the small business issuer's most recent fiscal quarter (the small business issuer's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the small business issuer's internal control over financial reporting; and
5. The small business issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the small business issuer's auditors and the audit committee of the small business issuer'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 small business issuer'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 small business issuer's internal control over financial reporting.

*Date: 06/29/06*

*By: /s/ A. Dale Mayo*

-----  
*A. Dale Mayo  
President and Chief Executive Officer and Chairman of the  
Board of Directors  
(Principal Executive Officer)*

CERTIFICATION

I, Brian D. Pflug, Senior Vice President-Accounting and Finance of Access Integrated Technologies, Inc., certify that

1. I have reviewed this annual report on Form 10-KSB of Access Integrated Technologies, 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 small business issuer as of, and for, the periods presented in this report;
4. The small business issuer's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the small business issuer and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the small business issuer, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Evaluated the effectiveness of the small business issuer's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (c) Disclosed in this report any change in the small business issuer's internal control over financial reporting that occurred during the small business issuer's most recent fiscal quarter (the small business issuer's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the small business issuer's internal control over financial reporting; and
5. The small business issuer's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the small business issuer's auditors and the audit committee of the small business issuer'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 small business issuer'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 small business issuer's internal control over financial reporting.

Date: 06/29/06

By: /s/ Brian D. Pflug

-----  
Brian D. Pflug  
Senior Vice President - Accounting & Finance  
(Principal Financial Officer)

**EXHIBIT 32.1**

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

In connection with the Annual Report on Form 10-KSB of Access Integrated Technologies, Inc. (the "Company") for the period ended March 31, 2006 as filed with the SEC (the "Report"), the undersigned, in the capacity and on the date indicated below, hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his 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.

*Date: 06/29/06*

*By: /s/ A. Dale Mayo*

-----  
*A. Dale Mayo  
President and Chief Executive Officer and Chairman of the  
Board of Directors  
(Principal Executive Officer)*

**EXHIBIT 32.2**

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO**

**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-KSB of Access Integrated Technologies, Inc. (the "Company") for the period ended March 31, 2006 as filed with the SEC (the "Report"), the undersigned, in the capacity and on the date indicated below, hereby certifies pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to his 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.

*Date: 06/29/06*  
-----

*By: /s/ Brian D. Pflug*  
-----  
*Brian D. Pflug*  
*Senior Vice President - Accounting & Finance*  
*(Principal Financial Officer)*

**LEASE AGREEMENT**

This LEASE AGREEMENT (this "Lease") is made and entered into as of this 9th day of August, 2002 by and between OLP BROOKLYN PAVILION LLC, a Delaware limited liability company having an address at Suite 303, 60 Cutter Mill Road, Great Neck, New York 11021 ("Landlord"), and PRITCHARD SQUARE CINEMA LLC, a New York limited liability company having an address at c/o Screen Arts Corporation, 188 Prospect Park West, Brooklyn, New York 11215 ("Tenant").

**WITNESSETH:**

WHEREAS, pursuant to a sale leaseback transaction, Landlord has this date acquired that certain parcel(s) of land (the "Land"), such Land being improved by a 31,120 square foot (above grade), three-story movie theater and cafe, together with all other buildings and other improvements now or hereafter located thereon, all commonly known as the Pavilion Theater, 188 Prospect Park West, Brooklyn, New York and more particularly described on EXHIBIT A attached hereto and made a part hereof (such Land, buildings and improvements, together with all easements and appurtenances relating thereto, being collectively referred to herein as the "Demised Premises"); and

WHEREAS, as a condition to Landlord's acquisition of the Demised Premises and of Tenant's disposition of the Demised Premises, Landlord now desires to lease the Demised Premises to Tenant and Tenant now desires to lease the Demised Premises from Landlord all upon the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the mutual premises herein set forth, the sufficiency of which being hereby acknowledged, the parties hereto do hereby agree as follows:

**ARTICLE 1**

**TERMS AND DEFINITIONS**

For purposes of this Lease, the following terms shall have the following meanings:

"Broker":	None.
"Building":	Those certain buildings now or hereafter located on and forming a part of the Demised Premises, which Landlord shall own, together with all appurtenances thereto.
"Lease Commencement Date":	Shall be the date hereof.
"Lease Term":	A period of time commencing on the Lease Commencement Date and ending on July 31, 2022, subject to extension as provided herein (Article 3).

"Minimum Annual Rent": Minimum Annual Rent per annum for the Demised Premises shall be as follows (Article 4):

LEASE YEAR	MINIMUM ANNUAL RENT	MONTHLY RENT
Lease Years 1-2	\$1,140,000.00	\$95,000.00
Lease Year 3	\$1,168,500.00	\$97,375.00
Lease Year 4	\$1,197,712.50	\$99,809.38
Lease Year 5	\$1,227,655.31	\$102,304.61
Lease Year 6	\$1,258,346.70	\$104,862.22
Lease Year 7	\$1,289,805.36	\$107,483.78
Lease Year 8	\$1,322,050.50	\$110,170.87
Lease Year 9	\$1,355,101.76	\$112,925.15
Lease Year 10	\$1,388,979.30	\$115,748.28
Lease Year 11	\$1,423,703.79	\$118,641.98
Lease Year 12	\$1,459,296.38	\$121,608.03
Lease Year 13	\$1,495,778.79	\$124,648.23
Lease Year 14	\$1,533,173.26	\$127,764.44
Lease Year 15	\$1,571,502.59	\$130,958.55
Lease Year 16	\$1,610,790.16	\$134,232.51
Lease Year 17	\$1,651,059.91	\$137,588.33
Lease Year 18	\$1,692,336.41	\$141,028.03
Lease Year 19	\$1,734,644.82	\$144,553.73
Lease Year 20	\$1,778,010.94	\$148,167.58

"Rent Commencement Date": Shall be the date hereof.

"Security Deposit": Initially \$209,947.50, subject to increase as provided in Article 5.

Address for Notices (Section 21.15):

To Landlord: OLP Brooklyn Pavilion LLC  
60 Cutter Mill Road  
Suite 303  
Great Neck, New York 11021  
Attention Jeffrey Fishman, President

With a copy to: Mark H. Lundy  
Vice President  
60 Cutter Mill Road  
Suite 303  
Great Neck, New York 11021

To Tenant: Pritchard Square Cinema LLC  
and Norman Adie

c/o Screen Arts Corporation  
188 Prospect Park West  
Brooklyn, New York 11215  
Attention: Norman Adie

With a copy to:

Nicholas T. Donovan, Esq.  
Donovan & Giannuzzi  
405 Park Avenue, Suite 1104  
New York, New York 10022

## ARTICLE 2

### DEMISED PREMISES

2.1 THE BUILDING AND THE LAND. Upon and subject to the terms, covenants and conditions hereinafter set forth, Landlord hereby leases and demises to Tenant and Tenant hereby hires from Landlord the Demised Premises. Notwithstanding anything herein to the contrary, and in addition to Landlord's rights pursuant to Article 10 below, Landlord retains the right to place additional advertisements and/or additional billboards (collectively, "Landlord's Additional Property") on such exterior portions of the Demised Premises as Landlord shall determine provided that same (i) complies with applicable law,

(ii) does not interfere in any material respect with the permitted operations of Tenant at the Demised Premises (as mutually determined by Landlord and Tenant in their reasonable discretion) and (iii) does not interfere in any material respect with Tenant's then-existing permitted signage, if any (as mutually determined by Landlord and Tenant in their reasonable discretion). If Landlord determines to add Landlord's Additional Property to such exterior portions of the Demised Premises: (i) Tenant shall afford Landlord, any tenant or licensee of Landlord's Additional Property, and any contractor, agent, employee or representative of either, access to the Demised Premises at reasonable times and upon reasonable notice to Tenant (in either case except in the event of emergency) to construct Landlord's Additional Property and to maintain, alter, demolish and/or replace same, (ii) provided no default by Tenant exists under this Lease beyond applicable notice and/or cure periods, Landlord and Tenant shall share equally in all rental and other income derived from Landlord's Additional Property (net of the reasonable out-of-pocket costs of constructing, maintaining and/or providing utility services to same), (iii) Landlord's Additional Property shall be separately metered (or submetered) for utilities used thereby, and (iv) Landlord's Additional Property shall be constructed and maintained at the expense of either (X) Landlord and Tenant sharing equally in the costs of such construction and maintenance or (Y) the tenant/licensee of such Landlord's Additional Property (except solely for such repairs as may be necessitated due to an act or omission of Tenant, its invitees, patrons, employees, agents, contractors or representatives, which shall be Tenant's sole responsibility). In the event Landlord determines to add Landlord's Additional Property to such exterior portions of the Demised Premises, then in connection therewith, Landlord (a) shall exercise reasonable efforts to minimize any inconvenience to Tenant or interference with Tenant's use of the Demised Premises, its business operations therein, its means of ingress thereto and egress therefrom and/or Tenant's signage, (b) shall carry out any related installations, repairs, alterations and other work reasonably promptly and diligently and (c) shall make reasonable efforts to schedule such work in a

manner, and in such locations, as to create the least practicable interference with Tenant and/or Tenant's use of the Demised Premises, business operations, ingress and egress and/or signage and other installations. Notwithstanding the foregoing, Tenant retains the right to install telecommunication antennas, satellites and other telecommunications and related equipment on the roof and in other parts of the Demised Premises (and to receive all rental and other income derived therefrom), provided same are installed in compliance with applicable law and the requirements of this Lease.

**2.2 CONDITION OF THE PREMISES.** Tenant expressly understands and agrees and acknowledges that Landlord would not have entered this Lease or acquired the Demised Premises without the express provisions of this Paragraph 2.2. It is understood that the Demised Premises and all improvements and fixtures (including, without limitation, the Building) shall be delivered "AS IS" in their present condition and with all faults, whether latent or patent, foreseeable or unforeseeable. Landlord shall not be liable for any latent or patent defects in the Demised Premises, except any defects created after the date hereof due solely to an act of Landlord, Landlord's employees, agents or contractors. Tenant acknowledges that neither Landlord nor any of its representatives, employees, officers, directors, shareholders, trustees, members, partners, counsel or agents has made any representations or warranties as to the physical condition, state of repair, tenancy, income, expenses or operation of the Demised Premises. Tenant acknowledges that it has not relied on any representations, warranties or "broker set-ups" in its decision to lease the Demised Premises in accordance with the terms hereof and also acknowledges that Tenant is intimately familiar with the Demised Premises due to its previous ownership and occupancy of same.

In particular, except as herein specifically set forth, Landlord is unwilling to make any representations or warranties in respect of (i) the physical condition of the Demised Premises (including, without limitation, in respect of the presence, non-presence or condition of hazardous, toxic or other environmentally sensitive materials or substances), (ii) the compliance or non-compliance of the Demised Premises with applicable laws (including, without limitation, those relating to the protection of the environment or the safety of employees or workers), (iii) the revenues, income or expenses of the Demised Premises, (iv) the adequacy or inadequacy of the utilities, if any, provided to the Demised Premises, (v) the zoning of the Demised Premises or (vi) any other matter concerning the Demised Premises. Tenant acknowledges the foregoing and warrants and represents that it (or its principal officers if Tenant shall be an entity) has had sufficient time and opportunity to inspect the Demised Premises and other matters deemed important to Tenant, that it (or its principal officers if Tenant shall be an entity) is experienced in owning real property similar to the Demised Premises, that it is represented by advisors and counsel of its choosing and that Tenant is intimately familiar with the Demised Premises due to its previous ownership of same.

### **ARTICLE 3**

#### **LEASE TERM**

**3.1 TERM.** The terms and provisions of this Lease shall be effective as of the Lease Commencement Date. The Lease Term shall commence on the Lease Commencement Date and shall terminate on the last day of the Lease Term, unless this Lease is properly and timely extended as provided below or shall sooner

terminate as hereinafter provided. For purposes of this Lease, a "Lease Year" shall mean any consecutive twelve (12) month period during the Lease Term; provided, however, that the first Lease Year shall commence on the Lease Commencement Date and shall end on the last day of the eleventh month thereafter and the second and each succeeding Lease Year shall commence on the first day of the next calendar month; and further provided that the last Lease Year of the Lease Term shall end on the last day of the Lease Term.

3.2 OPTIONS TO EXTEND LEASE TERM.

3.2.1 Provided that the Tenant shall keep, observe and perform all of the terms, covenants and conditions of this Lease on Tenant's part to be kept, observed and performed, and provided further, that at the time of the exercise of any option granted pursuant to this Section 3.2, or the commencement of any extension term, Tenant shall not be in default of any of the terms, covenants and conditions of this Lease after any applicable notice and/or cure periods, Tenant may extend the Lease Term for two (2) additional successive ten (10) year periods. Tenant may exercise each option to extend the Lease Term only by giving written notice to Landlord not less than one hundred eighty (180) days and not more than two hundred forty (240) days prior to the expiration of the original Lease Term or the applicable option period, as the case may be.

3.2.2 Should Tenant properly and timely exercise any option to extend the Lease Term granted hereunder, the Tenant's use and occupation of the Demised Premises shall, during each extended Lease Term, be upon the same terms, covenants and conditions contained herein, except that Tenant shall be required to pay Minimum Annual Rent in the amounts set forth in Section 3.2.4 below.

3.2.3 In the event that Tenant fails to timely and properly exercise any option to extend the Lease Term as described herein, then Tenant shall be deemed to have irrevocably waived and forfeited any and all rights to extend the Lease Term, and the provisions of this Section 3.2 shall, at such time, be automatically deemed null and void, of no further force and effect, and shall be deemed deleted from this Lease.

3.2.4 If Tenant properly and timely exercises each option to extend the Lease Term, then in addition to all other obligations and covenants of Tenant contained in this Lease, Tenant shall pay Minimum Annual Rent during each extended term in the following amounts:

FIRST OPTION	MINIMUM ANNUAL RENT	MONTHLY RENT
Lease Year 21	\$1,822,461.21	\$151,871.77
Lease Year 22	\$1,868,022.74	\$155,668.56
Lease Year 23	\$1,914,723.31	\$159,560.28
Lease Year 24	\$1,962,591.39	\$163,549.28
Lease Year 25	\$2,011,656.18	\$167,638.01
Lease Year 26	\$2,061,947.58	\$171,828.97
Lease Year 27	\$2,113,496.27	\$176,124.69
Lease Year 28	\$2,166,333.68	\$180,527.81
Lease Year 29	\$2,220,492.02	\$185,041.00

Lease Year 30	\$2,276,004.32	\$189,667.03
SECOND OPTION	MINIMUM ANNUAL RENT	MONTHLY RENT
Lease Year 31	\$2,332,904.43	\$194,408.70
Lease Year 32	\$2,391,227.04	\$199,268.92
Lease Year 33	\$2,451,007.72	\$204,250.64
Lease Year 34	\$2,512,282.91	\$209,356.91
Lease Year 35	\$2,575,089.98	\$214,590.83
Lease Year 36	\$2,639,467.23	\$219,955.60
Lease Year 37	\$2,705,453.91	\$225,454.49
Lease Year 38	\$2,773,090.26	\$231,090.85
Lease Year 39	\$2,842,417.52	\$236,868.13
Lease Year 40	\$2,913,477.95	\$242,789.83

Any and all Additional Rent that becomes due and payable during any extension of the Lease Term shall continue to be paid in addition to the Minimum Annual Rent as calculated herein during any extended Lease Term, as well as any other sums that become due and payable in accordance with the terms hereof.

#### ARTICLE 4

#### RENTAL AND OTHER PAYMENTS

4.1 MINIMUM ANNUAL RENT. Tenant agrees to pay the Minimum Annual Rent to Landlord at Landlord's address set forth herein, or such other place as Landlord may from time to time designate and at the times and in the manner herein provided. Commencing on the Rent Commencement Date, Minimum Annual Rent shall be payable by Tenant to Landlord in advance in twelve (12) equal monthly installments on the first day of each calendar month, without demand, notice, abatement or offset whatsoever, provided that if rental payment date (including the Rent Commencement Date) falls on a day of the month other than the first day of such month, or if any rental payment is for a period which is shorter than one month, then the Minimum Annual Rent for such fractional month shall accrue on a daily basis for the period from the date such payment is due to the end of such calendar month (or to the end of the Lease Term, if applicable) at a rate per day which is equal to 1/360 of the Minimum Annual Rent then in effect. If the last Lease Year contains more than twelve (12) calendar months, then the Minimum Annual Rent for the extra time period shall be prorated based upon the Minimum Annual Rent for the last Lease Year. All other payments required to be made under the terms of this Lease that require proration on a time basis shall be prorated on the same basis. Minimum Annual Rent shall be paid in the amounts set forth in Article 1 above for each Lease Year during the initial Lease Term or such amounts as are calculated pursuant to Section 3.2.4 above for any option term.

4.2 NET LEASE. The parties acknowledge and agree that this Lease is and is intended to be a triple net, "bondable" lease and the parties hereto intend that

Landlord shall receive all Minimum Annual Rent and all Additional Rent and all other sums payable hereunder free and clear of any and all liability or responsibility of Landlord for impositions, taxes, liens, charges or expenses, offsets, or similar deductions of any nature whatsoever. Tenant shall pay all items of expenses and damage that are attributable to Tenant and/or its use and/or possession of the Demised Premises and which, except for the execution of this Lease, would have been chargeable against the Demised Premised and payable by the Landlord. Since this Lease is a triple net "bondable" lease, Tenant agrees to promptly reimburse Landlord for all reasonable out-of-pocket attorneys', accountants', and appraisers' fees and their respective disbursements reasonably incurred by Landlord in connection with this Lease, including, without limitation, reviewing, approving and/or consenting to any loan documents if and to the extent such loan documents are proposed by Tenant and reviewing, approving and consenting to any sublease or other Transfer documents, excluding, however all attorneys' fees incurred in the negotiation and preparation of this Lease through the date hereof, but including amendments hereto or requests for consents hereunder, if any (except to the extent that such amendments or consents are requested by Landlord). Tenant understands and agrees that Landlord is to have no obligation whatsoever under this Lease or otherwise in respect of the repair, operation, maintenance and/or replacement of the Demised Premises or for the quality or compliance with applicable law of its construction (or in either case, the lack thereof) with all such obligations being the sole responsibility of the Tenant, at Tenant's sole cost and expense, except as otherwise provided in this Lease with respect to Landlord's Additional Property.

4.3 ADDITIONAL RENT. A. Tenant shall pay or cause to be paid to Landlord, commencing on the date hereof and thereafter on the first day of each month during the Lease Term (as same may be extended), such amounts as Landlord from time to time estimates as reasonably necessary to create and maintain a reserve fund to be held by Landlord (or its lenders or ground lessors), without interest, from which to pay all impositions of any kind whatsoever due against the Demised Premises one month prior to the date same become due without interest or penalty (including without limitation all real estate taxes, assessments, liens and charges on or against the Demised Premises or any part thereof or relating in any way to the operations at the Demised Premises), all frontage assessments and charges and all premiums for insurance required to be maintained by Tenant under this Lease including without limitation the property, liability and life insurance herein referenced (collectively, "Impositions"). In the event of any default under the terms of this Lease, any part or all of such reserve fund may be applied in such fashion as Landlord may determine and Landlord shall be entitled to refuse to disburse such deposits following any such default. If one month prior to the due date of any such Impositions the amount then on deposit therefor shall be insufficient for the payment of such obligation in full, Tenant, within five (5) days after written notice from Landlord, shall deposit the amount of the deficiency with Landlord. Until expended or applied as above provided, any amounts in the reserve fund pursuant to this Section 4.3 (and all amounts held by or for Landlord relating to insurance or condemnation proceeds) shall constitute additional security for the payment and satisfaction of all of Tenant's obligations hereunder. The reserve fund (including all amounts held by or for Landlord relating to insurance or condemnation proceeds) shall not constitute a trust fund and may be commingled with other monies held by Landlord. No earnings or interest on the reserve fund (or on any amounts held by or for Landlord relating to insurance or condemnation proceeds) shall be payable to Tenant. Provided no default under the terms of this Lease then exists, Landlord shall apply the amounts in the reserve fund to the payment of such Impositions as and when same become due and payable if and to the extent sufficient funds for same are then available.

B. Intentionally omitted.

C. Any and all sums due under this Lease from Tenant to Landlord (other than the Minimum Annual Rent) shall be deemed "Additional Rent" hereunder. A failure to pay Additional Rent shall have the same effect and shall be treated identically to a failure to pay Minimum Annual Rent, as all such sums are hereby considered "rent".

D. Except as otherwise specifically noted in A above, Tenant will pay or cause to be paid when due and payable all real estate taxes, sales taxes, rent taxes, assessments (including, but not limited to, all assessments for public improvements or benefits and any payable in installments shall nonetheless be paid at once), liens, water and sewer rates, common area maintenance charges, charges or expenses due under any Restrictions (hereafter defined), vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Demised Premises, charges for public or private utilities, license permit fees, inspection fees and other governmental levies or payments, of every kind and nature whatsoever, general and special, ordinary and extraordinary, unforeseen as well as foreseen, which at any time may be assessed, levied, confirmed, imposed or which may become a lien upon the Demised Premises or any portion thereof, or which are payable with respect thereto, or upon the rents, issues, income or profits thereof (excluding Landlord's income taxes), or on the occupancy, operation, use, possession or activities thereof, whether any or all of the same be levied directly or indirectly or as excise taxes or as income taxes (but excluding Landlord's income taxes), and all taxes, assessments or charges which may be levied on this Lease, or the interest thereon. Tenant will deliver to Landlord, upon request, copies of official receipts or other satisfactory proof evidencing such payments. Tenant may contest the amount of real estate taxes payable to the extent that Tenant, in its commercially reasonable judgment, shall consider it prudent to do so provided that same does not expose Landlord to any criminal or civil liability, penalty or sanction, and further provided that under no circumstances shall Tenant have the right to withhold any payments to be made to or on behalf of Landlord hereunder nor shall Landlord have any obligation to withhold the payment of any real estate taxes levied or assessed. Landlord shall cooperate with Tenant, at Tenant's sole cost and expense, in any such proceedings, and Landlord shall execute all applications, affidavits and other supporting documentation reasonably requested by Tenant in connection therewith.

## **ARTICLE 5**

### **SECURITY DEPOSIT**

Simultaneously with Tenant's execution of this Lease, Tenant shall deposit with Landlord the sum of \$209,947.50 (which sum is equal to two months Minimum Annual Rent at the current rate plus six months current real estate taxes assessed against the Premises), which shall be held by Landlord as security (the "Security Deposit") for Tenant's performance of all of its obligations under this Lease. From time to time during the Lease Term, promptly upon demand from Landlord, Tenant shall deposit additional amounts with Landlord such that the Security Deposit held by Landlord hereunder shall at all times be equal to the sum of two months then-current Minimum Annual Rent and six months then-current real estate taxes assessed against the Premises. If Tenant defaults in respect of any of the terms, provisions and conditions of this Lease beyond applicable

notice and/or cure periods, including, but not limited to, the payment of any installment of Minimum Annual Rent and/or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any such installment and/or any other sum as to which Tenant is in default or for any reasonable sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants, and conditions of this Lease, including but not limited to, any damages or deficiency in the re-letting of the Demised Premises, whether such damages or deficiency accrued before or after summary proceedings or other re-entry by Landlord, whereupon Tenant shall promptly deposit such sums with Landlord sufficient to restore the Security Deposit to the amount required hereunder. If Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, then the Security Deposit (less the fee due to Landlord, as set forth below) shall be returned to Tenant within thirty (30) days after the expiration of the Lease Term and after delivery of possession of the Demised Premises to Landlord as required by this Lease. In the event of a sale of the Demised Premises, Landlord shall have the right to transfer the security to the transferee, and Landlord shall thereupon be released by Tenant from all liability for the return of such Security Deposit, and Tenant agrees to look solely to the new Landlord for the return of said Security Deposit. The provisions hereof shall apply to each and every transfer or assignment made of the Security Deposit to a new Landlord/transferee. Tenant shall not assign or encumber or attempt to assign or encumber the Security Deposit, and neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

## **ARTICLE 6**

### **USE**

6.1 Subject to Tenant's compliance with Legal Requirements and the Restrictions (both as hereafter defined) and subject to the rights of Tenant pursuant to Section 11.5 below, Tenant shall use the Demised Premises solely as a "first run" movie theatre (including (i) the incidental sale of candy, soft drinks, popcorn, nuts, ice cream and such other concession and refreshment items as are customarily sold in "first run" movie theatres, (ii) the incidental rental or sale of toys, video tapes, recordings, tapes, and posters and novelties sold in connection with other activities as are usual and customary from time to time for "first run" movie theatres and (iii) the ancillary installation of coin-operated food and beverage vending machines, electronic game machines and amusement devices for its customers' enjoyment). Tenant agrees not to cause or allow a nuisance to others in respect of the operations of the Demised Premises. Tenant agrees not to show pornographic or other motion pictures commonly known and referred to as "XXX" rated films.

6.2 OPERATION OF BUSINESS. Except during periods of renovation or alteration as permitted hereunder and except as Tenant, in its commercially reasonable discretion, shall close Tenant's business when reasonably necessary due to fire or other casualty or force majeure causes (provided that Tenant shall exercise reasonable efforts to re-open for business as soon as reasonably practicable thereafter), and subject to compliance with Legal Requirements and the Restrictions, Tenant shall continuously operate the Demised Premises for at least such hours of operation as are customary for "first run" movie theatres in the metropolitan area in which the Demised Premises is located.

**ARTICLE 7**

**SERVICES AND UTILITIES**

7.1 OBTAINING UTILITIES. Tenant agrees, at its sole cost and expense, to arrange for, and pay for, the hooking up of, and the connection to, all requisite utilities to the Demised Premises, including meters, and to directly pay for the use of all such utilities. In the event that any utilities are billed directly to Landlord, whether sub-metered or otherwise, then and in that event Tenant shall pay to Landlord immediately upon demand all of such expenses. Tenant acknowledges that Landlord shall have no responsibility or liability to Tenant whatsoever for the provision or supply of utilities to the Demised Premises, or for the cost of any such utilities, all of same being the sole responsibility of Tenant.

7.2 INTERRUPTION OF SERVICES AND UTILITIES. Landlord shall not be liable for, and Tenant shall not be entitled to any reduction of the Minimum Annual Rent or of the Additional Rent on account of Tenant's failure to receive any utility service on account of accident, breakage, when such failure is caused by acts of God, war, repairs, strikes, lockouts or other labor disturbances or disputes, unavailability of materials or labor, or by any other cause whatsoever, or by rationing or restrictions on the use of said services and utilities due to energy shortages, war or any other reason, or the making of repairs, alterations or improvements to the Demised Premises or Building. Furthermore, Landlord shall not be liable under any circumstances for a loss of, or injury to, property or for injury to, or interference with, Tenant's business, including, without limitation, loss of profits, however occurring, through or in connection with or incidental to a failure to furnish or receive any of the foregoing services or utilities, and Tenant shall not be relieved of its obligation to pay the full Minimum Annual Rent or any Additional Rent by reason thereof.

**ARTICLE 8**

**INDEMNITY AND INSURANCE**

8.1 INDEMNIFICATION. Landlord shall not be liable for and Tenant hereby relinquishes any claims against Landlord (and the lessor or lessors under all ground or underlying leases and the holder of any mortgage or deed of trust encumbering Landlord's interest in the Demised Premises and all of their shareholders, members, partners, officers, directors, trustees, employees, agents or representatives (collectively, "Landlord's Affiliates")) for damage to any property, illness or death of any person in, upon, or about the Demised Premises arising at any time and from any cause whatsoever other than damages proximately and solely caused by reason of the willful misconduct or gross negligence of Landlord or its authorized agents, contractors or employees. Tenant shall indemnify, defend, and protect Landlord and Landlord's Affiliates, and hold Landlord and Landlord's Affiliates harmless from any and all loss, cost, damage, expense and liability (including without limitation court costs and reasonable attorneys' fees) (hereinafter collectively referred to as "Claims") incurred in connection with or arising from any cause in, on or about the Demised Premises (excluding, however, Claims arising proximately and solely by reason of the willful misconduct or gross negligence of Landlord or its authorized agents, contractors or employees), including, without limiting the

generality of the foregoing: (i) any default by Tenant in the observance or performance of any of the terms, covenants or conditions of this Lease on Tenant's part to be observed or performed, (ii) the use or occupancy of the Demised Premises by any party, (iii) the condition of the Demised Premises or any occurrence or happening in the Demised Premises from any cause whatsoever or (iv) any acts, omissions or negligence of any party in, on or about the Demised Premises or the Land, either prior to or during the Lease Term or any Extended Terms, including, without limitation, any acts, omissions or negligence in the making or performance of any alterations. Tenant further agrees to indemnify and save harmless Landlord and Landlord's Affiliates, from and against any and all Claims incurred in connection with or arising from any claims by any persons by reason of injury to persons or damage to property occasioned by any use, occupancy, condition, occurrence, happening, act, omission or negligence referred to in the preceding sentence or otherwise at, on or about the Demised Premises (provided such Claims do not arise solely as a result of the willful misconduct or gross negligence of Landlord or its authorized agents or employees). The provisions of this Section 8.1 shall survive the expiration or sooner termination of this Lease with respect to any claims or liability occurring prior to such expiration or termination. Landlord shall have the right to undertake, control and conduct, through counsel of its own choosing and at the sole cost and expense of Tenant, the conduct and settlement of any Claim giving rise to indemnification hereunder, and the Tenant shall cooperate with the Landlord in connection therewith.

8.2 FIRE AND CASUALTY. Tenant shall maintain, at its sole cost and expense,

(a) insurance with respect to all of the Demised Premises (including the Building, all other improvements now or hereafter located on any portion of the Demised Premises and Tenant's personal property and equipment) against loss or damage by perils customarily included under standard "all-risk" policies (at a minimum, such policy shall cover the perils insured under the ISO special causes of loss form CP1030), in amounts sufficient to prevent Tenant or Landlord from becoming a co-insurer of any partial loss under the applicable policies and with an actual replacement value endorsement. Tenant shall also maintain, at its sole cost and expense, separate (or as part of the property insurance referred to above) (a) explosion insurance in respect of any steam and pressure boilers and similar apparatus located in the Demised Premises in such amounts as are usually carried by persons operating similar commercial properties in the same general locality, but in any event in an amount not less than \$10,000,000, (b) flood and/or earthquake hazard insurance (if such insurance is typically required to be carried on similar commercial properties in the New York metropolitan area as determined by Landlord in its reasonable discretion), (c) worker's compensation insurance to the full extent required by applicable law for all employees of Tenant engaged in any work on or about the Demised Premises and employer's liability insurance with a limit of not less than \$1,000,000 for each occurrence or any statutory minimum, whichever is higher, (d) business interruption insurance in an amount equal to the loss of gross earnings and rental value for a period of at least 24 months due to loss or damage resulting from any of the risks referred to in the clauses (a) through (d), which business interruption insurance may be subject to a deductible (or an exclusion) not exceeding the first five days following each loss, (e) to the extent not already provided for the direct benefit of Landlord pursuant to (d) above, rental interruption insurance in an amount equal to the Minimum Annual Rent and the Additional Rent for a period of at least 24 months due to loss or damage resulting from any of the risks referred to in the clauses (a) through (d), which rental interruption insurance may be subject to a deductible (or an exclusion) not exceeding the first five days following each loss and (f) all-risk builders' risk insurance with respect to the Demised Premises during any period in which there is any

construction occurring at the Demised Premises, against loss or damage by fire and such other risks, including vandalism, malicious mischief and sprinkler leakage, as are included in so-called "extended coverage" clauses at the time available with respect to similar commercial property, in an amount not less than the value of the alterations and/or additions made to the Demised Premises when the work is not insured under Tenant's property insurance.

**8.3 TENANT INSURANCE.** Tenant shall obtain and maintain throughout the Lease Term, at its sole cost and expense, a policy or policies of standard fire, extended coverage and special extended coverage insurance ("All Risks"), including a vandalism and malicious mischief endorsement and sprinkler leakage coverage in an amount equal to the full replacement value new without deduction for depreciation of all fixtures, furniture and leasehold improvements installed in the Building and all alterations and additions thereto, and replacement cost insurance on all plate or tempered glass in or enclosing the Demised Premises.

**8.4 LIABILITY INSURANCE.** Tenant shall obtain and maintain throughout the Lease Term, an at its sole cost and expense, comprehensive general liability insurance, including public liability and property damage insurance in the amount of no less than Ten Million Dollars (\$10,000,000) per occurrence for personal injuries or deaths of persons occurring in or about the Demised Premises including a Broad Form Comprehensive General Liability endorsement covering the insuring provisions of this Lease and the performance of Tenant of the indemnity agreements set forth in Section 8.1 hereof.

**8.5 ADDITIONAL INSURANCE.** Tenant shall carry and maintain during the Lease Term, at its sole cost and expense, such other types of insurance coverage and in such amounts covering the Demised Premises and Tenant's operations therein, as may be requested by Landlord or Landlord's lender on the Demised Premises so long as such other insurance is customarily required to be carried on similar commercial properties in the New York metropolitan area by Institutional Lenders (being defined for this purpose as a bank, thrift, savings and loan, insurance company, credit company, credit union, pension fund, real estate investment trust, "conduit" or "securitized" lender and any affiliate of any of the foregoing and any other entity that makes or intends on making in excess of six (6) loans in the then-current calendar year).

**8.6 FORM OF POLICIES.** The minimum limits of policies of insurance required of Tenant under this Lease shall in no event limit the liability of Tenant under this Lease. Such insurance shall: (i) (with respect to the property and liability insurance required to be maintained by Tenant hereunder), name Landlord and Landlord's lender(s) and ground lessor(s) as additional named insureds as their respective interests may appear, including without limitation one or more loss payee endorsements on the property insurance in favor of the holders of any mortgages or deeds of trust encumbering the interest of Landlord in the Demised Premises or the ground or underlying lessors of the Land, or any portion thereof (except with respect to Tenant's business interruption insurance provided in Tenant's property insurance), (ii) specifically cover the liability assumed by Tenant under this Lease, including, but not limited to, Tenant's obligations under Section 8.1 of this Lease, (iii) be issued by an insurance company having a rating of not less than A-X in Best's Insurance Guide or which is otherwise acceptable to Landlord and licensed to do business in the State in which the Demises Premises is located, (iv) be primary insurance as to all claims thereunder and that any insurance carried by Landlord is excess and non-contributing with any insurance requirement of Tenant, (v) provide that said

insurance shall not be cancelled or coverage changed unless thirty (30) days' prior written notice shall have been given to Landlord and any lender or ground lessor of Landlord's, (vi) contain in the liability insurance policy a cross liability endorsement or severability of interest clause acceptable to Landlord and (vii) shall not have a deductible in excess of \$25,000. Tenant shall deliver said policy or policies or certificates thereof to Landlord on or before the Lease Commencement Date and at least thirty (30) days before the expiration dates thereof. Tenant shall, at Tenant's sole cost and expense, comply with all insurance company requirements pertaining to the Demised Premises. Tenant, at Tenant's expense, shall comply with all rules, orders, regulations or requirements of the American Insurance Association (formerly the National Board of Fire Underwriters) and with any similar body. Landlord shall be entitled to increase any or all of the minimum insurance coverages provided for in this Lease to such higher amounts as Landlord shall deem, in its good faith determination, to be appropriate, provided such higher amounts are typically required to be carried on similar commercial properties in the New York metropolitan area. Tenant shall have the right to provide insurance coverage for which it is obligated pursuant to Article 8 in a blanket policy, provided such blanket policy expressly affords coverage in the Demised Premises and to Landlord as required herein and that such coverage shall be property specific and shall not be limited in amount by claims at other properties under such blanket insurance policy.

8.7 SUBROGATION. Tenant and Landlord each agrees to have its respective insurance company(ies) issuing property damage insurance waive any rights of subrogation that such company(ies) may have against Landlord or Tenant, as applicable.

8.8 DELIVERY OF POLICIES, ETC. Tenant will deliver, or cause to be delivered, to Landlord, no later than 30 days prior to the expiration of any policy, a binder or certificate of the insurer evidencing the replacement thereof and not later than 15 days prior to the expiration of such policy, (a) at the written request of Landlord, the original or true copies of all policies evidencing all insurance required to be maintained under this Article 8 together with certificates of insurance and a letter from an insurance broker or agent satisfactory to Landlord to the effect that the insurance policies maintained by Tenant comply with the terms of this Lease, and (b) at the written request of Landlord, evidence as to the payment of all premiums due thereon (with respect to public liability insurance policies, all installments for the current year due thereon to such date), provided that Landlord shall not be deemed by reason of its custody of such policies to have knowledge of the contents thereof. Tenant will also deliver to Landlord, promptly upon written request, a certificate of a principal of Tenant certifying that such policies comply with the requirements of this Section, that all premiums due thereon have been paid and that the same are in full force and effect. In the event Tenant shall fail to effect or maintain any insurance required to be effected or maintained pursuant to the provisions of this Article 8, Landlord shall have the right, but not the obligation, to obtain any such insurance and any reasonable amount expended by Landlord shall be deemed Additional Rent under this Lease and shall immediately be due and payable by Tenant within five (5) days after delivery to Tenant of a bill therefor, and same shall be without prejudice to Landlord's rights and remedies in respect of such default.

8.9 SEPARATE INSURANCE. Tenant will not take out separate insurance concurrent in form or contributing in the event of loss with that required to be

maintained pursuant to this Article 8.

**8.10 LIFE INSURANCE POLICY.** In addition to all other insurance requirements set forth in this Lease, Tenant, at Tenant's sole cost and expense, shall also be required to maintain in full force and effect a twenty (20) year term life insurance policy covering Norman Adie, which shall name the Landlord as the sole beneficiary and be owned by Landlord and provide that all proceeds payable thereunder shall be payable directly to Landlord (the "Life Insurance Policy"). Such Life Insurance Policy shall be satisfactory in all respects to Landlord in Landlord's sole but reasonable discretion, including, without limitation, the policy limits, and must be issued by an insurance company reasonably acceptable to Landlord. Tenant shall deliver the Life Insurance Policy to Landlord on or prior to the Lease Commencement Date with all premiums paid one year in advance, and shall also deliver to Landlord satisfactory evidence of the renewal of same from time to time as necessary to demonstrate Tenant's compliance with this

Section 8.10. To ensure Tenant's compliance with this Section 8.10, Tenant shall pay to Landlord, on the first day of each month during the Lease Term, an amount determined by Landlord as necessary to create and maintain an escrow fund to be held by Landlord (or its lender), without interest, from which to pay the next annual premium coming due on the Life Insurance Policy (such that one month prior to the due date of such annual premium, Landlord shall then be holding an amount sufficient to pay same). In the event of any default under the terms of this Lease, any part or all of such escrow fund may be applied in such fashion as Landlord may determine. If one month prior to the due date of such annual premium the amount then on deposit therefor shall be insufficient for the payment of same in full, Tenant, within five (5) days after written notice from Landlord, shall deposit the amount of the deficiency with Landlord. All amounts held pursuant to this Section 8.10 shall constitute additional security for the payment and satisfaction of all of Tenant's obligations hereunder. The aforementioned escrow fund shall not constitute a trust fund and may be commingled with other monies held by Landlord. In the event of the death of Norman Adie and the receipt by Landlord of the proceeds of the Life Insurance Policy, Tenant shall receive a credit against the installments of Minimum Annual Rent thereafter coming due under this Lease in an amount per annum equal to ten percent (10%) of the amount of such proceeds actually received by Landlord, until such time as the entire amount of such proceeds received by Landlord shall have been credited against such installments of Minimum Annual Rent. Such annual credit, if applicable, shall be applied in equal monthly installments equal to 1/12th of the annual amount being credited.

## **ARTICLE 9**

### **TENANT IMPROVEMENTS/ALTERATIONS; ADDITIONAL THEATER**

**9.1 IMPROVEMENTS.** A. Landlord agrees that Tenant may (at Tenant's own cost and expense and after giving Landlord at least twenty (20) days' prior notice in writing of its intention to do so, including with such notice a copy of any and all plans, specifications and working drawings therefore (except that no plans, specifications and working drawings shall be required for any purely decorative or non-structural alteration costing less than \$100,000)) make such improvements, alterations, additions, and changes in and to the interior of the Demised Premises (except those of a structural nature) as it may find necessary or convenient for its purposes, provided that the value of the Premises is not thereby diminished, and provided further that Tenant may not make any improvements, alterations, additions or changes to the Demised Premises without first procuring the prior written consent of Landlord to such improvements, alterations, additions or changes (except that no such consent shall be required

for any purely decorative or non-structural alteration costing less than \$100,000, and no consent shall be required for replacements and upgrades of Tenant's personal property and trade fixtures made in the ordinary course of Tenant's business operations). All structural and/or exterior alterations to the Demised Premises or any portion thereof require Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed provided that plans, specifications and working drawings for such structural and/or exterior alterations shall have been delivered to Landlord, together with such other information reasonably requested by Landlord, in order to enable Landlord to evaluate Tenant's request for consent. If Tenant's actions are otherwise in compliance with this Article 9, all improvements, fixtures and/or equipment which Tenant may install or place in or about the Demised Premises, and all improvements, alterations, repairs or changes to the Demised Premises, and all signs installed in, on or about the Demised Premises, from time to time, shall be at the sole cost of Tenant and shall be and become the property of Landlord (without lien or lease thereon). Landlord shall be without any obligation in connection therewith. Tenant hereby indemnifies and holds Landlord and Landlord's Affiliates harmless from any liability, cost, obligation, expense or claim of lien in any manner relating to the installation, placement, removal or financing of any such improvements, alterations, repairs, changes, improvements, fixtures and/or equipment in, on or about the Demised Premises.

B. Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever (including a lease or license), whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon the Land, the Building or the Demised Premises, and any and all liens and encumbrances created by Tenant shall attach to Tenant's interest only. Landlord shall have the right at all times to post and keep posted on the Demised Premises any notice which it deems necessary for protection from such liens. Tenant covenants and agrees not to suffer or permit any lien of creditors, mechanics or materialmen or others to be placed against the Land, the Building or the Demised Premises with respect to work, product or services claimed to have been performed for or materials claimed to have been furnished to Tenant or the Demised Premises, and, in case of any such lien attaching or notice of any lien, Tenant covenants and agrees to cause it to be immediately released and removed of record. Notwithstanding anything to the contrary set forth in this Lease, in the event that such lien is not released and removed on or before the date occurring twenty (20) days after notice of such lien is delivered by Landlord to Tenant, Landlord, at its sole option, may immediately take all action necessary to release and remove such lien, without any duty to investigate the validity thereof, and all sums, costs and expenses, including reasonable attorneys' fees and costs, incurred by Landlord in connection with such lien shall be deemed Additional Rent under this Lease and shall immediately be due and payable by Tenant and same shall be without prejudice to Landlord's rights and remedies in respect of such default.

9.2 Tenant shall construct any such improvements, alterations or repairs in a first class and in a good and workmanlike manner using proper materials and workmanship as may then be customary for facilities similar to the Demised Premises in the New York metropolitan area, and in conformance with any and all applicable laws, rules and regulations of any federal, state, county or municipal code or ordinance and pursuant to a valid building permit, issued by the applicable governmental jurisdiction. In the event Tenant orders any construction, alteration, decorating or repair work directly from Landlord, or from the contractor selected by Landlord, the charges for such work shall be deemed Additional Rent under this Lease, payable promptly upon billing therefor, either periodically during construction or upon the substantial completion of such work, at Landlord's option. All work with respect to any alterations, additions or changes must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Demised Premises shall at all times be a complete unit except during the period of work. Upon

completion of any improvements, alterations, additions or changes (other than non-structural improvements, alterations, additions or changes costing less than \$100,000), Tenant agrees to cause a notice of completion or its equivalent to be properly recorded and Tenant shall deliver to Landlord a copy of the "as built" drawings of the improvements. Any such alterations, additions or changes shall be performed and done strictly in accordance with the laws and ordinances relating thereto. In performing the work of any such improvements, alterations, additions or changes, Tenant shall have the work performed in such manner as not to obstruct the access to or use of the Building or common areas, if any.

**9.3 CONSTRUCTION INSURANCE.** In the event that Tenant shall make any improvements, alterations, additions or changes to the Demised Premises, in compliance with the terms and provisions of this Article 9, Tenant agrees to carry "Builder's All Risk" insurance in an appropriate amount covering the construction of such improvements, alterations, additions or changes, and such other insurance as Landlord may require provided such other insurance is typically required to be carried for similar commercial properties in the New York metropolitan area, it being understood and agreed that all of such improvements, alterations, additions or changes shall be insured by Tenant pursuant to Article 8 of this Lease. In addition, with respect to improvements, alterations, additions and/or changes to the Demised Premises the cost of which exceeds \$50,000, Landlord may, in its discretion, require Tenant to obtain a lien and completion bond or some alternate form of security satisfactory to Landlord in an amount to ensure the lien-free completion of such improvements, alterations, additions or changes.

**9.4 ADDITIONAL THEATER.** A. At any time during the Term of the Lease (but subject to the outside date contained in the last sentence of this Section 9.4), Tenant shall be permitted to construct, at Tenant's sole cost and expense and subject to the terms and provisions of Article 9 and this Section 9.4, a ground floor addition to the existing Building located on the Demised Premises, which addition shall accommodate no less than one hundred thirty (130) seats (the "Additional Theater"). Landlord shall reasonably cooperate with Tenant, to the extent required and at no cost to Landlord, in connection with any variance applications, building permit applications and other governmental and quasi-governmental applications and approvals necessary to construct the Additional Theater. All provisions of this Article 9 shall be applicable to Tenant's construction of the Additional Theater, and in the event that Tenant shall have given Landlord written notice of its intention to construct the Additional Theater as aforesaid, then the Additional Theater shall be constructed by Tenant expeditiously (but in no event later than May 31, 2007) and in all other respects in compliance with this Article 9.

B. Tenant shall give Landlord no less than thirty (30) days written notice of its intention to commence construction on the Additional Theater, including with such written notice a copy of any and all plans, specifications and working drawings therefor (which plans, specifications and working drawings must be satisfactory to Landlord in all respects and must be approved by Landlord in writing in advance, which approval shall not be unreasonably withheld, delayed or conditioned).

C. Provided that Tenant shall have constructed the Additional Theater in compliance with this Article 9 and in compliance with the approved plans, specifications and working drawings, and provided further that the Funding Conditions (hereafter defined) shall have been fully satisfied, Landlord shall pay to Tenant the sum of Five Hundred Thousand Dollars (\$500,000) as a "Landlord Construction Allowance". For purposes of this Section 9.4, "Funding Conditions" shall mean: (i) the Additional Theater shall have been completed in compliance with the approved plans, specifications and working drawings (as same may have been amended from time to time with the prior written consent of Landlord in accordance with the terms of this Section 9.4), and all applicable governmental approvals such as, but not limited to, a final, permanent and unconditional certificate of occupancy for the Additional Theater, shall have been received, (ii) Landlord shall have received an architect's certification on AIA form that the Additional Theater has been completed in accordance with the approved plans, specifications and working drawings (as same may have been amended from time to time with the prior written consent of Landlord in accordance with the terms of this Section 9.4), (iii) Landlord shall have received, at Tenant's sole cost and expense, such lien waivers and title endorsements as Landlord shall reasonably require, (iv) Tenant shall be operating in the Additional Theater and same shall be open for business and (v) no default shall then exist under the Lease beyond applicable notice and/or cure periods. Tenant shall be responsible for any excess costs relating in any way to the construction of the Additional Theater over the Landlord Construction Allowance, and Tenant shall indemnify and hold Landlord harmless from and against all such excess costs. If payable pursuant to the terms hereof, the Landlord Construction Allowance shall be disbursed no later than ten (10) days after the satisfaction of all of the Funding Conditions, failing which the unpaid portion of Landlord's Construction Allowance shall thereafter bear interest until paid at a rate per annum equal to the lesser of the Prime Rate plus two percent (2%) per annum or the highest rate permitted by applicable law. In the event that Tenant shall have constructed the Additional Theater in compliance with this Article 9 and in compliance with the approved plans, specifications and working drawings, and all of the Funding Conditions shall have been fully satisfied, but Landlord has not paid the Landlord Construction Allowance to Tenant as herein required, then, provided Tenant shall first have given Landlord no less than ten (10) business days notice of such failure to pay the Landlord Construction Allowance and further provided that Landlord shall not have paid same to Tenant within such ten (10) business day period, Tenant may offset the Landlord Construction Allowance (with interest as aforesaid) against the Minimum Annual Rent and Additional Rent next coming due under this Lease until same is fully paid. Notwithstanding the foregoing, in the event that Landlord shall have notified Tenant that Landlord disputes that the Landlord Construction Allowance is due and payable pursuant to the terms of this Article 9 (whether as a result of the Additional Theater not having been completed in compliance with the approved plans, specifications and working drawings or as a result of any of the Funding Conditions not having been satisfied as herein required or otherwise), then Tenant shall not be entitled to exercise the foregoing offset right and Tenant shall continue to pay the full Minimum Annual Rent and Additional Rent as required by this Lease. In the event that Landlord shall dispute that the Landlord Construction Allowance is due and payable as aforesaid, then Landlord shall be required to post the Landlord Construction Allowance in an escrow account with a title company reasonably acceptable to Landlord and Tenant, and the dispute shall be settled by arbitration in accordance with the Arbitration Procedure of The Real Estate Board of New York, Inc. (with the fees and expenses of arbitration borne equally by the parties).

D. In the event that Tenant shall have elected to construct the Additional Theater, same shall automatically become and be deemed for all purposes under this Lease to be a part of the Demised Premises, and upon the expiration or sooner termination of the term of this Lease, the Additional Theater shall be surrendered to and become the property of Landlord.

9.5 TENTH THEATER. A. At any time after or simultaneously with Tenant's construction of the Additional Theater in compliance with Section 9.4 (but subject to the outside date contained in the last sentence of this Section 9.5), Tenant shall be permitted to construct, at Tenant's sole cost and expense and subject to the terms and provisions of Article 9 and this Section 9.5, and without payment, allowance or contribution of any kind from Landlord, a tenth theater above the Additional Theater (hereinafter referred to as the "Tenth Theater"), which Tenth Theater shall accommodate no less than one hundred thirty (130) seats. Landlord shall reasonably cooperate with Tenant, to the extent required and at no cost to Landlord, in connection with any variance applications, building permit applications and other governmental and quasi-governmental applications and approvals necessary to construct the Tenth Theater. All provisions of this Article 9 shall be applicable to Tenant's construction of the Tenth Theater, and in the event that Tenant shall have given Landlord written notice of its intention to construct the Tenth Theater as aforesaid, then the Tenth Theater shall be constructed by Tenant expeditiously (but in no event later than May 31, 2009) and in all other respects in compliance with this Article 9.

B. Tenant shall give Landlord no less than thirty (30) days written notice of its intention to commence construction on the Tenth Theater, including with such written notice a copy of any and all plans, specifications and working drawings therefor (which plans, specifications and working drawings must be satisfactory to Landlord in all respects and must be approved by Landlord in writing in advance, which approval shall not be unreasonably withheld, delayed or conditioned).

C. In the event that Tenant shall have elected to construct the Tenth Theater, same shall automatically become and be deemed for all purposes under this Lease to be a part of the Demised Premises, and upon the expiration or sooner termination of the term of this Lease, the Tenth Theater shall be surrendered to and become the property of Landlord.

9.6 LANDLORD'S APPROVAL. Landlord agrees to approve or reject Tenant's plans, specifications and/or construction drawings for the Additional Theater and/or the Tenth Theater, as applicable, within ten (10) business days after Landlord's receipt of such plans, specifications and/or construction drawings. If Landlord has not approved or rejected such plans and specifications within said ten (10) business day period, Landlord shall have an additional three (3) business days after receipt of written notice from Tenant to approve or reject such plans and specifications. If Landlord has not approved or rejected such plans and specifications after such subsequent three (3) business day period, such plans and specifications shall be deemed approved.

## **ARTICLE 10**

### **SIGNS**

10.1 A. Subject to (i) Tenant's receipt of the approval of all governmental authorities having jurisdiction over the Demised Premises, (ii) the terms covenants and conditions of any covenants, conditions and restrictions and/or reciprocal easement agreements which encumber the Demised Premises and (iii) Landlord's rights pursuant to subsection 10.1 B below, Tenant may install signage on the interior and/or exterior portions of the Demised Premises for Tenant's operations, which shall include such signage and advertising as Tenant chooses to exhibit for the purposes of advertising movies being shown, or to be shown, at the Demised Premises; PROVIDED, HOWEVER, that if Landlord shall already have installed or notified Tenant of its intention to install Landlord's Additional Property, then any exterior signage of Tenant to be added following such installation or notification shall not unreasonably interfere with Landlord's Additional Property. Any signs, notices, logos, pictures, names or advertisements which are installed by Tenant must be designed, installed and utilized in keeping with Tenant's corporate identity and/or consistent with the operation of a "first run" movie theater, and shall be similar in size, nature, and materials used in Tenant's other business locations. Except as otherwise provided in subsection 10.1 B below, Landlord and Tenant shall share equally in all rental and/or other income of any kind in any way derived from any advertisements and/or signage of any kind installed after the date of this Lease on the exterior portions of the Demised Premises.

B. (1) As of the date of this Lease, there exist two (2) billboard signs on the exterior of the Demised Premises (the "Existing Billboard Signs"). Landlord shall be entitled to all signage and other rights with respect to one of such Existing Billboard Signs (such sign to be chosen by Landlord, and such sign as chosen by Landlord being referred to herein as "Landlord's Billboard Sign"), including, without limitation, all rights to any and all rental and/or other income in any way derived from Landlord's Billboard Sign. Tenant shall afford Landlord, any tenant/licensee of Landlord's Billboard Sign and any contractor, agent, employee or representative of either reasonable access to the Demised Premises at reasonable times and upon reasonable notice to Tenant (in either case except in the event of emergency) to maintain, alter and/or replace same, and Landlord's Billboard Sign shall be maintained at Landlord's or such tenant/licensee's cost and expense.

(2) Simultaneously with the full execution of this Lease, Landlord shall enter into an eight (8) year license agreement (on Landlord's form for same) with Town Sports International, Inc. ("TSI") for the use of the remaining Existing Billboard Sign, such license agreement to provide for annual license payments equal to One (\$1.00) Dollar and such other terms and provisions as reasonably acceptable to Landlord and TSI; PROVIDED and on the condition that such license agreement with TSI be expressly subject and subordinate in all respects to this Lease (such that said license agreement shall automatically terminate and be of no further force or effect upon the termination of this Lease including termination following a default hereunder by Tenant beyond applicable notice and/or cure periods). Upon the expiration or earlier termination of such license agreement with TSI, Landlord shall thereafter automatically be entitled to all rights with respect to such remaining Existing Billboard Sign, including, without limitation, all rights to any and all rental and/or other income in any way derived from same, and same shall thereafter be deemed to be part of Landlord's Billboard Sign for all purposes under this Lease.

(3) Tenant may install such signage and advertising on the marquis (if any) located at the Demised Premises as Tenant, in Tenant's sole discretion, may determine, subject to and in compliance with the terms, provisions and conditions of this Article 10.

10.2 Tenant shall be solely responsible for maintaining and/or replacing any and all interior signage on the Demised Premises, at Tenant's sole cost and expense. Landlord covenants and agrees that Landlord shall not unreasonably withhold, delay or condition its consent to any additional or replacement signage proposed to be installed by Tenant from time to time in or upon the Demised Premises, provided that Tenant shall comply with all legal requirements with respect thereto. Landlord agrees to approve or reject Tenant's plans and specifications for any additional or replacement signage within ten (10) business days after Landlord's receipt of such plans and specifications. If Landlord has not approved or rejected such plans and specifications within said ten (10) business day period, Landlord shall have an additional three (3) business days after receipt of written notice from Tenant to approve or reject such plans and specifications. If Landlord has not approved or rejected such plans and specifications after such subsequent three (3) business day period, such plans and specifications shall be deemed approved. Landlord shall cooperate with Tenant, at Tenant's expense, in connection with applications made by Tenant for approval of Tenant's signage, including variance applications, to the extent such cooperation shall reasonably be necessary.

## **ARTICLE 11**

### **ASSIGNMENT AND SUBLETTING**

11.1 RESTRICTIONS. Except as expressly set forth in Section 11.5 below, Tenant shall not transfer, assign, sublet, mortgage, license, grant a concession or otherwise hypothecate or encumber this Lease, or Tenant's interest in and to the Demised Premises (collectively, a "Transfer"), without first obtaining the Landlord's written consent thereto, which consent may be withheld or granted in Landlord's sole determination. Any such attempted or purported Transfer without Landlord's prior written consent shall be void and of no force or effect and shall constitute a default under this Lease. For purposes of this Lease, Transfer shall be deemed to include a change in control of Tenant or the transfer in the aggregate of more than 25% of the equity interests in Tenant (or, in the event that Tenant's equity interests are publicly traded on a nationally recognized securities exchange, then the transfer in the aggregate of more than 50%). Notwithstanding the foregoing, (i) changes in ownership of any equity interests in Tenant by devise or descent and/or (ii) transfers of ownership interests of up to 40% in the aggregate to immediate family members and/or trusts established for the benefit of such immediate family members (provided that after such transfer(s) Norman Adie at all times thereafter retains full management and control of Tenant and at all times thereafter retains no less than 51% of the equity interests in Tenant) shall be excluded from the definition of "Transfer" for purposes of this Section 11.1.

11.2 PROCEDURE FOR TRANSFER. Should Tenant desire to make a Transfer hereunder for which Landlord's prior written consent is required, Tenant shall, in each instance, give written notice of its intention to do so to Landlord at least thirty (30) days prior to the effective date of any such proposed Transfer, specifying in such notice the details of the proposed Transfer transaction and the proposed date thereof, and specifically identifying the

proposed transferee. Such notice shall be accompanied, in the case of a subletting, license, assignment or concession agreement, by a copy of the proposed sublease, license, assignment or concession agreement and any other documents or financial information Landlord may reasonably require in order to make a determination as to the proposed Transfer. Landlord shall, within fifteen (15) days after its receipt of such notice of a proposed Transfer from Tenant, by mailing written notice to Tenant of its intention to do so, pursuant to section 11.1 of this Lease, either (i) withhold consent to the Transfer or (ii) consent to such Transfer, but if Landlord shall fail to timely send its determination, then Landlord shall be deemed to have rejected the proposed Transfer.

11.3 EFFECT OF A TRANSFER. The transferee shall agree to comply with and be bound by and shall assume all of the terms, covenants, conditions, provisions and agreements of this Lease to the extent of the space transferred, assigned or sublet; and Tenant shall deliver to Landlord promptly after execution an executed copy of each such Transfer document and an agreement of compliance by the transferee. No Transfer of this Lease or agreement entered into with respect thereto, whether with or without Landlord's consent, shall relieve Tenant from its primary liability under this Lease.

11.4 REQUIRED DOCUMENTS. Each Transfer to which Landlord has consented shall be evidenced by a written instrument in form reasonably satisfactory to Landlord, executed by Tenant and the transferee, under which the Transferee shall agree in writing for the benefit of Landlord to assume, to perform and to abide by all of the terms, covenants and conditions of this Lease to be done, kept and performed by Tenant, including the payment of all amounts due or to become due under this Lease directly to Landlord and the obligation to use the Premises only for the purposes specified in this Lease. Tenant agrees to reimburse Landlord for Landlord's reasonable out-of-pocket costs (including reasonable attorneys' fees) incurred in conjunction with the processing of and documentation for each such requested Transfer, whether or not the Transfer is consummated.

11.5 NO CONSENT OF LANDLORD REQUIRED.

A. Provided Tenant is not then in default under this Lease beyond any applicable notice and/or cure periods, Tenant may, without obtaining the prior written consent of Landlord, assign its right, title and interest in and to this Lease to an entity that (i) has an audited net worth at the time of such assignment of no less than One Hundred Million Dollars (\$100,000,000.00) as determined by generally accepted accounting principles (provided, however that if the proposed assignee does not satisfy such minimum net worth requirement but its parent company does, then this requirement shall be satisfied provided such parent company executes a full guaranty of this Lease as a condition to such assignment, pursuant to a guaranty acceptable to Landlord) AND (ii) owns and operates, either itself or through its subsidiaries, no less than one hundred (100) theaters in the United States PROVIDED that Tenant thereafter continues to be primarily obligated under this Lease notwithstanding such assignment. Tenant shall in each instance give Landlord written notice of its intention to so assign its interest in this Lease at least thirty (30) days prior to the effective date of any such assignment, specifying in such written notice the details of the proposed assignment and identifying the proposed assignee. Such assignee shall agree to comply with and be bound by and shall assume all of the terms, covenants, conditions, provisions and agreements of this Lease pursuant

to an express written agreement between Tenant and such assignee in form satisfactory to Landlord, and Tenant shall deliver to Landlord promptly after execution an executed copy of each such written agreement.

B. Provided Tenant is not then in default under this Lease beyond any applicable notice and/or cure periods, Tenant may, without obtaining the prior written consent of Landlord, grant licenses to third parties for up to an aggregate of twenty-five percent (25%) of the floor space in the Demised Premises to unaffiliated parties for the operation of the concessions and/or food service components of Tenant's movie theater business in the Demised Premises or for such other operations (including retail operations) not inconsistent with the operation of a "first run" movie theater. Landlord hereby acknowledges its consent to the grade floor restaurant/cafe existing at the Demised Premises as of the date of this Lease. In no event shall any such permitted license relieve Tenant of its primary liability under this Lease.

11.6 ASSIGNMENT OF SUBLEASES, ETC. In the event of a sublet, license or grant of a concession to all or any portion of the Demised Premises (whether or not Landlord's consent is required in connection with same), such sublet, license or grant shall be deemed pledged to Landlord and Tenant hereby assigns to Landlord all its right, title and interest as landlord under any such sublease, license or concession agreement now existing or hereafter entered into, and all rents and other sums payable to Tenant under each such agreement, together with the right to collect and receive the same; PROVIDED that, if and so long as no default shall have occurred under this Lease beyond applicable notice and/or cure periods, then Tenant shall be permitted to exercise its rights and perform its obligations as landlord under such agreements and to collect and receive such rents and other sums for its own uses and purposes. Upon the occurrence of a default beyond applicable notice and/or cure periods, such permission shall automatically terminate. Such assignment shall be fully operative without any further action on the part of either party hereto, and Landlord shall be entitled, at its option, upon the occurrence of a default hereunder beyond applicable notice and/or cure periods, to all rents, income and other benefits from the Demised Premises whether or not Landlord takes possession of the Demised Premises. All actions or collections by Landlord pursuant to this Section 11.6 shall be without prejudice to its other rights and remedies on account of any default of Tenant.

## **ARTICLE 12**

### **REPAIRS AND MAINTENANCE**

Tenant agrees that Landlord shall have no obligation whatsoever in respect of the repair, operation, maintenance, compliance and/or replacement of the Demised Premises and it is Tenant's obligation, at Tenant's sole cost and expense, to repair, operate, maintain and/or replace all and every part of the Demised Premises. In particular, without implied limitation:

12.1 Tenant shall, at its sole cost and expense, continuously cause the repair, maintenance, operation and/or replacement of the Demised Premises to keep same in good and first-class order and repair and in such a fashion that the value and utility of the Demised Premises will not be diminished, and, at its sole cost and expense, will promptly make or cause to be made all necessary and appropriate repairs, replacements and renewals thereof, whether interior or exterior, structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen. All repairs, replacements and renewals shall be at least equal in

quality and class to the original Improvements. Tenant's obligation to repair shall include the obligation to rebuild in the event of destruction however caused. Neither the Minimum Annual Rent nor any Additional Rent shall be reduced and Landlord shall not be liable under any circumstances for a loss of or injury to property, loss of profits, or for injury to or interference with Tenant's business arising from or in connection with the condition of the Demised Premises (including without limitation due to latent defects) or by virtue of Tenant's failure to make any repairs, maintenance, alterations or improvements in or to any portion of the Demised Premises or in or to fixtures, appurtenances and equipment therein. Tenant hereby irrevocably waives and releases its right to make repairs at Landlord's expense under any applicable law, statute, or ordinance now or hereafter in effect. Tenant agrees, at its sole cost and expense, to keep the Demised Premises as a state of the art, "first run" movie theatre including, without limitation, to redecorate as appropriate and upgrade or replace sound, seating and viewing equipment as appropriate to maintain the Demised Premises as such state of the art, "first run" movie theatre.

12.2 Tenant shall keep the Demised Premises in good and sanitary condition and repair at Tenant's sole cost and expense including, without limitation, snow removal, painting and repainting, cleaning and rubbish removal. Should any law, standard or regulation now or hereafter be imposed on Landlord or Tenant by a state, federal or local governmental body charged with the establishment, regulation and enforcement of occupational, health or safety standards for employers, employees, landlords or tenants, then Tenant agrees, at its sole cost and expense, to comply promptly with such laws, standards or regulations.

12.3 Tenant acknowledges and agrees that Landlord has never occupied or operated at the Demised Premises and that Landlord acquired the Demised Premises directly from Tenant (who constructed or had constructed the improvements on the Demised Premises) and Tenant hereby agrees to undertake all of the maintenance, repair, compliance and replacement responsibilities at the Demised Premises regardless of how or when such responsibilities arise or arose.

12.4 Tenant shall be solely responsible, at its sole cost and expense, to make the Demised Premises safe and secure for any all persons at the Demised Premises and Tenant shall obtain and provide all such services, including, without limitation, fire prevention, fire detection, sprinklers, alarm and security including guards (collectively, "Safety Items") as is necessary or appropriate to make the Demised Premises safe and secure. Without limiting the foregoing, Tenant shall provide at least the amount and quality of Safety Items as are provided by other "first run" movie theatres.

## **ARTICLE 13**

### **DAMAGE OR DESTRUCTION**

13.1 TENANT TO RECONSTRUCT. Tenant shall promptly notify Landlord if all or any portion of the Demised Premises shall be damaged by casualty resulting from fire or any other cause. If, at any time during the Lease Term, any portion of the Demised Premises is damaged by fire or other cause, Tenant shall, at its sole cost and expense (and regardless of whether or not insured in whole or part), forthwith repair and/or replace the Demised Premises promptly following

such damage and in any event shall complete same within one year after the later to occur of (i) Landlord's written approval of the plans, specifications and working drawings therefor and (ii) the receipt of all applicable building permits (and Tenant covenants to use diligence to obtain such building permits as promptly as reasonably possible). Except as expressly set forth in Section 13.3 below, in no event shall this Lease terminate, and this Lease shall remain in full force and effect without any reduction in the Minimum Annual Rent and Additional Rent. Notwithstanding the foregoing, in the event that fifty (50%) percent or more of the Demised Premises shall have been destroyed by casualty, and such casualty shall occur during the last one (1) year of the Lease Term (as same may have been extended), then provided such casualty is fully covered by insurance and Tenant shall have paid to Landlord the amount of the applicable deductible, Tenant shall have the option, exercisable upon written notice to Landlord received by Landlord no later than thirty (30) days after such casualty, to terminate this Lease, in which event this Lease shall terminate and expire on the date set forth in such notice as if same were the expiration date originally set forth herein, Landlord shall retain all insurance proceeds and Tenant shall pay to Landlord all Minimum Annual Rent and all Additional Rent through such date of termination. In no event shall Landlord be required to repair any injury or damage to or to make any repairs or replacements of any alterations or any other improvements installed at the Demised Premises by or for Tenant, and Tenant shall, at Tenant's sole cost and expense, repair and restore all Tenant's improvements and all other alterations and improvements in substantially the same condition existing immediately prior to such event. In connection with such repairs and replacements Tenant shall submit to Landlord, for Landlord's review and prior written approval (which shall not be unreasonably withheld, conditioned or delayed), all plans, specifications and working drawings relating thereto. Tenant shall not be entitled to any compensation or damages from Landlord for damage to any of Tenant's improvements, alterations, fixtures, or Tenant's other property, for loss of use of the Demised Premises or any part thereof, or for any damage to or interference with Tenant's business, loss of profits, or for any disturbance to Tenant caused by any casualty or the restoration of the Demised Premises following such casualty or other cause except if and to the extent same is caused solely as a result of the willful misconduct of Landlord or Landlord's authorized agents, contractors or employees. All such restoration shall be performed by Tenant in accordance with all of the requirements of this Lease.

13.2 WAIVER OF STATUTORY PROVISIONS. The provisions of this Lease, including this Article 13, constitute an express agreement between Landlord and Tenant with respect to any and all damage to, or destruction of, all or any part of the Demised Premises, and any applicable statute or regulation with respect to any rights or obligations concerning damage or destruction in the absence of an express agreement between the parties, and any other statute or regulation, now or hereafter in effect, shall have no application to this Lease or any damage or destruction to all or any part of the Demised Premises.

13.3 INSURANCE PROCEEDS. A. All insurance shall be and are the property of Landlord and shall be paid to and held and disbursed by Landlord (or its lender(s) or ground lessor(s) if so required) and shall not be paid to Tenant. If Tenant shall come into possession of any insurance proceeds same shall be deemed to be held in trust for Landlord and shall immediately be transferred to Landlord. It shall be at Landlord's (and any lender's and ground lessor's) sole discretion to make insurance proceeds, if any, and net of any collection or adjustment costs available to Tenant for the restoration. If Landlord (and its lender(s) and ground lessor(s)) shall determine to make the net insurance

proceeds available to Tenant for restoration, then same shall be disbursed to Tenant in reimbursement or direct payment of the costs of such restoration in accordance with Landlord's "construction loan" procedures requiring, among other things, that disbursements of proceeds are only made upon the satisfaction of the following conditions: (i) prior to commencement of restoration, the architects, contracts, contractors, plans and specifications for the restoration work shall have been approved in advance in writing by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed, (ii) the restoration work on the Demised Premises for which such disbursement request is made shall have been completed in accordance with the plans and specifications previously approved by Landlord (and, with respect to the final disbursement request made upon completion in full of the restoration of the Demised Premises, all applicable governmental approvals such as, but not limited to, a final certificate of occupancy shall have been received), and Landlord shall have received an architect's certification satisfactory to Landlord certifying same,

(iii) Landlord shall have received a certificate from Tenant, signed by an officer of Tenant, describing the completed work for which payment is requested, stating the cost incurred in connection therewith and stating that Tenant has not previously received payment for such work and, with respect to the final disbursement request made upon completion in full of the restoration of the Demised Premises, further stating that all restoration work has been completed in accordance with this Lease and in compliance with all applicable law, (iv) the receipt by Landlord, at Tenant's sole cost and expense, of such lien waivers and title "bring down" endorsements as Landlord shall require as well as such documentation (such as receipted invoices and bills) and other evidence reasonably required by Landlord to confirm the amounts requested in the disbursement request and to verify that the amounts disbursed from time to time are represented by work that is completed in place and free and clear of mechanics' lien claims, (v) with respect to the final disbursement request upon completion in full of the restoration of the Demised Premises, Tenant shall have resumed full operations at the Demised Premises and (vi) no default exists under the Lease and no mechanics' or materialmen's liens shall have been filed and remain undischarged. A ten percent (10%) retainage will be made from each disbursement of proceeds, which will be disbursed upon the final completion of the restoration of the Demised Premises, a final inspection by Landlord and receipt of all applicable permits and a permanent certificate of occupancy. Disbursements shall be made only to the extent of the actual and reasonable third party expenses of Tenant incurred in connection with such restoration as reasonably established to Landlord's satisfaction; PROVIDED that (x) no disbursements shall be made in respect of the restoration of Tenant's personalty, (y) any excess net insurance proceeds shall be retained by Landlord without rent abatement or credit and (z) Tenant shall be responsible for any excess cost of restoration over the amount of net insurance proceeds, regardless of the amount of such excess cost.

B. In the event that the destruction or damage is not covered in whole or in part by insurance, Tenant shall nonetheless be responsible, at its sole cost and expense, to repair and/or replace the Demised Premises as required by this Article 13. Prior to the commencement of the restoration and at any time during same, if the estimated cost of restoration as reasonably determined by Landlord or Landlord's mortgagee exceeds the amount of proceeds available for restoration, the excess required shall be paid by Tenant to Landlord to be added to the proceeds prior to any further disbursement.

C. In the event that Landlord shall determine not to make the net insurance proceeds available to Tenant (other than as a result of the failure by Tenant to

comply with the provisions of Section 13.3A above, THEN IN SUCH EVENT AND IN SUCH EVENT ONLY, this Lease shall terminate effective as of the later to occur of the cessation of operations of Tenant at the Demised Premises or the date of the applicable casualty. If the Lease shall be so terminated, Landlord shall retain all insurance proceeds and Tenant shall pay to Landlord all Minimum Annual Rent and all Additional Rent through the date of termination.

13.4 LANDLORD'S FEES. Tenant shall promptly reimburse Landlord (and Landlord shall be entitled to reimburse itself directly out of the net insurance proceeds) for any costs incurred by Landlord in connection with a casualty or other damage or a restoration necessitated thereby.

## **ARTICLE 14**

### **DEFAULTS; REMEDIES**

14.1 EVENTS OF DEFAULT. The occurrence of any of the following shall constitute an Event of Default and material breach of this Lease by Tenant:

14.1.1 Any failure by Tenant to pay when due any installment of Minimum Annual Rent, Additional Rent, and/or any other charge required to be paid under this Lease, or any part thereof, and such default continues for five (5) business days; or

14.1.2 Excluding the provisions of Articles 6, 8, 11, 12, and 13 hereof, any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease to be observed or performed by Tenant where such failure continues for twenty (20) days after written notice thereof from Landlord to Tenant; PROVIDED that if the nature of such default is such that the same cannot reasonably be cured within a twenty-day period, Tenant shall not be deemed to be in default if it shall promptly commence such cure within such period and thereafter rectify and cure said default with due diligence within sixty (60) days after such written notice (or such longer period of time as is reasonable under the circumstances, not to exceed ninety (90) days); or

14.1.3 Any failure by Tenant to timely and properly perform its obligations under any of Articles 6, 8, 11, 12, or 13 hereof in accordance with their respective terms; or

14.1.4 To the extent permitted by law, a general assignment by Tenant or any guarantor of the Lease for the benefit of creditors, or the filing by or against Tenant or any guarantor of any proceeding under an insolvency or bankruptcy law, unless in the case of an involuntary proceeding filed against Tenant or any guarantor the same is dismissed within thirty (30) days, or the appointment of a trustee or receiver to take possession of all or substantially all of the assets of Tenant or any guarantor, unless possession is restored to Tenant or such guarantor within thirty (30) days, or any execution or other judicially authorized seizure of all or substantially all of Tenant's assets located upon the Demised Premises or of Tenant's interest in this Lease.

14.2 REMEDIES UPON EVENT OF DEFAULT.

Upon the occurrence of any Event of Default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the

option to pursue any one or more of the following remedies (each and all of which shall be cumulative and nonexclusive, it being agreed that the mention in this Lease of any specific remedy shall in no way limit Landlord's right to pursue any one or more remedies available at law or in equity) without any notice or demand whatsoever:

14.2.1 Terminate this Lease, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof, without being liable for prosecution or any claim or damages therefore, and Landlord may recover from Tenant the following:

(i) Landlord shall be entitled to receive from Tenant, and Tenant covenants and agrees to pay to Landlord, the difference between the total amount of Minimum Annual Rent that remains to be paid for the balance of the Lease Term then in effect immediately prior to the termination of this Lease less the actual rent, if any, (net of collection, brokerage, concession and renovation costs therefore) actually collected by Landlord pursuant to any new lease, if any, that Landlord may have obtained at the time of the termination of this Lease and for the entire remaining balance of the Lease Term then in effect. If the foregoing calculation results in zero or a negative number no payment shall be due from Tenant hereunder, and in no event shall Tenant be entitled to any sums from Landlord. Landlord shall be under no obligation or liability to attempt to mitigate its damages and to the extent that Landlord shall attempt to relet all or any portion of the Demised Premises Landlord shall not be liable for its inability to effect such a reletting or even if a reletting shall occur for its failure to collect all or any portion of the rents provided for in such reletting.

(ii) All sums due from Tenant to Landlord as calculated herein shall be paid by the wire transfer of immediately available funds within five (5) business days after the good faith determination by Landlord of the amount due pursuant to (i) above.

14.2.2 If Landlord does not elect to terminate this Lease on account of any default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including, but not limited to, (i) the right to recover all rent as it becomes due, (ii) the right to re-enter the Demised Premises, and (iii) the right to re-let the Demised Premises or any portion thereof from time to time without terminating this Lease. Any such reletting may be on such terms and conditions including, but not limited to, the term thereof and the rent to be paid thereunder, as Landlord may determine in its sole discretion. Any rents received by Landlord during such reletting shall be applied first, to any and all costs incurred by Landlord in connection with such reletting including, but not limited to, brokerage commissions, construction costs and professional fees, second, to all sums due or which become due from Tenant to Landlord hereunder, and any remaining sums shall be held by Landlord to be applied in the future against any rent and all other charges which become due hereunder. If the rent and other sums received by Landlord as a result of such reletting during any month are less than the amounts Landlord was to receive from Tenant hereunder during that month, Tenant shall immediately pay any such deficiency to Landlord by the wire transfer of immediately available funds. Such deficiency shall be calculated and paid on a monthly basis. During any reletting term, Tenant shall be deemed to have voluntarily surrendered possession of the Premises to Landlord so that

Landlord will be permitted to give any new tenant from time to time full and unencumbered use, occupancy and possession of the Demised Premises, all without any rights of possession or interference from Tenant.

14.2.3 Whether or not Landlord elects to terminate this Lease on account of any Event of Default by Tenant, Landlord shall have the right to terminate any and all subleases, licenses, concessions or other consensual arrangements for possession entered into by Tenant and affecting the Demised Premises or may, in Landlord's sole discretion, succeed to Tenant's interest in such subleases, licenses, concessions or arrangements.

14.3 FORM OF PAYMENT AFTER DEFAULT. Following the occurrence of an Event of Default by Tenant, Landlord shall have the right to require that any or all subsequent amounts to be paid by Tenant to Landlord hereunder, whether in the cure of the default in question or otherwise, be paid in the form of cash, money order, cashier's or certified check drawn on an institution acceptable to Landlord, or by other means approved by Landlord, notwithstanding any prior practice of accepting payments in any different form.

14.4 WAIVER OF DEFAULT No waiver by Landlord of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other or later violation or breach of the same or any other of the terms, provisions, and covenants herein contained. Forbearance by Landlord in enforcement of one or more of the remedies herein provided upon an Event of Default shall not be deemed or construed to constitute a waiver of same. The acceptance of any rent hereunder by Landlord following the occurrence of any default, whether or not known to Landlord, shall not be deemed a waiver of any such default. Landlord shall be free to accept checks from or on behalf of Tenant without prejudice to Landlord's rights and remedies and no special endorsement or notation on any check shall in any manner be binding on Landlord and Landlord shall be free to accept such checks.

14.5 EFFORTS TO RELET For the purposes of this Article 14, Tenant's right to possession shall not be deemed to have been terminated by efforts of Landlord to relet the Demised Premises, by its acts of maintenance or preservation with respect to the Demised Premises, or by appointment of a receiver to protect Landlord's interests hereunder. The foregoing enumeration is not exhaustive, but merely illustrative of acts which may be performed by Landlord without terminating Tenant's right to possession.

## **ARTICLE 15**

### **DEFAULT BY LANDLORD**

Tenant agrees that Landlord shall not be in default hereunder unless Landlord fails to perform the obligations, if any, required of Landlord within thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Demised Premises and to any ground lessor, whose name and address shall have theretofore been furnished to Tenant, in writing specifying wherein Landlord has failed to perform such obligation; PROVIDED, HOWEVER, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such 30-day period and thereafter diligently prosecutes the same to completion within one

hundred twenty (120) days thereafter. In no event shall Tenant have the right to terminate this Lease as a result of Landlord's default, and Tenant's sole remedy shall be to effect the cure of such default itself and then bring separate action for reimbursement of its actual third party costs from Landlord with it being expressly understood (i) Tenant shall in no event be entitled to a rent abatement, credit or offset and (ii) Landlord shall in no circumstance whatsoever be liable to Tenant for consequential damages. Nothing herein contained shall be interpreted to mean that Tenant is excused from paying rent due hereunder as a result of any default by Landlord.

## ARTICLE 16

### EMINENT DOMAIN

16.1 PERMANENT TAKING. A. If the entire Demised Premises is taken under power of eminent domain or sold, transferred or conveyed in lieu thereof, either Landlord or Tenant shall have the right to terminate this Lease as of the earliest of the date of vesting of title or the date possession is taken by the condemning authority; such right shall be exercised by the giving of ten (10) days written notice to the other party on or before said date. In either of such events, Landlord shall receive the entire award which may be made in such taking or condemnation, and Tenant hereby assigns to Landlord any and all rights of Tenant now or hereafter arising in or to the same whether or not attributable to the value of the unexpired portion of this Lease; PROVIDED, HOWEVER, that nothing contained herein shall be deemed to give Landlord any interest in or to require Tenant to assign to Landlord any award made to Tenant solely for Tenant's moving expenses, or the taking of the unamortized or the undepreciated value of Tenant's personal property, or the unamortized value of Tenant's leasehold estate in the Demised Premises, or that portion of the unamortized or undepreciated portion of Tenant's improvements, which were not purchased with any funds from a tenant improvement allowance supplied by Landlord.

B. In the event of any other taking or a sale, transfer, or conveyance in lieu thereof (each a "Taking"), or if this Lease is not terminated by Landlord or Tenant as provided above, then this Lease shall continue in full force and effect in respect of the remaining portion of the Demised Premises, then Tenant shall promptly restore the balance of the Demised Premises remaining after such Taking as set forth in Section 16.2 below, and there shall be no reduction in Minimum Annual Rent, Additional Rent and/or any other charge payable hereunder. If Landlord determines to make the net condemnation proceeds, if any (subject to the consent of its lender(s) and ground lessor(s)) available to Tenant, then same shall be disbursed to Tenant pursuant to a standard escrow agreement with Landlord's mortgagee or, if none, with a title insurance company reasonably acceptable to Landlord and Tenant providing for such escrow agent to hold and disburse the condemnation proceeds in accordance with the custom and practice for same in the county in which the Demised Premises is located, or as otherwise may be reasonably agreed to by Landlord and Tenant, provided that, at a minimum, disbursements of condemnation proceeds shall be made only on the condition that no default of Tenant exists under the Lease and only upon (i) the completion of the restoration of the Demised Premises and the receipt of all applicable governmental approvals including, without limitation, a final certificate of occupancy, (ii) the receipt of an architect's certification satisfactory to Landlord that the restoration has been completed in accordance with the plans and specifications therefor previously approved by Landlord, (iii) the production, at Tenant's sole cost and expense, of such lien waivers and title

endorsements as Landlord shall require and (iv) Tenant's resumption of full operations at the Demised Premises. Disbursements of condemnation proceeds shall be made only to the extent of the actual and reasonable third party expenses of Tenant incurred with such restoration as reasonably established to Landlord; PROVIDED that (x) no disbursements shall be made in respect of the restoration of Tenant's personalty, and (y) Tenant shall be responsible for any excess cost of restoration over the amount of net condemnation proceeds, if any, regardless of the amount of such excess cost. Prior to the commencement of the restoration and at any time during same, if the estimated cost of restoration as reasonable determined by Landlord or Landlord's mortgagee exceeds the amount of condemnation proceeds available for restoration, the excess required shall be paid by Tenant to the aforementioned escrow agent to be added to the condemnation proceeds prior to any further disbursement.

16.2 TENANT TO RECONSTRUCT. Tenant shall, at its sole cost and expense (and regardless of whether or not covered by condemnation proceeds in whole or part), forthwith repair and/or replace the Demised Premises to as close to its original condition as is possible following a Taking and shall complete same within one hundred twenty (120) days of such Taking. In no event shall Landlord be required to repair any injury or damage to or to make any repairs or replacements. In connection with such repairs and replacements Tenant shall submit to Landlord, for Landlord's review and prior written approval, all plans, specifications and working drawings relating thereto. Tenant shall not be entitled to any compensation or damages from Landlord for damage to any of Tenant's improvements, alterations, fixtures, or Tenant's other property, for loss of use of the Demised Premises or any part thereof, or for any damage to or interference with Tenant's business, loss of profits, or for any disturbance to Tenant caused by any Taking or the restoration of the Demised Premises following such Taking. All such restoration shall be performed by Tenant in accordance with all of the requirements of this Lease. In the event that the Taking is not covered in whole or in part by net condemnation proceeds, Tenant shall nonetheless be responsible, at its sole cost and expense, to repair and/or replace the Demised Premises as required by this Section 16.2. To the fullest extent permitted by applicable law, Tenant hereby waives any and all rights it might otherwise have pursuant to applicable law which permits a termination of this Lease due to any Taking.

16.3 TEMPORARY TAKING. In the event of temporary taking of all or any portion of the Demised Premises for a period of 360 days or less, then this Lease shall not terminate and the Minimum Annual Rent and the Additional Rent shall not be abated for the period of such taking. Tenant shall be entitled to receive the entire award made in connection with any such temporary taking provided and so long as Tenant has timely paid all Minimum Annual Rent and Additional Rent due under this Lease.

16.4 LANDLORD'S FEES. Tenant shall promptly reimburse Landlord (and Landlord shall be entitled to reimburse itself directly out of the net condemnation proceeds) for any reasonable out-of-pocket costs incurred by Landlord in connection with a Taking or a restoration necessitated thereby.

## **ARTICLE 17**

### **SUBORDINATION**

This Lease shall be subject and subordinate at all times to: (i) any and all ground leases or underlying leases now existing or hereafter executed affecting the Building or all or any portion of the Demised Premises and (ii) the lien of any mortgage or deed of trust now existing or hereafter executed in any amount for which the Demised Premises (or any portion thereof), ground leases, underlying leases, or Landlord's interest or estate in any of said items is specified as security. The foregoing subordination shall be effective provided and on the condition that such ground lessor, underlying lessor, mortgagee, trustee, beneficiary, grantee or lender (hereafter referred to as "mortgagee") named in such instrument shall provide Tenant with a written subordination, non-disturbance and attornment agreement in recordable form, on such mortgagee's standard form for same, which shall provide in substance that so long as no event of default by Tenant occurs under this Lease beyond applicable notice and/or cure periods, then (a) Tenant shall not be named or joined in any action or proceeding to terminate such ground or underlying lease or to foreclose on such mortgage or deed of trust (as applicable) or any proceeding to otherwise enforce the rights of such mortgagee, in each case except as required by applicable law and (b) no such termination, foreclosure or other proceeding shall result in the cancellation or termination of this Lease (whether or not Tenant is named in such action). Notwithstanding the foregoing, Landlord shall have the right to subordinate or cause to be subordinated any such ground leases or any such liens to underlying leases or to this Lease. In the event that any ground Lease or underlying lease terminates for any reason or any mortgage or deed of trust is foreclosed or a conveyance in lieu of foreclosure is made for any reason, Tenant shall, notwithstanding any subordination and at the option of such successor, attorn to and become Tenant of the successor in interest to Landlord, at the option of such successor in interest. Tenant covenants and agrees to execute and deliver, within ten (10) days of request by Landlord and in the form requested by Landlord, any additional documents evidencing the priority or subordination of this Lease with respect to any such ground leases or underlying leases or in the lien of any such mortgage or deed of trust. If Tenant fails to timely execute such additional documents, Tenant hereby appoints Landlord as Tenant's attorney-in-fact for the sole purpose of executing such additional documents on behalf of Tenant. If requested by any present or future lender or ground lessor, Tenant agrees to amend this Lease provided such amendment does not materially increase the obligations or materially decrease the rights of Tenant under this Lease.

## **ARTICLE 18**

### **ESTOPPEL CERTIFICATES AND OTHER FINANCIAL INFORMATION**

18.1 ESTOPPEL CERTIFICATES At any time during the Lease Term, within ten (10) days following a request in writing by Landlord and Tenant shall execute and deliver to Landlord an estoppel certificate in the form reasonably required by Landlord or Landlord's purchaser, mortgagee, or prospective purchaser or prospective mortgagee, indicating therein any exceptions thereto that may exist at that time, which certificate shall also contain any other information requested by Landlord or Landlord's purchaser, mortgagee or prospective purchaser or mortgages or any prospective purchaser's mortgagee. Failure of Tenant to timely execute and deliver such estoppel certificate shall constitute an acceptance of the Demised Premises and an acknowledgment by Tenant that statements included in the required form of estoppel are true and correct, without exception.

18.2 FINANCIAL STATEMENTS. Within thirty (30) days after the end of each fiscal quarter, Tenant shall provide to Landlord quarterly income statements of the Demised Premises (including a delineation of ticket and concession revenues and numbers of patrons) and quarterly income statement, balance sheet and statement of cash flow for Tenant. Within ninety (90) days after the end of each calendar year, Tenant shall provide to Lender annual income statements of the Demised Premises (including a delineation of ticket and concession revenues and numbers of patrons) and annual income statement, balance sheet and statement of cash flow for Tenant. All financial statements shall be prepared in accordance with generally accepted accounting principles, consistently applied, with quarterly statements being certified by the chief financial officer of Tenant and annual statements being audited by independent auditors reasonably acceptable to Landlord.

## **ARTICLE 19**

### **LANDLORD'S RIGHT TO CURE DEFAULT; PAYMENTS BY TENANT**

19.1 LANDLORD'S CURE. All covenants and agreements to be kept or performed under this Lease shall be performed by Tenant at Tenant's sole cost and expense and without any reduction of Minimum Annual Rent or Additional Rent. If Tenant shall default in the performance of its obligations under this Lease and if such default is not cured within the applicable grace period provided in Article 14 hereof, Landlord may, but shall not be obligated to, make any such payment or perform any such act on Tenant's part without waiving its rights or remedies based upon such or any other default of Tenant and without releasing Tenant from any obligations hereunder.

19.2 TENANT'S REIMBURSEMENT Tenant shall pay to Landlord, within five (5) days after delivery by Landlord to Tenant of statements therefor: (i) sums equal to expenditures made and obligations incurred by Landlord in connection with the remedying by Landlord of Tenant's defaults pursuant to the provisions of Section 19.1 or elsewhere in this Lease; and (ii) sums equal to all expenditures made and obligations incurred by Landlord in collecting or attempting to collect the Minimum Annual Rent or Additional Rent or in enforcing or attempting to enforce any rights of Landlord under this Lease or pursuant to law, including, without limitation, all legal fees and other amounts so expended. Tenant's obligations under this Section 19.2 shall survive the expiration or sooner termination of the Lease Term.

## **ARTICLE 20**

### **SURRENDER OF PREMISES; OWNERSHIP AND REMOVAL OF TRADE FIXTURES; EQUIPMENT FINANCING**

20.1 SURRENDER OF PREMISES No act or thing done by Landlord or any agent or employee of Landlord during the Lease Term shall be deemed to constitute an acceptance by Landlord of a surrender of the Demised Premises unless such intent is specifically acknowledged in a writing signed by Landlord. The delivery of keys to the Demised Premises to Landlord or any agent or employee of Landlord shall not constitute a surrender of the Demised Premises or effect a termination of this Lease, whether or not the keys are thereafter retained by Landlord, and notwithstanding such delivery Tenant shall be entitled to the return of such

keys at any reasonable time upon request until this Lease shall have been properly terminated. The voluntary or other surrender of this Lease by Tenant, whether accepted by Landlord or not, or a mutual termination hereof, shall not work a merger, and at the option of Landlord shall operate as an assignment to Landlord of all subleases or subtenancies affecting the Demised Premises.

**20.2 REMOVAL OF TENANT PROPERTY BY TENANT.** Upon the early termination of this Lease due to Tenant's default hereunder, Tenant shall, subject to the provisions of this Article 20, quit and surrender possession of the Demised Premises to Landlord in at least as good order and condition as exists on the date hereof, reasonable wear and tear excepted. Upon such expiration or termination, Tenant shall, without expense to Landlord, remove or cause to be removed from the Demised Premises all debris and rubbish, and such items of furniture, equipment, free-standing cabinet work, trade fixtures, and other articles of personal property owned by Tenant or installed or placed by Tenant in the Demised Premises and such similar articles of any other persons claiming under Tenant as Landlord may, in its sole discretion, require to be removed, and Tenant shall repair at its own expense all damage to the Demised Premises and Building resulting from such removal.

**20.3 REMOVAL OF TENANT'S PROPERTY BY LANDLORD.** Whenever Landlord shall re-enter the Demised Premises as provided in this Lease, any personal property of Tenant not removed by Tenant upon the expiration of the Lease Term, or within forty-eight (48) hours after a termination by reason of Tenant's default as provided in this Lease, shall be deemed abandoned by Tenant and may be disposed of by Landlord in accordance with applicable law or in accordance with any judicial decisions which may supplement or supplant those provisions from time to time.

**20.4 LANDLORD'S PROPERTY.** All fixtures, alterations, additions, repairs, improvements and/or appurtenances attached to or built into, on, or about the Demised Premises prior to or during the term hereof (including, without limitation, machinery, drills and other tools, snow removal equipment, landscaping equipment, seats, concession stands, projection equipment, sound equipment, screens and all other equipment), whether by Landlord at its expense or at the expense of Tenant, or by Tenant at its expense, or by previous occupants of the Demised Premises, shall be and remain part of the Demised Premises and shall not be removed by Tenant at the end of the Lease Term, unless otherwise expressly provided for in this Lease or unless such removal is required by Landlord pursuant to the provisions of Section 20.2 or Article 9 of this Lease. If Tenant shall fail to complete such removal and repair such damage, Landlord may do so and may charge the cost thereof to Tenant. Such fixtures, alterations, additions, repairs, improvements and/or appurtenances shall include, without limitation, floor coverings, drapes, paneling, molding, doors, kitchen and dishwashing fixtures and equipment, plumbing systems, electrical systems, lighting systems, silencing equipment, communication systems, all fixtures and outlets for the systems mentioned above and for all telephone, radio, telegraph and television purposes, and any special flooring or ceiling installations.

**20.5 LANDLORD'S ACTIONS ON DEMISED PREMISES.** Tenant hereby waives all claims against Landlord with respect to Landlord's removal as herein provided and same shall not constitute forcible entry.

20.6 EQUIPMENT FINANCING. Tenant shall be permitted to obtain or place equipment financing on any of Tenant's equipment, personalty, trade fixtures and/or any other article(s) of personal property. In connection therewith, Landlord, at no cost to Landlord, shall enter into such "waiver of lien" or other similar, commercially reasonable agreements with respect to such equipment financing.

## ARTICLE 21

### MISCELLANEOUS PROVISIONS

21.1 SEVERABILITY. It is agreed that if any provision of this Lease shall be determined to be void by a court of competent jurisdiction, then such determination shall not affect any other provision of this Lease or portion thereof and all such other provisions shall remain in full force and effect.

21.2 ENTIRE AGREEMENT It is understood and acknowledged that there are no oral agreements between the parties hereto affecting this Lease and this Lease supersedes and cancels any and all previous negotiations, arrangements brochures, agreements and understandings, if any, between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this Lease. This Lease contains all of the terms, covenants, conditions, warranties and agreements of the parties relating in any manner to the rental, use and occupancy of the Demised Premises, shall be considered to be the only agreement between the parties hereto and their representatives and agents, and none of the terms, covenants, conditions or provisions of this Lease can be modified, deleted or added to except in writing signed by the parties hereto. All negotiations and oral agreements acceptable to both parties have been merged into and are included herein. There are no other representations or warranties between the parties, and all reliance with respect to representations is based totally upon the representations and agreements contained in this Lease. Notwithstanding the foregoing, nothing contained in this Lease shall be deemed to limit, restrict or effect the provisions of the contract of sale or other related documents between Landlord and Tenant which by their terms were to survive the closing of the purchase of the Demised Premises by Landlord from Tenant. This Lease has been negotiated and shall not be construed against the party who caused the first draft to be undertaken. This Lease may not be modified or amended nor any of its terms waived except by a writing executed by Landlord and Tenant and if required pursuant to applicable documents, any lender or ground lessor of Landlord.

21.3 COMPLIANCE WITH LAW, INSURANCE REQUIREMENTS, ETC.

Tenant, at its sole cost and expense, will comply, or cause compliance with:

(a) all provisions of any insurance policy covering or applicable to the Demised Premises or any part thereof, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the New York Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting the Demised Premises or any part thereof or any use or condition of the Demised Premises or any part thereof;

(b) all laws, statutes, codes, acts, ordinances, orders, permits, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements (including, without limitation, those relating to the protection of the environment and the Americans with Disabilities Act) of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, which now or at any time hereafter may be applicable to the Demised Premises or any part thereof, or any of the adjoining sidewalks, curbs, vaults and vault space, if any, streets or ways, or any use or condition of the Demised Premises or any part thereof (collectively, "Legal Requirements");

(c) all restrictions, easements, reciprocal easement agreements and covenants now or hereafter of record and affecting all or any portion of the Demised Premises (collectively, "Restrictions"); and

(d) the provisions of any underlying or ground lease or mortgage or deed of trust now or hereafter affecting all or any portion of Landlord's interest in the Demised Premises.

The Tenant's obligation, at its sole cost and expense, to comply with the provisions of (a)-(d) above is absolute whether or not compliance therewith shall require structural changes or replacements in or interference with the use and enjoyment of the Demised Premises or any part thereof and whether or not such compliance could be foreseen or is unforeseen, ordinary or extraordinary. Tenant's obligations shall include any defects or other items that may need correction as of the date hereof or which may have resulted from defective construction or design of the Demised Premises.

21.4 LATE CHARGES Tenant hereby acknowledges that late payment by Tenant to Landlord of Minimum Annual Rent, Additional Rent and/or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which are extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Landlord by the terms of any mortgage or deed of trust covering the Demised Premises. Accordingly, if any installment of Minimum Annual Rent, Additional Rent or any other sum due from Tenant shall not be received by Landlord or Landlord's designee within five business (5) days of the date due, then (and without prejudice to Landlord's rights and remedies in respect of such default) Tenant shall pay to Landlord a late charge equal to five percent (5%) of such amount overdue plus any reasonable attorneys' fees incurred by Landlord by reason of Tenant's failure to pay rent and/or other charges when due hereunder. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of the late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. Tenant hereby agrees that if Tenant is subject to a late charge for two (2) months and if Landlord shall permit the cure of such defaults, Minimum Annual Rent for the remainder of the term shall automatically be adjusted to be payable quarterly, in advance, commencing upon the first day of the month following such second late month on a quarterly basis in advance. The late charge shall be deemed Additional Rent and the right to require it shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner. In addition to the five percent (5%) late charge described above,

any rents or other amounts owing hereunder which are not paid within five (5) days after the date they are due shall thereafter bear interest until paid at a rate per annum equal to the lesser of the prime rate as announced from time to time in the WALL STREET JOURNAL (the "Prime Rate") plus seven percent (7%) per annum or the highest rate permitted by applicable law. If such Prime Rate is no longer published, Landlord shall have the right to substitute a replacement index that in Landlord's good faith determination is reasonably similar to the Prime Rate.

**21.5 SALE OF DEMISED PREMISES BY LANDLORD.** Each conveyance by Landlord or Landlord's successor of its interest in the Demised Premises prior to expiration or termination hereof shall be subject to this Lease and shall relieve the grantor of any further obligations or liability as Landlord, except if such obligations or liability arose prior to the date of such conveyance. Tenant hereby agrees to attorn to Landlord's successors in interest, whether such interest is acquired by sale, transfer, foreclosure, deed in lieu of foreclosure or otherwise.

**21.6 HOLDOVER BY TENANT.** If Tenant holds over after the Lease Term, with or without the consent of Landlord, the Minimum Annual Rent during the period of such holdover shall be 200% of the Minimum Annual Rent due immediately prior thereto and all Additional Rent shall continue to be due and payable as set forth in this Lease. At Landlord's option, Landlord may deem such holdover to be a month-to-month tenancy at such increased rental subject to every other term, covenant and agreement contained herein. Nothing contained in this Section 21.6 shall be construed as consent by Landlord to any holding over by Tenant, and Landlord expressly reserves the right to require Tenant to surrender possession of the Demised Premises to Landlord as provided in this Lease upon the expiration or other termination of this Lease. If Tenant fails to surrender the Demised Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall indemnify and hold Landlord harmless from loss or liability resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant founded upon such failure to surrender or any losses occasioned by the loss of any prospective succeeding tenant.

**21.7 QUIET ENJOYMENT.** Upon Tenant paying the Minimum Annual Rent, all Additional Rent and all other charges payable hereunder and performing all of Tenant's covenants, agreements and obligations under this Lease, Tenant may peacefully and quietly enjoy the Demised Premises during the Lease Term as against all persons or entities lawfully claiming by or through Landlord, subject, however, to the provisions of this Lease and to any present or future mortgages or ground or underlying leases of all or any portion of the Demised Premises and to any present or future Restrictions and Legal Requirements.

**21.8 ENTRY BY LANDLORD.** Landlord reserves the right at all reasonable times and upon reasonable notice to the Tenant to enter the Demised Premises to: (i) inspect them; (ii) show the Demised Premises to prospective or existing purchasers, mortgagees or tenants, or to the ground or underlying lessors; (iii) post notices of nonresponsibility; or (iv) alter, improve or repair the Demised Premises or the Building. Notwithstanding anything to the contrary contained in this Section 21.8, Landlord may (but shall not be obligated to) enter the Demised Premises at any time to (i) take possession due to any breach of this Lease in the manner provided herein; (ii) perform any covenants of Tenant which Tenant fails to perform and (iii) correct (in whole or part) or otherwise deal with any emergency situation. Landlord may make any such entries without the abatement of rent and may take such reasonable steps as required to accomplish

the stated purposes. Tenant hereby waives any claims for damages or for any injuries or inconvenience to or interference with Tenant's business, lost profits, any loss of occupancy or quiet enjoyment of the Demised Premises, and any other loss occasioned thereby. In an emergency, Landlord shall have the right to use any means that Landlord may deem proper to open the doors and/or gain access in and to the Demised Premises, including, but not limited to, taking such action which might be considered to be an unlawful entry into the Building under other circumstances, as well as, the breaking down of doors or other barriers prohibiting or impeding access to the Building. Any entry into the Demised Premises by Landlord in the manner hereinbefore described shall not be deemed to be a forcible or unlawful entry into, or a detainer of, the Demised Premises, or an actual or constructive eviction of Tenant from any portion of the Demised Premises.

21.9 CUMULATIVE RIGHTS The various rights, options, elections, powers and remedies of Landlord contained in this Lease shall be construed as cumulative and no one of them shall be exclusive of any of the others, or of any other legal or equitable remedy which Landlord might otherwise have as against Tenant in the event of breach or default in the terms hereof, and the exercise of one right or remedy by Landlord shall not impair its right to any other right or remedy until all obligations imposed upon Tenant have been fully performed.

21.10 TIME Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Lease.

21.11 RELATIONSHIP OF PARTIES Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and neither the method of computation of rent nor any other provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

21.12 EXCULPATION The obligations of Landlord under this Lease do not constitute personal obligations of Landlord, and Tenant shall look solely to Landlord's interest in the Demised Premises and any proceeds derived therefrom and to no other assets of Landlord for satisfaction of to this Lease and shall not seek any liability with respect nor against any of its personal recourse against Landlord herein assets for such satisfaction. In no event shall any officer, director, shareholder, member, manager, trustee, agent or representative of Landlord or any of its lenders be liable hereunder. The foregoing shall not be deemed in any way to impose any obligations on Landlord. In particular, and without implied limitation, Landlord shall not be liable for the failure, seizure or similar circumstance of any financial institution in which Landlord shall have deposited sums on account of this Lease or Tenant (for example, without implied limitation, tax escrow deposits and insurance or condemnation proceeds) regardless whether or not such financial institution shall be affiliated with Landlord and whether or not the sums on deposit shall have exceeded the maximum amount covered by any applicable federal or other insurance.

21.13 MEMORANDUM OF LEASE. At the request of either Landlord or Tenant at any time after the date of this Lease, and at the sole cost and expense of Tenant, the parties shall execute, acknowledge and deliver a short form "memorandum of lease" suitable for recording.

21.14 NOTICES. All notices, demands, statements or communications (collectively, "Notices") given or required to be given by either party to the other hereunder shall be in writing, shall be sent by United States certified mail, postage prepaid, return receipt requested, or delivered personally or by established overnight delivery service, (i) to Tenant at the appropriate address set forth in Article I of this Lease, or to such other place as Tenant may from time to time designate in a Notice to Landlord, with a copy to Tenant's attorneys, Donovan & Giannuzzi, 405 Park Avenue, Suite 1104, New York, New York 10022, Attention: Nicholas T. Donovan, Esq.; or (ii) to Landlord at the appropriate address set forth in Article I of this Lease, or to such other firm or to such other place as Landlord may from time to time designate in a Notice to Tenant, with a copy to Mark H. Lundy, Vice President, 60 Cutter Mill Road, Suite 303, Great Neck, New York 11021. Any Notice will be deemed given three business (3) days after the date it is mailed as provided in this Section 21.14, upon the date personal delivery is made or upon the next business day following deposit with an established overnight delivery service. If Tenant is notified of the identity and address of Landlord's mortgagee or ground or underlying lessor, Tenant shall give to such mortgagee or ground or underlying lessor a copy of any notice sent to Landlord hereunder alleging a default under the terms of this Lease.

21.15 SUCCESSORS. The Lease and all of the covenants and conditions herein contained shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, assigns and other successors in interest of each of the parties; provided that the foregoing shall not be deemed to permit any assignment or sublease under this Lease not otherwise expressly permitted by the terms hereof.

21.16 CAPTIONS The titles or captions in this Lease are for reference purposes only and have no effect upon the construction or interpretation of any part hereof. The use herein of the singular includes the plural and vice versa, and the use herein of the neuter gender includes the masculine and the feminine and vice versa, whenever and wherever the context so requires.

21.17 JOINT AND SEVERAL If there is more than one Tenant, the obligations imposed upon Tenant under this lease shall be joint and several.

21.18 AUTHORITY. If Tenant is a corporation, partnership, limited liability company or other entity, each individual executing this Lease on behalf of Tenant hereby represents and warrants that Tenant is a duly formed and existing entity qualified to do business in its jurisdiction of organization and the State(s) in which the Demised Premises are located and that Tenant has full right and authority to execute and deliver this Lease and that each person signing on behalf of Tenant is authorized to do so.

21.19 ATTORNEY'S FEES. If Landlord commences litigation against Tenant for the specific performance of this Lease, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder or otherwise retains counsel in connection with the enforcement or interpretation of this Lease, Tenant shall be liable for and shall immediately reimburse Landlord for all such costs and attorneys' fees as may have been incurred. Further, if for any reason Landlord consults legal counsel or otherwise incurs any costs or expenses as a result of its rightful attempt to enforce the provisions of this Lease, even though no litigation is commenced, or if commenced is not pursued to final judgment, Tenant shall be obligated to pay to Landlord, in addition to all other amounts for which Tenant is obligated hereunder, all of Landlord's reasonable costs and

expenses incurred in connection with any such acts, including reasonable attorneys' fees.

**21.20 WAIVER OF JURY TRIAL.** To the fullest extent permitted by law, Tenant hereby waives any right to a trial by jury in any litigation where Tenant and Landlord are parties.

**21.21 GOVERNING LAW.** This Lease shall be construed and enforced in accordance with the internal laws of the State where the Demised Premises are located.

**21.22 BROKERS.** Landlord and Tenant hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, and that they know of no other real estate broker or agent who would be entitled to a commission in connection with this Lease. Each party agrees to indemnify and defend the other party against and hold the other party harmless from any and all claims, demands, losses, liabilities, lawsuits, judgments, and costs and expenses (including without limitation reasonable attorneys' fees) with respect to any leasing commission or equivalent compensation alleged to be owing an account of the indemnifying party's dealings with any real estate broker or agent other than that specified herein.

**21.23 MECHANICS' LIENS.** Tenant shall keep the Demised Premises free from any mechanics', materialmen's or other liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant or any person or entity claiming by, through or under Tenant. Landlord shall have the right at all times to post and keep posted on the Demised Premises any notices which it deems necessary for protection from such liens. If any such liens are filed and are not released of record by payment or posting of a proper bond within ten (10) days after such filing, Landlord may, without waiving its rights and remedies based on such breach by Tenant and without releasing Tenant from any obligations hereunder, cause such liens to be released by any means it shall deem proper, including payment of the claim giving rise to such lien in which event all amounts paid by Landlord shall immediately be due to Landlord by Tenant.

**21.24 NO DISCRIMINATION.** Tenant covenants by and for itself, its heirs, executors, successors, administrators and assigns, and all persons claiming under or through Tenant, that this Lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, sex, sexual orientation, religion, marital status, ancestry, disability or national origin in the leasing, subleasing, transferring, use or enjoyment of the Demised Premises, nor shall Tenant itself, or any person claiming under or through Tenant, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of patrons, invitees, tenants, lessees, sublessees, subtenants or vendees in the Demised Premises.

**21.25 BANKRUPTCY PROTECTIONS.** A. Tenant warrants and represents that it is solvent as of the date hereof and that this Lease and the sale/leaseback of which it is a part shall not render Tenant insolvent. Tenant warrants and represents that there is no monetary or other material default existing under any of its corporate level indebtedness or under any of its or its subsidiaries' leases. Tenant warrants and represents that this transaction is a bona fide

third party transaction and is being made for fair value. Tenant warrants and represents that this transaction is a bona fide sale-leaseback transaction and does not constitute a joint venture, partnership or mortgage/lending relationship.

B. As a material inducement for Landlord to enter into this Lease (and the sale/leaseback of which it is a part and without which Landlord would not have entered into this transaction with Tenant) Tenant hereby (i) to the fullest extent permitted by applicable law, waives any right to reject all or any part of this Lease or Tenant's obligations hereunder, (ii) to the fullest extent permitted by applicable law and in the event (i) above is not enforceable, waives any provision or ability to extend the minimum period within which Tenant shall have to assume or reject this Lease, and (iii) agrees that in the event of an assignment by Tenant out of or pursuant to the bankruptcy or similar proceeding of Tenant, the proposed assignee shall not be deemed creditworthy and Landlord shall be entitled to reject the proposed assignee unless (x) such proposed assignee has a net worth (certified by independent auditors and determined in accordance with Generally Accepted Accounting Principles) equal to or exceeding \$1 Billion or (y) such proposed assignee shall post a security deposit (or irrevocable letter of credit acceptable to Landlord) with Landlord equal to two year's worth of Minimum Annual Rent then in effect.

21.26 ENVIRONMENT. (a) Tenant covenants, represents and warrants (i) that the Demised Premises does not contain and will not contain (A) asbestos in any form; (B) urea formaldehyde foam insulation; (C) transformers or other equipment which contain dielectric fluid containing polychlorinated biphenyls (PCB's); (D) fuel oil, gasoline, other petroleum products or by-products, (E) lead-based paint or (F) any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous, controlled or toxic substances, or any pollutant or contaminant, or related materials defined in or controlled pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 9601, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation; or which, even if not so regulated, may or could pose a hazard to the health or safety of the occupants of the Demised Premises or surrounding properties or the owners of the Demised Premises or surrounding properties (the substances described in (A), (B), (C), (D), (E) and (F) above are referred to collectively herein as "Hazardous Materials"), (ii) that the Demised Premises and any buildings and other improvements and additions previously, now or hereafter located thereon, are not now being used nor have ever been used and will never be used for any activities involving, directly or indirectly, the use, generation, treatment, transportation, storage or disposal of any Hazardous Materials whether by Tenant, any prior owner of the Demised Premises or any tenant or prior tenant of the Demised Premises; (iii) that there has never been any Hazardous Materials Release (as defined below in this section) on, from or affecting the Demised Premises; (iv) that none of the Demised Premises, any previous owner of the Demised Premises, nor Tenant are subject to any past, existing, pending, or threatened notice, summons, citation, directive, investigation, litigation, proceeding, inquiry, lien, encumbrance or restriction, settlement, remedial, response, cleanup or closure arrangement or any other remedial obligations by or with any governmental authority (collectively "Regulatory Actions") under, or are in violation of, any applicable laws, rules, regulations or orders pertaining to health, the environment or Hazardous Materials; and (v) that none of the Demised Premises and any buildings and other improvements and additions previously or now located thereon have ever been used or will ever be used as an industrial or manufacturing facility or as a petroleum storage, refining or distribution

facility or terminal, or a gasoline station, whether by Tenant, any prior owner or any tenant or prior tenant of the Demised Premises. Tenant does not know and has no reason to know of any violation of the foregoing representations, warranties and covenants.

(b) Tenant represents, warrants and covenants that with respect to the Demised Premises and any buildings and other improvements and additions thereon, Tenant (i) shall comply with and ensure compliance by all subtenants, invitees, patrons and other persons with all applicable laws, rules and regulations or orders pertaining to health, the environment or Hazardous Materials, (ii) shall not store, utilize, generate, treat, transport or dispose (or permit or acquiesce in the storage, utilization, generation, transportation, treatment or disposal of) any Hazardous Materials on or from the Demised Premises, (iii) shall ensure that all permitted subleases of the Demised Premises contain agreements requiring the subtenant's compliance with the requirements of the foregoing clauses (i) and (ii); and (iv) shall cause any subtenant, licensee, concessionaire or other person or entity using and/or occupying any part of the Demised Premises to comply with the representations, warranties and covenants contained in this Section.

(c) In the event of any storage, presence, utilization, generation, transportation, treatment or disposal of Hazardous Materials on the Demised Premises or in the event of any Hazardous Materials Release whatsoever or howsoever occurring (except to the extent that same arises solely as a result of the willful misconduct or gross negligence of Landlord or its authorized agents, contractors or employees), Tenant shall as soon as is possible, at the direction of Landlord or any federal, state, or local authority or other governmental authority, remove any such Hazardous Materials and rectify any such Hazardous Materials Release, and otherwise comply with the laws, rules, regulations or orders of such authority, all at the sole cost and expense of Tenant, including without limitation, the undertaking and completion of all investigations, studies, sampling and testing and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, from or affecting the Demised Premises. If Tenant shall fail to proceed with such removal or otherwise comply with such laws, rules, regulations or orders within any reasonable cure period set by Landlord, or within the cure period permitted under the applicable regulation or order, whichever period expires first, the same shall constitute a default hereunder without right of further notice or grace period, and Landlord shall have the right, at its sole option but with no obligation, to do whatever is necessary to eliminate such Hazardous Materials from the Demised Premises or otherwise comply with the applicable law, rule, regulation or order, acting either in its own name or in the name of Tenant pursuant to this Section, and the cost thereof shall be and become immediately due and payable without notice by Tenant to Landlord. In addition to and without limiting Landlord's rights pursuant to this Lease, Tenant shall give to Landlord and its agents and employees access to the Demised Premises and all buildings and other improvements and additions thereon for such purposes and hereby specifically grants to Landlord a license to remove the Hazardous Materials and otherwise comply with applicable laws, rules, regulations or orders, acting either in its own name or in the name of Tenant pursuant to this Section.

(d) Tenant shall defend, indemnify and save Landlord and Landlord's Affiliates harmless from, against, for and in respect of, any and all damages,

losses, settlement payments, obligations, liabilities, claims, actions or causes of actions, encumbrances, fines, penalties, and costs and expenses suffered, sustained, incurred or required to be paid by any such indemnified party (including, without limitation, fees and disbursements of attorneys, engineers, laboratories, contractors and consultants) because of, or arising out of or relating to any "Environmental Liabilities" (as defined below) in connection with the Demised Premises or any buildings previously, now or hereafter located thereon. For purposes of this indemnification clause, "Environmental Liabilities" shall include all costs and liabilities with respect to the past, present or future presence, removal, utilization, generation, storage, transportation, disposal or treatment of any Hazardous Materials or any release, spill, leak, pumping, pouring, emitting, emptying, discharge, injection, escaping, leaching, dumping or disposing into the environment (air, land or water) of any Hazardous Materials (each a "Hazardous Materials Release"), including without limitation, (i) cleanups, remedial and response actions, remedial investigations and feasibility studies, permits and licenses required by, or undertaken in order to comply with the requirements of, any federal, state or local law, regulation, or agency or court, any damages for injury to person, property or natural resources, claims of governmental agencies or third parties for cleanup costs and costs of removal, discharge, and satisfaction of all liens, encumbrances and restrictions on the Demised Premises relating to the foregoing and (ii) injury to person or property in any manner related to a Hazardous Materials Release on, near or from the Demised Premises or otherwise related to environmental matters on or near the Demised Premises. Hazardous Materials Release shall also include by means of any contamination, leaking, corrosion or rupture of or from underground or above ground storage tanks, pipes or pipelines. Landlord shall have the right to undertake, control and conduct, through counsel of its own choosing and at the sole cost and expense of Tenant, the conduct and settlement of any claim giving rise to indemnification hereunder, and the Tenant shall cooperate with the Landlord in connection therewith

(e) Tenant shall promptly notify Landlord in writing of the occurrence of any Hazardous Materials Release or any pending or threatened Regulatory Actions, or any claims made by any governmental authority or third party, relating to any Hazardous Materials or Hazardous Materials Release on or from, the Demised Premises, or any buildings or other improvements or additions previously, now or hereafter located thereon and shall promptly furnish Landlord with copies of any correspondence or legal pleadings or documents in connection therewith. Landlord shall have the right, but shall not be obligated, to notify any governmental authority of any state of facts which may come to its attention with respect to any Hazardous Materials or Hazardous Materials Release on or from the Demised Premises.

(f) The liability of Tenant to Landlord pursuant to, by reason of or arising from the representations, warranties, covenants and indemnities provided for this Section is unlimited and shall survive the expiration of the term of this Lease.

(g) Tenant covenants, represents and warrants that to the best of its knowledge and belief, the Demised Premises, and any buildings and other improvements and additions previously, now or hereafter located thereon, do not now and never have, contained any underground or aboveground storage tanks, pipes or pipelines for the storage or transportation of Hazardous Materials, including without limitation, heating oil, fuel oil, gasoline and/or other petroleum products, whether such tanks are in operation, not operational, closed, removed or abandoned. Without limiting the generality of the foregoing,

Tenant is in full compliance with all registration and other requirements of 42 USC ss. 6991, "Regulation of Underground Storage Tanks" and all federal, state and local laws and regulations implementing the provisions of such act.

(h) The provisions of this Section 21.27 are in addition to and not intended to limit (i) any representations, warranties, covenants, agreements and indemnities concerning the environment by Tenant in favor of Landlord in the contract of sale between the parties relating to Landlord's acquisition of the Demised Premises from Tenant or in any other documents related thereto and (ii) the provisions of applicable law and pursuant to which Landlord and Tenant acknowledge and agree that Tenant shall at all times be deemed to be the "operator" of the Demised Premises and to bear the primary responsibility under applicable law. Tenant acknowledges and agrees that Landlord has never occupied or operated at the Demised Premises and that Landlord acquired the Demised Premises directly from Tenant and therefor it is appropriate for Tenant to undertake all of the environmental responsibilities at the Demised Premises regardless of how or when such responsibilities arise or arose.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed and delivered this Lease as of the day and year first above written.

**LANDLORD:**

**OLP BROOKLYN PAVILION LLC**

By: OLP-MTC Holdings LLC, Sole Member

By: OLP Movies LLC, its Managing Member

By: One Liberty Properties, Inc., Sole Member

By: /s/ Mark H. Lundy

-----  
Mark H. Lundy  
Vice President

**TENANT:**

**PRITCHARD SQUARE CINEMA LLC**

By: /s/ Norman Adie

-----  
Name:  
Title:

**EXHIBIT A**

**Legal Description of the Demised Premises**

**EXHIBIT 10.41**

**FIRST AMENDMENT TO  
CONTRACT OF SALE AND LEASE AGREEMENT**

**PRITCHARD SQUARE LLC**

**- Seller -**

**OLP BROOKLYN PAVILION LLC**

**- Purchaser -**

**PRITCHARD SQUARE CINEMA LLC**

**- Tenant -**

**as of August 9, 2002**

Pavilion Theatre  
188 Prospect Park West  
Brooklyn, New York

## **FIRST AMENDMENT TO CONTRACT OF SALE AND TO LEASE AGREEMENT**

This FIRST AMENDMENT TO CONTRACT OF SALE AND LEASE AGREEMENT (this "Amendment") is made and entered into as of the 9th day of August, 2002 by and between Pritchard Square LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York 11215 ("Seller"), OLP Brooklyn Pavilion LLC, a Delaware limited liability company having an office at Suite 303, 60 Cutter Mill Road, Great Neck, New York 11021 ("Purchaser") and Pritchard Square Cinema LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York ("Tenant").

### **WITNESSETH:**

WHEREAS, Seller and Purchaser entered into that certain Contract of Sale calling for the sale and purchase and leaseback by Tenant of the Premises therein defined (the "Contract of Sale");

WHEREAS, Seller previously had a temporary certificate of occupancy for the Premises which during Purchaser's Due Diligence Period the parties learned that such temporary certificate of occupancy had expired but Seller has an approved application in place with the Buildings Department for the completion of the Premises;

WHEREAS, Seller previously obtained Public Assembly permits for certain of the theatres within the Premises and has applied for such permits in respect of the remaining theatres;

WHEREAS, upon learning of the expiration of the temporary certificate of occupancy and in order to address the situation, Seller had two (2) separate licensed architectural firms inspect the governmental filings, the existing plans and specifications for the Premises and the condition of the Premises itself;

WHEREAS, Seller had its architect resubmit its as-built building plans for the Premises as it exists today with the Buildings Department and such plans were approved in writing by the City of New York Buildings Department on August 7, 2002 and on account of such approval by the Buildings Department and the results of the inspection of the Premises by Seller's two (2) licensed architectural firms, Seller believes to the best of its knowledge and hereby represents and warrants to Purchaser that the physical condition of the Premises complies in all material respects with applicable law (other than for certain permitting items as herein reference) and is safe and suitable for occupancy;

WHEREAS, Seller previously obtained a written waiver by the City of New York Buildings Department of the compliance by the Premises with the provisions of Local Law 58;

WHEREAS, during such inspections by Seller's architects and by Purchaser, the parties have agreed that certain improvements to the Premises are advisable as herein set forth; and

WHEREAS, Seller and Purchaser wish to amend the Contract of Sale as herein set forth and Purchaser and Tenant wish to express certain agreements

they have reached in respect of the Master Lease all in accordance with the terms hereof in order to set up a specific procedure to provide for the formal compliance by the Premises with all permitting requirements and the improvement to the safety systems and handicapped accessibility to the Premises.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which being hereby acknowledged, the parties hereto do hereby agree as follows:

1. IMPROVEMENT HOLDBACK. A. Seller agrees that in addition to the \$500,000 holdback from the purchase price for the Landlord Construction Allowance for the Additional Theatre, Purchaser shall holdback from the purchase price an additional \$500,000 (the "Improvement Holdback"). The parties agree that the Improvement Holdback will be disbursed in accordance with the following:

i. Provided there shall be no default beyond applicable notice and grace period under the Master Lease (which has not been fully cured) and provided that any violations against the Premises in respect thereto have been paid in full and satisfied of record, Purchaser shall disburse to Seller \$250,000 upon the receipt by Purchaser of (i) a valid temporary certificate of occupancy for all eight (8) existing theatres at the Premises (the "TCO") and (ii) valid Public Assembly permits (collectively, the "permits") for the occupancy of all existing eight (8) theatres indicating a total seating capacity of no less than 990 seats (provided that Tenant has indicated that one (1) of the theatres may not need a Public Assembly permit under applicable law due to it having only 54 seats and Purchaser agrees that so long as Tenant can establish to Purchaser's reasonable satisfaction that no Public Assembly permit would be required for such theatre, then the receipt of Public Assembly permits for the remaining seven (7) theatres with 936 seats shall suffice for purposes hereof as the "Permits"). Tenant agrees to diligently pursue, at its sole cost and expense, the receipt of the TCO and Permits as expeditiously as reasonably possible and agrees that (x) Tenant shall pay to Purchaser as additional rent under the Master Lease \$50,000 per month starting February 9, 2003 and on the 9th day of each month thereafter that the TCO and Permits have not been issued by the applicable governmental authorities and received by Purchaser and any attendant violations of record have not been paid in full and satisfied of record and (y) that it shall constitute an event of default under the Master Lease (not requiring additional notice or grace period and allowing Purchaser to pursue its right thereunder and to retain the remaining portion of the Landlord Construction Allowance and the Improvement Holdback) if a permanent certificate of occupancy for the entire Premises (consisting of eight (8) theatres or if the Additional Theatre is built nine (9) theatres) and the Permits have not been received and any attendant violations of record have not been paid in full and satisfied of record within eighteen (18) months from the date hereof.

ii. Provided there shall be no default beyond applicable notice and grace period under the Master Lease (which has not been fully cured) and provided that any violations against the Premises in respect thereto have been paid in full and satisfied of record, Purchaser shall disburse to Seller \$125,000 upon the completion of (i) the Elevator (hereafter defined), (ii) the Fire System (hereafter defined) and (iii) the Doorways (hereafter defined). For purposes hereof, "completion" shall mean that the Elevator, Fire System and Doorways and all attendant modifications to the Premises have been (x) finished being constructed or installed, as the case may be, in accordance with plans and specifications therefor that have been approved of in writing by Purchaser (which approval shall not be unreasonably withheld), (y) paid for in full by

Tenant and Purchaser shall have received original lien waivers in recordable form acknowledging such payment and (z) all permits, approvals, certificates or inspections as may be required under applicable law, rule or regulation have been received and delivered to Purchaser. Tenant agrees to deliver to Purchaser preliminary plans and specifications within thirty (30) days of the date hereof. Purchaser shall, within seven (7) business days of its receipt of such plans and specifications, either give its written consent thereto or if Purchaser shall have an objection then it shall give such objection in writing to Tenant. Purchaser agrees to act reasonably in respect of its approval of the plans and specifications. Tenant shall make any revisions reasonably required by Purchaser within seven (7) days of its receipt of the request therefor from Purchaser. This process will continue until the plans and specifications have been approved of in writing by Purchaser (which approval shall not be unreasonably withheld). Upon the earlier to occur of (a) ten (10) days after the receipt of the TCO and Permits or (b) ninety (90) days from the date hereof, Tenant shall submit the approved plans and specifications to the applicable building authority for work or similar permits and approvals and Tenant agrees to make such modifications to the plans and specifications as required by applicable governmental authorities (but only upon notice to Purchaser). Promptly following receipt of all necessary work permits or similar approvals, Tenant shall cause the Elevator, Fire System and Doorways and related modifications to the Premises to be constructed in good condition and in full compliance with all laws, rules and regulations. Tenant agrees to cause such construction or installation to be done as expeditiously as reasonably possible and agrees that it shall constitute an event of default under the Master Lease (not requiring additional notice or grace period and allowing Purchaser to pursue its right thereunder and to retain the remaining portion of the Landlord Construction Allowance and the Improvement Holdback) if such construction and installation is not completed in a prompt manner but in any event no later than eighteen (18) months from the date hereof (or six (6) months in respect of the Fire System and the Doorways). Notwithstanding anything to the contrary herein, Tenant agrees to cause the Elevator, Fire System and/or Doorways to be installed as soon as is possible in the event any governmental authority shall request same in writing or issue a violation against the Premises for lack thereof or in the event that any insurance company, Board of Underwriters or similar authority shall require same in order for its insurance to remain in full force and effect. For purposes hereof, the term "Elevator" shall mean an automatic elevator that is handicapped accessible and approved serving all levels at the Premises in order to make the entire Premises handicapped accessible. For purposes hereof, the term "Fire System" shall mean a Class E Fire Safety System or such higher (but not lower) level fire safety system as may be required by applicable law; Tenant's architect has indicated to Purchaser that the Premises does not need a fire safety system under applicable law but Tenant and Purchaser have agreed that for the installation of one as herein provided for additional safety precautions for the Premises. For purposes hereof, the term "Doorways" shall mean the replacement of all doors and appurtenant locking mechanisms in the Premises with a minimum of two (2) hour fire retardant doors and appurtenant locking and opening mechanisms (or such higher retardancy period as may be required by applicable law, rule or regulation) and the widening, reconfiguring and/or reconstruction of those doorways, entrances or exits at the Premises that are required to be widened, reconfigured or reconstructed under applicable law or in the reasonable opinion of either Purchaser's or Tenant's licensed architects should be widened, reconfigured or reconstructed so as to best improve the access to the Premises and the egress from the Premises both for safety purposes and for handicapped accessibility.

iii. Provided there shall be no default beyond applicable notice and grace period under the Master Lease (which shall not have been fully cured) and provided that any violations against the Premises in respect thereto have been paid in full and satisfied of record, Purchaser shall disburse to Tenant the final \$125,000 upon the receipt by Purchaser of a written waiver by the City of New York's Mayor's Office for People with Disabilities of the entire Premises with the provisions of City of New York Local Law 58 (the "Waiver"). Tenant agrees that it shall constitute an event of default under the Master Lease (not requiring additional notice or grace period and allowing Purchaser to pursue its right thereunder and to retain the remaining portion of the Landlord Construction Allowance and the Improvement Holdback) if the Waiver is not received by Purchaser within eighteen (18) months from the date hereof.

B. Seller and Tenant agree that all work required hereinabove shall be done as expeditiously as reasonably possible, in compliance with all applicable laws and will be fully paid for by Seller or Tenant. Seller and Tenant agree that in connection with the performance of the work herein referenced, that they shall obtain (at their sole cost and expense) customary warranties on the items installed and the construction work (as reasonably approved by Purchaser). Tenant further agrees that, at its sole cost and expense after construction and installation of the Elevator and Fire System, Tenant shall obtain a customary service contract on such items and shall maintain same throughout the term of the Lease (from such companies and on such terms as are reasonably satisfactory to Purchaser). Notwithstanding anything to the foregoing, Tenant is and remains obligated to comply in all respects with all applicable local, state and federal law, rule or regulation in respect of the operation and condition of the Premises. In addition, Seller and Tenant agree that they shall give a copy of any filings (together with all appurtenant plans or other documentation) they propose to make with any governmental authority to Purchaser at least two (2) business days prior to such filing for Purchaser's approval, such approval not to be unreasonably withheld.

2. ADDITIONAL THEATRE. Purchaser and Tenant agree that the reference to an outside date of May 31, 2007 in Paragraph 9.4 of the Master Lease for the completion of the Additional Theatre is hereby shortened to be November 9, 2003.

3. MISCELLANEOUS. A. Except as modified hereby, the Contract of Sale and the Master Lease remain in full force and effect.

B. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Contract of Sale, unless the context shall otherwise clearly require.

C. Tenant acknowledges and agrees that a default by either Seller or Tenant of any of their obligations hereunder shall constitute an event of default under the Master Lease. Completion dates herein provided are time of the essence as provided in the Master Lease and are not subject to Force Majeure generally but may be extended solely due to a delay that can be directly attributed to an act of war or terrorism in the New York City metropolitan area following the date hereof. Tenant understands and agrees that none of the circumstances herein set forth shall in any manner allow it to abate any portion of its rent under the Master Lease. Seller and Tenant represent and warrant the recitals hereinabove are true to the best of their knowledge.



**SECOND AMENDMENT TO  
CONTRACT OF SALE AND LEASE AGREEMENT**

**PRITCHARD SQUARE LLC**

**- SELLER -**

**OLP BROOKLYN PAVILION LLC**

**- PURCHASER -**

**PRITCHARD SQUARE CINEMA LLC**

**- TENANT -**

**AS OF APRIL 2, 2003**

Pavilion Theatre  
188 Prospect Park West  
Brooklyn, New York

## SECOND AMENDMENT TO CONTRACT OF SALE AND TO LEASE AGREEMENT

This SECOND AMENDMENT TO CONTRACT OF SALE AND LEASE AGREEMENT (this "Amendment") is made and entered into as of the 2nd day of April, 2003 by and between Pritchard Square LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York 11215 ("Seller"), OLP Brooklyn Pavilion LLC, a Delaware limited liability company having an office at Suite 303, 60 Cutter Mill Road, Great Neck, New York 11021 ("Purchaser") and Pritchard Square Cinema LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York ("Tenant").

### **WITNESSETH:**

WHEREAS, Seller and Purchaser entered into that certain Contract of Sale dated as of June \_\_\_\_, 2002 calling for the sale and purchase and leaseback by Tenant of the Premises therein defined (the "Original Contract of Sale");

WHEREAS, Tenant and Purchaser entered into that certain Lease Agreement dated August 9, 2002 (the "Original Lease");

WHEREAS, Seller, Tenant and Purchaser entered into that certain First Amendment to Contract of Sale and Lease Agreement dated as of August 9, 2002 (the "First Amendment"; the Original Contract of Sale and the Original Lease as amended by the First Amendment are hereafter respectively referred to as the "Master Lease" and the "Contract of Sale");

WHEREAS, Seller, Tenant and Purchaser now wish to amend the First Amendment as herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which being hereby acknowledged, the parties hereto do hereby agree as follows:

1. TCO, PERMITS AND FINAL COFO. A. Purchaser acknowledges that it has received the TCO and Permits for the existing eight (8) theatres and on account thereof has disbursed to Seller \$250,000 of the Improvement Holdback referred to in Paragraph 1A(i) of the First Amendment which Seller acknowledges receipt of.

B. Tenant shall be solely responsible, at its cost and expense, to maintain the TCO in full force and effect and to extend same if necessary until receipt of the final, permanent and unconditional certificate of occupancy for the entire Premises including all eight (8) existing theatres and the Additional Theatre (the "Final CofO").

2. DATES. A. The eighteen (18) month timeframe referenced in Paragraphs 1A(i) and (ii) of the First Amendment to obtain the Final CofO and for the completion of the installation of the Elevator is hereby extended until June 9, 2004. The reference to May 31, 2007 in the last sentence of Paragraph 9.4(A) of the Master Lease as previously shortened to November 9, 2003 pursuant to the First Amendment is hereby changed to be June 9, 2004.

B. The six (6) month timeframe referenced in Paragraph 1A(ii) of the First Amendment for the completion of the installation of the updated Fire System and the Fire Doors is hereby extended until August 1, 2003.

3. THE WAIVER. Purchaser acknowledges receipt of a waiver of certain provisions of Local Law 58 as issued by the Brooklyn Borough Commissioner. On account thereof, Purchaser has simultaneously with the execution hereof delivered to Seller \$125,000 of the Improvement Holdback referred to in paragraph 1A(iii) of the Lease Amendment, which sum Seller acknowledges receipt of. If any further waivers or approvals are required and/or new regulations are issued by applicable governmental agencies (including, without limitation, the City of New York's Mayor's Office for People with Disabilities) which must be complied with in respect of the Premises, then Tenant agrees at its sole cost to obtain such additional waivers or approvals and/or comply with such new requirements promptly and within the time frames so required by applicable law.

4. FURTHER DISBURSEMENTS. A. Paragraph 1A(ii) of the First Amendment is hereby modified to provide that the remaining \$125,000 of the Improvement Holdback will be disbursed in two (2) separate payments instead of one (1) as currently provided for, such that, upon satisfaction of all other requirements of Paragraph 1A(ii) of the First Amendment and the Master Lease, (i) \$50,000 will be disbursed upon timely completion of the Doorways and the Fire System and (ii) \$75,000 will be disbursed upon timely completion of the Elevator.

B. Paragraph 9.4 of the Master Lease is hereby amended to provide that the Landlord Construction Allowance will be disbursed in multiple payments as work progresses on the Additional Theatre as opposed to all at once upon its completion. All other conditions of the Master Lease and First Amendment shall remain in full force and effect including the Funding Conditions. As part of Purchaser's approval of the plans, specifications and working drawings for the Additional Theatre as referenced in Paragraph 9.4(B) of the Master Lease, Tenant agrees to provide to Purchaser a budget for the proposed work along with a copy of a third party contract(s) backing and confirming same. If the budgeted amount is more than \$500,000, Tenant shall fund such excess of its own funds prior to any disbursements from the Landlord Construction Allowance. Disbursements from the Landlord Construction Allowance shall be made in minimum increments of \$50,000 (upon satisfaction of the Funding Conditions and all of the other conditions of the Master Lease, the First Amendment and this Amendment) upon completion of budgeted work in said amount. Notwithstanding the foregoing, \$150,000 of the Landlord Construction Allowance shall be held back until such time as (i) the Additional Theatre is fully completed and open for business, (ii) the Elevator, the Doorways and the Fire System have been completed and (iii) the Final CofO timely obtained. It is understood that the Funding Condition referenced in Paragraph 9.4(C)(ii) relating to an architect's certificate of completion shall henceforth mean and refer to a certificate from a licensed architect that the subject work has been completed in accordance with the approved plans and specifications and that the remaining portion of the Landlord Construction Allowance is sufficient to cover all of the anticipated costs of the Additional Theatre including a reasonable contingency factor as determined by Purchaser.

3. MISCELLANEOUS. A. Except as modified hereby, the Contract of Sale and the Master Lease, as amended by the First Amendment, remain in full force and effect.

B. Capitalized and/or defined terms used but not defined herein shall have the meanings ascribed to them in the Contract of Sale, the Master Lease or the First Amendment as the case may be, unless the context shall otherwise clearly require.

C. Tenant acknowledges and agrees that a default by either Seller or Tenant of any of their obligations under this Amendment or the First Amendment shall constitute an Event of Default under the Master Lease. Completion dates herein provided are time of the essence as provided in the Master Lease and are not subject to Force Majeure generally but may be extended solely due to a delay that can be directly attributed to an act of war or terrorism in the New York City metropolitan area following the date hereof. Tenant understands and agrees that none of the circumstances herein set forth shall in any manner allow it to abate any portion of its rent under the Master Lease. Seller and Tenant represent and warrant the recitals hereinabove are true to the best of their knowledge.

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Second Amendment as of the date first hereinabove written.

**PRITCHARD SQUARE LLC, as Seller**

By: */s/ Norman Adie*  
-----  
Name: *Norman Adie*  
-----  
Title: *Member*  
-----

OLP BROOKLYN PAVILION LLC, as Purchaser  
by: OLP-MTC Holdings, LLC, its sole member by: OLP Movies LLC, is manager  
by: One Liberty Properties, Inc, its sole member

By: */s/ Mark H. Lundy*  
-----  
*Mark H. Lundy*  
*Vice President*

**PRITCHARD SQUARE CINEMA LLC, as Tenant**

By: /s/ Norman Adie  
-----  
Name: Norman Adie  
-----  
Title: Member  
-----

/s/ Norman Adie  
-----  
Norman Adie, personally as guarantor to confirm  
that his guaranty of the Master Lease includes  
the guaranty of the covenants of Tenant herein provided  
and to confirm his agreement to the foregoing

**EXHIBIT 10.43**

**THIRD AMENDMENT TO  
CONTRACT OF SALE AND LEASE AGREEMENT**

**PRITCHARD SQUARE LLC**

**-SELLER-**

**OLP BROOKLYN PAVILION LLC**

**- PURCHASER -**

**PRITCHARD SQUARE CINEMA LLC**

**- TENANT -**

**AS OF NOVEMBER 1, 2003**

**PAVILION THEATRE  
188 PROSPECT PARK WEST  
BROOKLYN, NEW YORK**

### **THIRD AMENDMENT TO CONTRACT OF SALE AND TO LEASE AGREEMENT**

This THIRD AMENDMENT TO CONTRACT OF SALE AND LEASE AGREEMENT (this "Amendment") is made and entered into as of the 1st day of November, 2003 by and between Pritchard Square LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York 11215 ("Seller"), OLP Brooklyn Pavilion LLC, a Delaware limited liability company having an office at Suite 303, 60 Cutter Mill Road, Great Neck, New York 11021 ("Purchaser") and Pritchard Square Cinema LLC, a New York limited liability company having an address at 188 Prospect Park West, Brooklyn, New York ("Tenant").

#### **WITNESSETH:**

WHEREAS, Seller and Purchaser entered into that certain Contract of Sale dated as of June 5, 2002 calling for the sale and purchase and leaseback by Tenant of the Premises therein defined (the "Original Contract of Sale");

WHEREAS, Tenant and Purchaser entered into that certain Lease Agreement dated August 9, 2002 (the "Original Lease");

WHEREAS, Seller, Tenant and Purchaser entered into that certain First Amendment to Contract of Sale and Lease Agreement dated as of August 9, 2002 (the "First Amendment");

WHEREAS, Seller, Tenant and Purchaser entered into that certain Second Amendment to Contract of Sale and Lease Agreement dated as of April 2, 2003 (the "Second Amendment"; the Original Contract of Sale and the Original Lease as amended by the First Amendment and the Second Amendment are hereafter respectively referred to as the "Master Lease" and the "Contract of Sale");

WHEREAS, Seller, Tenant and Purchaser now wish to amend the Master Lease and the Contract of Sale as herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the sufficiency of which being hereby acknowledged, the parties hereto do hereby agree as follows:

1. DATES. The timeframe referenced in Paragraph 1A(ii) of the First Amendment for the completion of the installation of the updated Fire System and the Fire Doors is hereby extended until March 31, 2004.
2. ELEVATOR. Pursuant to Paragraph 4A(ii) of the Second Amendment, \$75,000 of the remaining \$125,000 Improvement Holdback is being held pending the installation of the Elevator. Tenant has indicated to Landlord that Tenant and its architects do not believe that the Elevator is practical to install at the Premises and nor would it materially aid in Tenant's business and does not affect the legality or value of the Premises. Landlord therefore hereby agrees to waive the

LEASE YEAR	MINIMUM ANNUAL	MONTHLY RENT
Lease Years 1 & 2	\$1,140,000.00	\$95,000.00
Lease Year 3	\$1,193,500.00	\$99,458.33
Lease Year 4	\$1,252,712.50	\$104,392.71
Lease Year 5	\$1,282,655.31	\$106,887.94
Lease Year 6	\$1,313,346.70	\$109,445.56
Lease Year 7	\$1,289,805.36	\$107,483.78
Lease Year 8	\$1,322,050.50	\$110,170.88
Lease Year 9	\$1,355,101.76	\$112,925.15
Lease Year 10	\$1,388,979.30	\$115,748.28
Lease Year 11	\$1,423,703.79	\$118,641.98
Lease Year 12	\$1,459,296.38	\$121,608.03
Lease Year 13	\$1,495,778.79	\$124,648.23
Lease Year 14	\$1,533,173.26	\$127,764.44
Lease Year 15	\$1,571,502.59	\$130,958.55
Lease Year 16	\$1,610,790.16	\$134,232.51
Lease Year 17	\$1,651,059.91	\$137,588.33
Lease Year 18	\$1,692,336.41	\$141,028.03
Lease Year 19	\$1,734,644.82	\$144,553.74
Lease Year 20	\$1,778,010.94	\$148,167.58

In addition, Tenant shall simultaneously herewith pay to Landlord the Impositions payments due on October 1, 2003 and November 1, 2003, respectively, in the total amount of \$13,824.36.

4. MISCELLANEOUS. A. Except as modified hereby, the Contract of Sale and the Master Lease remain in full force and effect.

B. Capitalized and/or defined terms used but not defined herein shall have the meanings ascribed to them in the Contract of Sale or the Master Lease as the case may be, unless the context shall otherwise clearly require.

C. Tenant acknowledges and agrees that a default by either Seller or Tenant of any of their obligations under this Third Amendment shall constitute an Event of Default under the Master Lease. As to Tenant, dates herein provided are time of the essence as provided in the Master Lease and are not subject to Force Majeure generally but may be extended solely due to a delay that can be directly attributed to an act of war or terrorism in the New York City metropolitan area following the date hereof. Tenant understands and agrees that none of the circumstances herein set forth shall in any manner allow it to abate any portion of its rent under the Master Lease. Seller and Tenant represent and warrant the recitals hereinabove are true to the best of their knowledge.

D. Tenant hereby acknowledges that as of the date hereof Landlord is not in default under any obligation it may have under the Master Lease, as amended hereby, and that Purchaser is not in default under any obligation it may have remaining under the Contract of Sale, as amended hereby, and Tenant hereby



**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in the Registration Statements of Access Integrated Technologies, Inc. and subsidiaries on Form S-3 (Registration No. 333-123279), Form S-3 (Registration No. 333-127673), Form S-3 (Registration No. 333-129747), and Form S-8 (Registration No. 333-124290) of our report dated June 1, 2006 on our audit of the consolidated financial statements, which appears in this Form 10-KSB. We also consent to the reference to our firm under the heading "Experts" in the Registration Statements on Form S-3 (Registration No. 333-127673) and Form S-3 (Registration No. 333-129747).

*/s/ Eisner LLP*

*Florham Park, New Jersey  
June 28, 2006*