Registration No. 33-

As filed with the Securities and Exchange Commission on September 13, 1995

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-4

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

| ELI LILLY AND COMPANY | INTEGRATED MEDICAL SYSTEMS, INC. |
|---|---|
| (Exact names of registrants as specified in their charters) | |
| INDIANA | COLORADO |
| (State of Incorporation) | |
| 2834 | 8099 |
| (Primary Standard Industrial Classification Code Number) | |
| 35-0470950 | 84-0970775 |
| (IRS Employer Identification No.) | |
| LILLY CORPORATE CENTER<br>INDIANAPOLIS, INDIANA 46285<br>317-276-2000 | 15000 WEST 6TH AVENUE<br>SUITE 400<br>GOLDEN, COLORADO 80401<br>303-279-6116 |
| (Address, including zip code, and telephone number, including area code, of registrants' principal executive offices) | |

| | |
|---|---|
| REBECCA O. GOSS<br>VICE PRESIDENT AND<br>GENERAL COUNSEL<br>ELI LILLY AND COMPANY<br>LILLY CORPORATE CENTER<br>INDIANAPOLIS, INDIANA 46283<br>317-276-2000 | KEVIN R. GREEN<br>PRESIDENT AND CHIEF<br>EXECUTIVE OFFICER<br>INTEGRATED MEDICAL SYSTEMS, INC.<br>15000 WEST 6TH AVENUE<br>SUITE 400<br>GOLDEN, COLORADO 80401<br>303-279-6116 |

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

| | | |
|---|---|---|
| BERNARD E. KURY<br>Dewey Ballantine<br>1301 Avenue of the Americas<br>New York, New York 10019 | WILLIAM A. GROLL<br>Cleary, Gottlieb,<br>Steen & Hamilton<br>One Liberty Plaza<br>New York, New York 10006 | ALAN W. PERYAM<br>Hopper and Kanouff, P.C.<br>1610 Wynkoop Street<br>Suite 200<br>Denver, Colorado 80202 |

Approximate date of commencement of proposed sale of the securities to the public: Upon consummation of the Merger described herein.

If the securities being registered on this form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. [_]

CALCULATION OF REGISTRATION FEE

| Title of each class of securities to be registered | Amount to be registered(1) | Proposed maximum offering price per unit | Proposed maximum aggregate offering price | Amount of registration fee |
|---|---|---|---|---|
| Series D Preferred Stock, par value $0.01 per share, of IMS | 10,792,695 | | | |
| Series B Preferred Stock, par value $1.00 per share, of IMS | 2,000,000 | | | |
| Warrants to Purchase Series D Preferred Stock of IMS | 655,103 | (2) | $1,250,504(2) | $432(2) |
| Options to Purchase Series D Preferred Stock of IMS | 2,380,457 | | | |
| Options to Purchase Lilly Common Stock | 292,979 | | | |
| Lilly Common Stock(3) | 292,979 | | | |
| Put Rights for Series D Preferred Stock | 10,792,695 | | | |

(1) Based on the maximum number of shares of Series D Preferred Stock, Series B Preferred Stock, Warrants to Purchase Series D Preferred Stock, Options to Purchase Series D Preferred Stock, Options to Purchase Lilly Common Stock, Lilly Common Stock, and Put Rights for Series D Preferred Stock that may be issued in the Merger or upon the exercise of options or warrants following the Merger.

(2) Calculated pursuant to Rule 457(f)(2) under Securities Act of 1933 based on the book value of IMS as of June 30, 1995.

(3) Includes all Preferred Stock Purchase Rights of Lilly issuable in conjunction with the shares of Lilly Common Stock pursuant to the Rights Agreement, dated July 18, 1988, between Lilly and Bank One, Indianapolis, N.A.

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The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

INTEGRATED MEDICAL SYSTEMS, INC.
ELI LILLY AND COMPANY

CROSS-REFERENCE SHEET BETWEEN ITEMS IN
FORM S-4 AND PROSPECTUS PURSUANT TO
ITEM 501(B) OF REGULATION S-K

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| Item 2. | Inside Front and Outside Back Cover Pages of Prospectus..... | Available Information; Incorporation of Documents by Reference; Table of Contents |
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| Item 5. | Pro Forma Financial Information..... | Summary; Capitalization of IMS Following the Merger |
| Item 6. | Material Contacts with the Company Being Acquired..... | Special Factors to be Considered; The Merger Agreement; Put/Call Agreements |
| Item 7. | Additional Information Required for Reoffering by Persons and Parties Deemed to be Underwriters..... | * |
| Item 8. | Interests of Named Experts and Counsel..... | Experts |
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| Item 12. | Information With Respect to S-2 or S-3 Registrants | * |
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| Item 14. | Information With Respect to Registrants Other Than S-2 or S-3 Registrants | Business of IMS; Management's Discussion and Analysis of Financial Condition and Results of Operations of IMS; Management of IMS; Consolidated Financial Statements of IMS |
| Item 15. | Information With Respect to S-3 Companies | * |
| Item 16. | Information With Respect to S-2 or S-3 Companies | * |
| Item 17. | Information With Respect to Companies Other Than S-2 or S-3 Companies | Business of IMS; Management's Discussion and Analysis of Financial Condition and Results of Operations of IMS; Management of IMS; Description of Capital Stock of IMS; Consolidated Financial Statements of IMS |
| Item 18. | Information if Proxies, Consents or Authorizations are to be Solicited | Summary; The Special Meeting; Special Factors to be Considered; The Merger Agreement; Rights of Dissenting Shareholders; Business of IMS; Ownership of IMS; Management of IMS |
| Item 19. | Information if Proxies, Consents or Authorizations are not to be Solicited or in an Exchange Offer | * |

* Omitted because inapplicable or answer is in the negative.

INTEGRATED MEDICAL SYSTEMS, INC.
15000 West 6th Avenue
Suite 400
Golden, Colorado 80401

_____, 1995

Dear Shareholder of Integrated Medical Systems, Inc.:

You are cordially invited to attend a Special Meeting of Shareholders of Integrated Medical Systems, Inc., a Colorado corporation (the "Company"), which will be held on _____, _____, 1995, at _____, commencing at ___m. local time. At this meeting you will be asked to consider and vote upon the approval and adoption of an Agreement and Plan of Merger dated August 2, 1995 (the "Merger Agreement"), providing for the merger (the "Merger") of a wholly-owned subsidiary of Eli Lilly and Company, an Indiana corporation ("Lilly"), with and into the Company. As a result of the Merger, the Company will become a subsidiary of Lilly, and Company shareholders will receive cash or other securities as described below. The enclosed Proxy Statement-Prospectus describes the proposed Merger in detail and should be read carefully in its entirety.

The Merger is required to be approved by the affirmative vote of the holders of at least two-thirds of the outstanding shares of common stock, Series B Preferred Stock ("Series B Stock") and Series C Preferred Stock ("Series C Stock"), voting together as a single class, and the affirmative vote of at least two-thirds of the outstanding shares of each of the Series B Stock and the Series C Stock, each voting separately as a class. As of _____, 1995, the directors of the Company and their affiliates (other than Lilly or any wholly-owned subsidiary of Lilly) owned an aggregate of 3,337,795 shares of Company common stock representing 51% of the Company common stock entitled to vote on the Merger and 1,581,562 shares of Series B Stock representing 79% of the Series B Stock entitled to vote on the Merger. All of these shareholders have agreed with Lilly to vote the shares of Company common stock or Series B Stock owned by them (or acquired in the future) in favor of the Merger. In addition, Lilly, through its wholly-owned subsidiaries, owns 160,200 shares of Company common stock and all of the Series C Stock entitled to vote on the Merger and intends to vote all of such shares in favor of the Merger. The shares of Company common stock, Series B Stock and Series C Stock collectively owned by these shareholders and Lilly represent approximately 70% of the Company common stock, Series B Stock and Series C Stock entitled to vote as a class on the Merger. Thus, upon the vote of these shareholders in accordance with such agreements, shareholder approval of the Merger is assured.

As a result of the Merger,

(a) each issued and outstanding share of common stock of the Company (other than dissenting shares or shares owned by Lilly or a subsidiary of Lilly) will be converted into the right to receive, at the holder's election, either $8.00 in cash, without interest, or one share of Series D Preferred Stock ("Series D Stock"), a newly created class of preferred stock of the Company which will have the preferences, limitations and relative rights described in the enclosed Proxy Statement-Prospectus and in the Articles of Merger of the surviving corporation, and

(b) each issued and outstanding share of Series B Stock of the Company (other than dissenting shares) will, at the holder's election, (i) convert into the right to receive either (A) $5.33 per share in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such a share of Series B Stock

to the effective date of the Merger, or (B) two-thirds of a share of Series D Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such a share of Series B Stock to the effective date of the Merger, or (ii) will remain outstanding (with the amended preferences, limitations and relative rights described in the Articles of Incorporation of the surviving corporation), and

(c) each issued and outstanding share of Series C Stock of the Company (other than dissenting shares) will be converted into one share of common stock of the surviving corporation.

Company shareholders have dissenters' rights with respect to their shares and must closely follow the procedures set forth in the Proxy Statement-Prospectus in order to properly perfect such rights.

The Board of Directors has received the opinion of the investment banking firm of Smith Barney Inc. to the effect that, based on the matters described therein, the consideration to be offered in the Merger to IMS shareholders (other than Lilly and its subsidiaries) is fair to such shareholders from a financial point of view. The opinion is attached as Appendix C to the Proxy Statement-Prospectus.

Based on certain factors described in the Proxy Statement-Prospectus, the Board of Directors of the Company has determined that the Merger is fair and in the best interests of the Company and its shareholders. Accordingly, the Board of Directors has approved the Merger Agreement and the Merger and recommends that the shareholders vote for adoption and approval of the Merger Agreement and the Merger. Each of the Directors has agreed with Lilly to so vote shares held by the director and, in certain cases, members of his immediate family.

In addition, approval of the Merger by the Company's shareholders also includes approval of an amendment to the Company's 1994 Stock Option Plan (the "Plan") in order to increase the number of shares of common stock authorized to be issued under the Plan from 400,000 shares to 838,600 shares, which equals the total number of shares subject to options previously granted under the Plan. Approval of the Merger also includes approval of an amendment to the Company's articles of incorporation, effective upon consummation of the Merger, which will, among other things, eliminate the voting rights of the Series B Stock other than as required by Colorado law and make the Series B Stock parity stock with the Series D Stock upon liquidation, dissolution or winding-up of IMS.

Please complete, sign and mail promptly the enclosed Proxy, whether or not you intend to be present in person at the Special Meeting. If you attend the Special Meeting, you may vote your shares in person even if you have previously submitted a Proxy.

DO NOT SEND IN YOUR SHARE CERTIFICATES WITH YOUR PROXY.

Respectfully,

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Kevin R. Green,
President and Director

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Charles I. Brown,
Executive Vice President
and Director

INTEGRATED MEDICAL SYSTEMS, INC.

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

TO BE HELD _____, 1995

To the Shareholders of Integrated Medical Systems, Inc.:

A special meeting of shareholders of Integrated Medical Systems, Inc. (the "Company") will be held on _____, 1995 at _____ for the following purposes:

1. To consider and vote upon a proposal to approve and adopt an Agreement and Plan of Merger (the "Merger Agreement"), dated August 2, 1995, among the Company, Eli Lilly and Company ("Lilly") and Trans-IMS Corporation, a Colorado corporation which is a wholly-owned subsidiary of Lilly ("Subsidiary"), which provides for the merger of Subsidiary into the Company (the "Merger"). Pursuant to the Merger, (i) each outstanding share of Common Stock, without par value, of the Company (the "Company Common Stock") (other than dissenting shares or shares owned by Lilly or a subsidiary of Lilly) will be converted into, at the holder's election, either (a) $8.00 in cash, without interest, or (b) one share of Series D Preferred Stock, $0.01 par value, of the Company (the "Series D Preferred Stock"), (ii) each outstanding share of Series B Preferred Stock, par value $1.00 per share, of the Company (the "Series B Preferred Stock") (other than dissenting shares) will either (a) be converted into, at such holder's election, either (1) $5.33 in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (2) two-thirds of a share of Series D Preferred Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (b) remain outstanding (with the amended preferences, limitations and relative rights described in the Articles of Incorporation of the surviving corporation), and (iii) each outstanding share of Series C Preferred Stock, par value $1.00 per share, of the Company will be converted into one share of common stock of the surviving corporation. In addition, each holder of Company Common Stock, Series B Preferred Stock, or options or warrants to purchase Company Common Stock will be offered the right to enter into a put/call agreement with Lilly with respect to any or all of the shares of Series D Preferred Stock that such holder may acquire. Approval of the Merger by IMS shareholders will include approval of an amendment to the Integrated Medical Systems, Inc. 1994 Employee Stock Option Plan (the "Plan") to increase the number of shares available under such plan from 400,000 shares of Company Common Stock to 838,600 shares of Company Common Stock, which equals the total number of shares subject to options previously granted under the Plan. Approval of the Merger by IMS shareholders will also include approval of an amendment to the Articles of Incorporation of IMS, effective upon consummation of the Merger, which will, among other things, eliminate the voting rights of the Series B Preferred Stock other than as required by Colorado law and make the Series B Preferred Stock parity stock with the Series D Preferred Stock upon the liquidation, dissolution or winding-up of IMS.

2. To consider and transact such other business as may properly come before the meeting and adjournments or postponements thereof.

Shareholders of record at the close of business on _____, 1995 are entitled to receive notice of, and to vote at, the special meeting and any adjournment thereof.

It is important that your shares be represented at the meeting. Whether or not you plan to attend the meeting, please sign, date and promptly mail the enclosed proxy in the envelope provided.

By Order of the
Board of Directors

---
James A. Larson
Secretary

Golden, Colorado

_____, 1995

THIS PROXY STATEMENT ALSO CONSTITUTES A PROSPECTUS RELATING TO THE SECURITIES OF THE COMPANY AND OF ELI LILLY AND COMPANY TO BE ISSUED IN CONNECTION WITH THE PROPOSED MERGER.

Information contained herein is subject to completion or amendment. A registration statement relating to these securities has been filed with the Securities and Exchange Commission. These securities may not be sold nor may offers to buy be accepted prior to the time the registration statement becomes effective. This prospectus shall not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of these securities in any State in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such State.

SUBJECT TO COMPLETION -- DATED SEPTEMBER 13, 1995

# INTEGRATED MEDICAL SYSTEMS, INC.

## PROXY STATEMENT

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# INTEGRATED MEDICAL SYSTEMS, INC.

## ELI LILLY AND COMPANY

## PROSPECTUS

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This Proxy Statement-Prospectus and the accompanying proxy are furnished in connection with the solicitation by the Board of Directors of Integrated Medical Systems, Inc., a Colorado corporation ("IMS" or the "Company"), of proxies to be voted at the Special Meeting of Shareholders (the "Special Meeting") to be held on _____ at _____ A.M. local time, at _____ and at any adjournment thereof. The purpose of the Special Meeting is to consider and vote upon the proposed merger (the "Merger") of Trans-IMS Corporation, a Colorado corporation ("Subsidiary") which is a wholly-owned subsidiary of Eli Lilly and Company ("Lilly"), into IMS, pursuant to the Agreement and Plan of Merger, dated August 2, 1995, among IMS, Lilly and Subsidiary (the "Merger Agreement").

Pursuant to the Merger, (i) each outstanding share of Common Stock, without par value, of the Company (the "Company Common Stock") (other than shares held by IMS as treasury shares, shares owned by Lilly or any subsidiary of Lilly, or shares as to which dissenters' rights have been perfected under Colorado law) will be converted into, at the holder's election, either (a) $8.00 in cash, without interest, or (b) one share of Series D Preferred Stock, $0.01 par value, of the Company (the "Series D Preferred Stock"), (ii) each outstanding share of Series B Preferred Stock, par value $1.00 per share, of the Company (the "Series B Preferred Stock") (other than shares as to which dissenters' rights have been perfected under Colorado law) will either (a) be converted into, at such holder's election, either (1) $5.33 in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (2) two-thirds of a share of Series D Preferred Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (b) remain outstanding (with the amended preferences, limitations and relative rights set forth in the Articles of Incorporation of the surviving corporation), and (iii) each outstanding share of Series C Preferred Stock, par value $1.00 per share, of the Company (the "Series C Preferred Stock") will be converted into one share of common stock of the surviving corporation. In addition, each holder of Company Common Stock, Series B Preferred Stock, or options or warrants to purchase Company Common Stock will be offered the right to enter into a put/call agreement with Lilly with respect to any or all of the shares of Series D Preferred Stock that such holder may acquire.

Approval of the Merger by IMS shareholders will include approval of an amendment to the Integrated Medical Systems, Inc. 1994 Employee Stock Option Plan to increase the number of shares available under such plan from 400,000 shares of Company Common Stock to 838,600 shares of Company Common Stock, which equals the total number of shares subject to options previously granted under the Plan.

Approval of the Merger by IMS shareholders will also include approval of an amendment to the Articles of Incorporation of IMS, effective upon consummation of the Merger, which will, among other things, eliminate the voting rights of the Series B Preferred Stock other than as required by Colorado law and make the Series B Preferred Stock parity stock with the Series D Preferred Stock upon the liquidation, dissolution or winding-up of IMS.

THE BOARD OF DIRECTORS OF IMS (WITH ONE DIRECTOR ABSENT) HAS UNANIMOUSLY DETERMINED THAT THE PROPOSED MERGER IS FAIR AND REASONABLE AND IN THE BEST INTERESTS OF IMS AND ITS SHAREHOLDERS (OTHER THAN LILLY AND ITS SUBSIDIARIES), AND RECOMMENDS APPROVAL AND ADOPTION OF THE MERGER AGREEMENT BY IMS SHAREHOLDERS (EXCEPT THAT THE TWO DIRECTORS WHO ARE AFFILIATED WITH LILLY ABSTAINED FROM THE BOARD'S DELIBERATIONS AND VOTE).

SEE "SPECIAL FACTORS TO BE CONSIDERED" FOR A DESCRIPTION OF CERTAIN CONSIDERATIONS RELATED TO THE MERGER.

This Proxy Statement also constitutes a Prospectus of IMS with respect to Series D Preferred Stock to be issued and Series B Preferred Stock that will be amended in connection with the transactions described herein, and with respect to warrants and options to purchase Series D Preferred Stock that will be outstanding after the Merger. In addition, this Proxy Statement constitutes a Prospectus of Lilly with respect to the put rights to be issued pursuant to the Put/Call Agreements and the Lilly stock options that may be substituted for IMS employee stock options and the common stock of Lilly issuable upon the exercise of such options as more fully described herein.

This Proxy Statement-Prospectus and the enclosed form of proxy are being mailed to IMS shareholders on or about _____, 1995.

THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE SECURITIES COMMISSION NOR HAS THE COMMISSION OR ANY STATE SECURITIES COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROXY STATEMENT-PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

The date of this Proxy Statement-Prospectus is _____, 1995.

## AVAILABLE INFORMATION

Lilly is subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and in accordance therewith files reports and other information with the Securities and Exchange Commission (the "Commission"). Reports, proxy statements and other information filed by Lilly with the Commission can be inspected and copied at the public reference facilities maintained by the Commission at Room 1024, 450 Fifth Street, N.W., Washington, D.C. 20549, and at the Commission's Regional Offices at 7 World Trade Center, 13th Floor, New York, New York 10048 and 500 West Madison Street, Suite 1400, Chicago, Illinois 60661. Copies of such material can be obtained from the Public Reference Section of the Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, at prescribed rates.

Lilly and IMS have filed with the Commission a Registration Statement on Form S-4 (together with any amendments thereto, the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act"), with respect to the securities to be issued pursuant to the proposed Merger. This Proxy Statement-Prospectus does not contain all the information set forth in the Registration Statement, certain portions of which have been omitted as permitted by the rules and regulations of the Commission. Such additional information may be obtained from the Commission's principal office in Washington, D.C. Statements contained in this Proxy Statement-Prospectus or in any document incorporated in this Proxy Statement-Prospectus by reference as to the contents of any contract of other document referred to herein or therein are not necessarily complete, and in each instance reference is made to the copy of such contract or other document filed as an exhibit to the Registration Statement or such other document, each such statement being qualified in all respects by such reference.

The common stock of Lilly is listed and traded on the New York Stock Exchange, Inc. Reports, proxy statements and other information concerning Lilly can be inspected at the New York Stock Exchange, 20 Broad Street, New York, New York 10005. Certain Lilly securities are also traded on the American Stock Exchange, and the foregoing Lilly documents can also be inspected at the American Stock Exchange, 86 Trinity Place, New York, New York 10006.

THIS PROXY STATEMENT-PROSPECTUS INCORPORATES DOCUMENTS BY REFERENCE WHICH ARE NOT PRESENTED HEREIN OR DELIVERED HEREWITH. THESE DOCUMENTS ARE AVAILABLE UPON REQUEST FROM ELI LILLY AND COMPANY, SHAREHOLDER SERVICES DEPARTMENT, LILLY CORPORATE CENTER, INDIANAPOLIS, INDIANA 46285, TELEPHONE NUMBER (317) 276-2000. IN ORDER TO ENSURE TIMELY DELIVERY OF THE DOCUMENTS, ANY REQUEST SHOULD BE MADE NO LATER THAN [5 BUSINESS DAYS PRIOR TO SPECIAL MEETING], 1995.

No person is authorized to give any information or to make any representation other than those contained in this Proxy Statement-Prospectus and, if given or made, such information or representation must not be relied upon as having been authorized by IMS, Lilly or Subsidiary. Neither the delivery of this Proxy Statement-Prospectus nor any distribution of securities registered hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of IMS, Lilly or Subsidiary since the date hereof. The information contained in this Proxy Statement-Prospectus relating to IMS has been furnished by IMS for inclusion herein. The information contained in this Proxy Statement-Prospectus relating to Lilly and Subsidiary has been furnished by Lilly for inclusion herein.

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Appendix A - Articles of Merger

Appendix B - Form of Put/Call Agreement

Appendix C - Opinion of Smith Barney Inc.

Appendix D - Article 113 of the Colorado Business Corporation Act

## SUMMARY

The following is a brief summary of certain information contained elsewhere in this Proxy Statement-Prospectus. This summary is qualified in its entirety by the more detailed information contained in this Proxy Statement-Prospectus, in its Appendices and in the documents referred to herein, to which reference is made for a more complete statement of the matters discussed below.

### THE COMPANIES

#### Integrated Medical Systems, Inc.

Integrated Medical Systems, Inc. ("IMS" or the "Company") was founded in 1985. IMS develops and operates computerized medical communications networks that link participants in the healthcare delivery and payment systems enabling such participants to convert routine and specialized messages from manual to automated media and to provide a practical means for providers and payers to integrate the services they provide. Healthcare, and especially the individual physician's practice of medicine, generates prolific requirements for multi-location, multi-system clinical, financial and administrative communication and information transfer and management. IMS believes that it is the nation's leading provider of physician-focused, multi-participant, multi-media, bi-directional automated healthcare communications through a common user interface, in terms of total number of transactions, variety of transactions, number of physicians, number and variety of interfaced host healthcare information systems, number of institutions (hospitals, managed care plans, clinical laboratories, ancillary care providers and healthcare information and administrative services) and number of operational networks and markets served.

The mailing address and telephone number of IMS's principal executive offices are 15000 West 6th Avenue, Suite 400, Golden, Colorado 80401, (303) 279-6116. See "BUSINESS OF IMS."

#### Eli Lilly and Company

Eli Lilly and Company ("Lilly") was incorporated in 1901 under the laws of the state of Indiana to succeed to the drug manufacturing business founded in Indianapolis, Indiana, in 1876 by Colonel Eli Lilly. Lilly is engaged in the discovery, development, manufacture, and sale of products and the provision of services in one industry segment--Life Sciences. Lilly's principal products are human pharmaceuticals and animal health products. Products are manufactured or distributed through owned or leased facilities in the United States, Puerto Rico, and 26 other countries, in 19 of which Lilly owns or has an interest in manufacturing facilities. Its products are sold in approximately 117 countries. Through its PCS Health Systems, Inc. subsidiary ("PCS"), Lilly also provides pharmacy benefit management services in the United States.

Most of Lilly's products were discovered or developed through Lilly's research and development activities, and the success of Lilly's business depends to a great extent on the introduction of new products resulting from these research and development activities. Research efforts are primarily directed toward the discovery of products to diagnose and treat diseases in human beings and animals and to increase the efficiency of animal food production.

Trans-IMS Corporation, a Colorado corporation and a wholly-owned subsidiary of Lilly ("Subsidiary"), is a corporation recently organized in connection with the Merger and has not conducted any other business.

The principal executive offices of Lilly and Subsidiary are located at Lilly Corporate Center, Indianapolis, Indiana 46285, and their telephone number at that location is (317) 276-2000.

## THE SPECIAL MEETING

### Time, Date and Place

The special meeting of IMS shareholders (the "Special Meeting") will be held on _____, 1995, at _____ A.M. local time, at _____.

### Purpose of the Meeting

At the Special Meeting, the IMS shareholders will be asked to consider and vote upon the proposed merger (the "Merger") of Subsidiary into IMS. The Merger will result in IMS becoming a subsidiary of Lilly, with all of IMS's outstanding voting stock being owned by Lilly and all of IMS's other shareholders owning non-voting Series D Preferred Stock and Series B Preferred Stock.

### Record Date and Outstanding Shares

Holders of record (the "Record Holders") of shares of (i) common stock, without par value, of IMS (the "Company Common Stock"), (ii) Series B Preferred Stock, par value $1.00 per share, of IMS (the "Series B Preferred Stock") and (iii) Series C Preferred Stock, par value $1.00 per share, of IMS (the "Series C Preferred Stock") at the close of business on _____, 1995 (the "Record Date"), will be entitled to notice of and to vote at the Special Meeting. Each issued and outstanding share of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock is entitled to one vote per share with respect to the Merger. On the Record Date, there were 6,584,002 shares of Company Common Stock issued and outstanding held by approximately 197 holders, 2,000,000 shares of Series B Preferred Stock issued and outstanding held by approximately 23 holders and 3,000,000 shares of Series C Preferred Stock issued and outstanding all of which were held by wholly-owned subsidiaries of Lilly.

### Required Vote

Under Colorado law and the Articles of Incorporation of IMS, the affirmative vote of two-thirds of the outstanding shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock, voting together as a single class, and the affirmative vote of two-thirds of the outstanding shares of each of the Series B Preferred Stock and the Series C Preferred Stock, each voting separately as a class, are required to approve the Merger. In addition, pursuant to the Merger Agreement, it is a condition to the consummation of the Merger that the Merger be approved by the affirmative vote of shares representing at least a majority of the voting power of the outstanding shares of Company Common Stock and Series B Preferred Stock that are not owned by Lilly or its subsidiaries.

As of the Record Date, the directors of IMS and their affiliates (other than Lilly or any subsidiary of Lilly) owned an aggregate of 3,337,795 shares of Company Common Stock, representing approximately 51% of the Company Common Stock entitled to vote on the Merger, and 1,581,562 shares of Series B Preferred Stock, representing 79% of the Series B Preferred Stock entitled to vote on the Merger. All of these shareholders have agreed with Lilly to vote their shares in favor of the Merger. In addition, Lilly, through its wholly-owned subsidiaries, owns 160,200 shares of Company Common Stock and all of the Series C Preferred Stock and will vote those shares in favor of the Merger. The shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock collectively owned by these shareholders and Lilly represent approximately 70% of the Company Common Stock, Series B Preferred Stock and Series C Preferred Stock entitled to vote as a class on the Merger. Thus, upon the vote of these shareholders in accordance with such agreements, shareholder approval of the Merger is assured.

Conversion of Shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock

Pursuant to the Merger, (i) each outstanding share of Company Common Stock (other than shares held by IMS as treasury shares, shares owned by Lilly or any subsidiary of Lilly, or shares as to which dissenters' rights have been perfected under Colorado law) will be converted into, at the holder's election, either (a) $8.00 in cash, without interest, or (b) one share of Series D Preferred Stock, (ii) each outstanding share of Series B Preferred Stock (other than shares as to which dissenters' rights have been perfected under Colorado law) will either (a) be converted into, at the holder's election, either (1) $5.33 in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (2) two-thirds of a share of Series D Preferred Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the effective date of the Merger or (b) remain outstanding (with the amended preferences, limitations and rights set forth in the Articles of Incorporation of the surviving corporation) and (iii) each outstanding share of Series C Preferred Stock of the Company will be converted into one share of common stock of the surviving corporation. The cash and Series D Preferred Stock to be issued in connection with the Merger is referred to as the "Merger Consideration".

No fractional shares of Series D Preferred Stock will be issued, but, in lieu thereof, cash payments will be made to each holder of Series B Preferred Stock in respect of any fractional share that would otherwise be issuable to such holder (after aggregating all of the shares of Series D Preferred Stock to be issued to such holder) in an amount equal to such fractional part of a share of Series D Preferred Stock multiplied by $8.00. No such holder shall be entitled to dividends, voting rights or any other shareholder right in respect of any fractional share.

Election; Form of Election Procedures

Subject to the election procedures set forth below, each record holder immediately prior to the Effective Date of the Merger of shares of Company Common Stock or Series B Preferred Stock (other than Lilly or any subsidiary of Lilly) will be entitled (i) to elect to receive cash for any or all of such shares (a "Cash Election"), or (ii) to elect to receive Series D Preferred Stock for any or all of such shares (a "Stock Election"). In addition, each record holder immediately prior to the Effective Date of shares of Series B Preferred Stock will be entitled to elect to retain those shares of Series B Preferred Stock, as amended by the Articles of Merger (an "Election to Retain Series B Preferred Stock"). ALL SUCH ELECTIONS SHALL BE MADE ON A FORM OF ELECTION (A "FORM OF ELECTION") THAT WILL BE MAILED SEPARATELY TO SHAREHOLDERS OF RECORD ON THE EFFECTIVE DATE FOLLOWING THE MERGER. To be effective, a Form of Election must be properly completed, signed and submitted to Citibank, N.A., as exchange agent (the "Exchange Agent"), and (except if an Election to Retain Series B Preferred Stock is made or deemed to have been made) accompanied by the certificates representing the shares of Company Common Stock or Series B Preferred Stock as to which the election is being made (or by an appropriate guarantee of delivery of such certificates by a commercial bank or trust company in the United States or a member of a registered national securities exchange or the National Association of Securities Dealers, Inc.). All duly completed Forms of Election must be received by the Exchange Agent no later than 5:00 p.m., New York City Time, on _____ (the "Election Deadline"). A HOLDER OF COMPANY COMMON STOCK OR SERIES B PREFERRED STOCK WHO DOES NOT SUBMIT A PROPERLY COMPLETED AND SIGNED FORM OF ELECTION WHICH IS RECEIVED BY THE EXCHANGE AGENT PRIOR TO THE ELECTION DEADLINE SHALL BE DEEMED TO HAVE MADE A CASH ELECTION, IN THE CASE OF A HOLDER OF COMPANY COMMON STOCK, AND AN ELECTION TO RETAIN SERIES B PREFERRED STOCK, IN THE CASE OF A HOLDER OF SERIES B PREFERRED STOCK. An election may be revoked, but

only by written notice received by the Exchange Agent prior to the Election Deadline. See "THE MERGER AGREEMENT - Form of Election Procedures."

SHAREHOLDERS SHOULD NOT SEND IN ANY SHARE CERTIFICATES WITH THEIR PROXY CARDS.

Effect of the Merger on Company Options and Company Warrants

Each holder of outstanding options to purchase Company Common Stock (the "Company Options") on the Effective Date will have the right, immediately following the Merger, to elect to have such Company Options converted, in whole or in part, into (i) the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such Company Option was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Option, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable), or (ii) the right to purchase, for the same exercise price, one share of Series D Preferred Stock for each share of Company Common Stock for which such Company Option was exercisable as of the Effective Date or (iii) fully vested options to acquire shares of Common Stock of Lilly ("Lilly Common Stock") under the 1994 Lilly Stock Plan registered on Form S-8 ("Lilly Options"). Any election pursuant to clause (ii) above must be for a whole number of shares of Series D Preferred Stock.

Each holder of outstanding warrants to purchase Company Common Stock (the "Company Warrants") on the Effective Date (other than any warrants owned by Lilly or any of its subsidiaries) will have the right to elect to have such Company Warrants converted into (i) the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Warrant, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable) or (ii) the right to purchase, for the same exercise price, one share of Series D Preferred Stock for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date. Each warrant to purchase Series C Preferred Stock owned by Lilly or any of its subsidiaries will, on the Effective Date, be converted into the right to purchase one share of common stock of the surviving corporation for each share for which such warrant was exercisable as of the Effective Date.

A Form of Election for use by holders of Company Options and Company Warrants will be mailed separately to the holders thereof following the consummation of the Merger. To be effective, a Form of Election must be properly completed, signed and received by the Exchange Agent by the Election Deadline. HOLDERS OF COMPANY OPTIONS OR COMPANY WARRANTS WHO DO NOT PROPERLY COMPLETE AND RETURN A FORM OF ELECTION BY THE ELECTION DEADLINE WILL BE DEEMED TO HAVE ELECTED TO RECEIVE THE LILLY OPTIONS, IN THE CASE OF A COMPANY OPTION, OR THE RIGHT TO PURCHASE SHARES OF SERIES D PREFERRED STOCK, IN THE CASE OF COMPANY WARRANTS. See "THE MERGER AGREEMENT - Effect of the Merger on Company Options and Company Warrants."

Recommendation of IMS's Board of Directors

THE BOARD OF DIRECTORS OF IMS (WITH ONE DIRECTOR ABSENT) HAS UNANIMOUSLY DETERMINED THAT THE PROPOSED MERGER IS FAIR AND REASONABLE AND IN THE BEST INTERESTS OF IMS AND ITS SHAREHOLDERS (OTHER THAN LILLY AND ITS SUBSIDIARIES) AND RECOMMENDS APPROVAL AND ADOPTION OF THE MERGER AGREEMENT BY IMS SHAREHOLDERS (EXCEPT THAT THE TWO DIRECTORS WHO ARE AFFILIATED WITH LILLY ABSTAINED FROM THE BOARD'S DELIBERATIONS AND VOTE). For a discussion of the factors considered by IMS's Board of Directors in approving the Merger, see

"SPECIAL FACTORS TO BE CONSIDERED - Recommendation of the IMS Board of Directors; Fairness of the Merger."

Opinion of Financial Advisor

Smith Barney Inc. ("Smith Barney") has delivered its written opinion dated August 2, 1995 to the effect that the consideration to be offered to IMS's shareholders (other than Lilly and its subsidiaries) in the Merger was fair from a financial point of view as of the date of such opinion. A copy of Smith Barney's opinion, which sets forth the assumptions made, procedures followed, matters considered, limitations on and the scope of the review by Smith Barney in rendering its opinion, is attached to this Proxy Statement-Prospectus as Appendix C and should be read carefully in its entirety. See "SPECIAL FACTORS TO BE CONSIDERED - Opinion of Financial Advisor."

Prior Relationship/Agreements of the Parties

Lilly, through PCS, has been a shareholder of IMS since November 1994, when Lilly acquired the PCS pharmacy benefit management services business of McKesson Corporation ("McKesson"). As a result of that acquisition, Lilly, through PCS, has owned, or had the right to acquire, about 28% of the Company Common Stock on a fully-diluted basis.

By acquiring PCS, Lilly also acquired various contract rights that are described below. In some instances, IMS has disputed whether those rights continue to exist and, if so, the extent of those rights. Under the McKesson Sponsorship Agreement, PCS has claimed various rights to utilize IMS Networks to send and receive information between IMS Network Sites and PCS clients, and to link IMS Networks to PCS's transaction processing and data base management infrastructure to send and receive information in support of a variety of services. In addition, under this Agreement, IMS has agreed that it will not introduce "Prescription Benefit Management Services" without the approval and except on terms acceptable to PCS. See "SPECIAL FACTORS TO BE CONSIDERED - Prior Agreements/Relationship of the Parties-McKesson Sponsorship Agreement."

Under the McKesson Stockholder's Rights Agreement, PCS has claimed various rights, including the right to elect two directors of IMS, rights of access for "McKesson Products Lines" to the physicians who are "Subscribers" to IMS Networks, and rights of approval over agreements for the operation of an IMS Network with any entity engaged in a business defined as a "McKesson Product Line."

In addition, under this Agreement, PCS has claimed a right of first offer to purchase any "New Securities" that IMS proposes to sell, subject to certain exceptions, and a right to approve any prospective purchasers of "New Securities" who are engaged in any of the businesses defined as "McKesson Product Lines." See "SPECIAL FACTORS TO BE CONSIDERED - Prior Agreements/Relationship of the Parties-McKesson Stockholder's Rights Agreement."

Lilly has also loaned to IMS an aggregate of $5 million and has agreed to continue to loan to IMS from time to time at IMS's request additional funds as required to fund the then current cash requirements of IMS but not to exceed $1.5 million per month. Each loan is due and payable upon the earlier of any breach of the Merger Agreement by IMS (subject to certain rights of IMS to cure such breach) or July 1, 1996 with interest at the annual rate of 10%. Each loan is subordinated to all IMS indebtedness outstanding on the date of such loan and is secured by a pledge of most of the assets of IMS, including shares of subsidiaries.

Put/Call Agreements

Lilly will offer each holder of Company Common Stock, Series B Preferred Stock, Company Options or Company Warrants (a "Holder") the opportunity to enter into a Put/Call Agreement that would apply to any or all of the Holder's shares of Series D Preferred Stock as the Holder may elect (the "Subject Shares").

Under a Put/Call Agreement, a Holder will have the right to require Lilly to purchase any or all of the Holder's Subject Shares during each of two Put Periods at a price of $8.00 per share, plus any unpaid dividends accrued to the purchase date (the "Purchase Price"). The initial Put Period shall be a period of at least 10 business days beginning on the first anniversary of the Merger; the second Put Period shall be a period of at least 10 business days beginning approximately 30 months after the Merger.

Under a Put/Call Agreement, Lilly will have the right to require a Holder to sell any or all of the Holder's Subject Shares to Lilly at the Purchase Price in whole at any time or in part from time to time after the third anniversary of the Merger.

The stock certificates representing the Subject Shares will bear a restrictive legend and must be deposited into an escrow accompanied by an undated stock power endorsed in blank relating to the Subject Shares. The Holder will have the right to sell, assign, donate, pledge or otherwise transfer or encumber any or all of the Subject Shares and any related rights and obligations under the Put/Call Agreement only with Lilly's prior written consent, which will be granted under certain specified conditions. See "PUT/CALL AGREEMENTS."

Amendment to Employee Stock Option Plan

Approval of the Merger by IMS shareholders will include approval of an amendment to the Integrated Medical Systems, Inc. 1994 Employee Stock Option Plan (the "1994 Employee Stock Option Plan") to increase the number of shares available under such plan from 400,000 shares of Company Common Stock to 838,600 shares of Company Common Stock, which equals the total number of shares subject to options previously granted under the Plan. See "AMENDMENT TO THE IMS 1994 EMPLOYEE STOCK OPTION PLAN."

Amendment to Articles of Incorporation

Approval of the Merger by IMS shareholders will also include approval of an amendment to the Articles of Incorporation of IMS, effective upon consummation of the Merger, which will, among other things, eliminate the voting rights of the Series B Preferred Stock other than as required by Colorado law and make the Series B Preferred Stock parity stock with Series D Preferred Stock upon the liquidation, dissolution or winding-up of IMS. See "AMENDMENT TO THE ARTICLES OF INCORPORATION OF IMS." For a description of the amended preferences, limitations and relative rights of the Series B Preferred Stock following the Merger, see "DESCRIPTION OF CAPITAL STOCK OF IMS - Series B Preferred Stock."

Conditions to the Merger

The obligations of Lilly, Subsidiary and IMS to consummate the Merger are subject to the satisfaction of certain conditions, including approval of the Merger by IMS's shareholders at the Special Meeting. Other conditions to each party's obligations to consummate the Merger may be waived by such party, subject to applicable law and certain limitations imposed by the Merger Agreement. Neither Lilly

nor IMS presently intends to waive any such conditions although each of them reserves the right to do so. See "THE MERGER AGREEMENT - Conditions to the Merger."

Governmental and Regulatory Approvals

In connection with prior exercises of Warrants to purchase Series C Preferred Stock, Lilly filed a Notification with the Federal Trade Commission and the Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act") on February 27, 1995, seeking clearance to acquire 50% or more of the voting stock of IMS. No second request for additional information was received and the mandatory waiting period expired on March 29, 1995. As a result, no further action is required under the HSR Act in connection with the Merger provided that the Merger is completed by March 29, 1996. See "SPECIAL FACTORS TO BE CONSIDERED - Governmental and Regulatory Approvals."

Effective Date

The Merger will become effective at such time as the Articles of Merger setting forth the principal terms of the Merger provided for in the Merger Agreement is duly filed with the Colorado Secretary of State in accordance with Colorado law (the "Effective Date"). Under the Merger Agreement, the required filing is expected to be made as soon as practicable after the satisfaction or waiver of all conditions to the Merger, including the approval of the Merger by IMS shareholders at the Special Meeting. It is anticipated that if the Merger is approved at the Special Meeting and all other conditions to the Merger have been fulfilled or waived, the Effective Date will occur on the date of the Special Meeting or as soon as practicable thereafter. See "THE MERGER AGREEMENT - The Merger."

Termination

The Merger Agreement may be terminated at any time prior to the Effective Date: (i) by mutual consent of Lilly, Subsidiary and IMS; (ii) by Lilly and Subsidiary, or by IMS, respectively, if, at or before the Effective Date, any condition set forth in the Merger Agreement for the benefit of Lilly and Subsidiary or IMS, respectively, will not have been timely met and such failure will not have been cured or eliminated, or by its nature cannot be cured or eliminated; (iii) by Lilly and Subsidiary or by IMS if the closing of the Merger (the "Closing") will not have occurred on or before December 31, 1995, or such later date as may have been agreed upon by the parties or as is provided for in the Merger Agreement in connection with Lilly's right to delay or suspend the effectiveness of the Registration Statement; or (iv) by Lilly and Subsidiary or by IMS in certain other specific circumstances. Upon the termination of the Merger Agreement under certain specific circumstances, IMS or Lilly may be required to pay the other a $4 million termination fee. See "THE MERGER AGREEMENT - Termination" and "- Liability of the Parties Upon Termination."

Dissenters' Rights

Record Holders who object to the Merger may, under certain circumstances and by following prescribed statutory procedures, receive cash for their shares of Company Common Stock or Series B Preferred Stock in lieu of the consideration described above. The failure of a dissenting shareholder to follow such procedures, which are described more fully elsewhere in this Proxy Statement-Prospectus, may result in termination or waiver of such shareholder's rights as a dissenter. See "RIGHTS OF DISSENTING SHAREHOLDERS."

Accounting Treatment

It is expected that the Merger will be treated as a "purchase" for financial accounting purposes in accordance with generally accepted accounting principles ("GAAP"). See "SPECIAL FACTORS TO BE CONSIDERED - Accounting Treatment of the Merger."

Certain Federal Income Tax Consequences of the Merger

A holder of Company Common Stock or Series B Preferred Stock (or Company Warrants) who elects to receive cash in exchange for all or a portion of his or her IMS stock (or warrants) will recognize taxable gain or loss for federal income tax purposes with respect to those shares (or warrants) in an amount equal to the difference between (a) the amount of the cash received by such holder and (b) the holder's adjusted tax basis in the shares of IMS stock (or warrants) surrendered in exchange therefor.

A holder of Company Common Stock or Series B Preferred Stock who elects to exchange such stock for Series D Preferred Stock and does not enter into a Put/Call Agreement with respect to such stock should not recognize taxable gain or loss for federal income tax purposes with respect to such stock (except with respect to any cash received in lieu of fractional shares).

The treatment of a holder of Company Common Stock or Series B Preferred Stock who elects to exchange such stock for Series D Preferred Stock and enters into a Put/Call Agreement with respect to such stock is uncertain, and is discussed in greater detail below under "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER - Receipt of Series D Preferred Stock Subject to Put and Call Rights." Any such holder should consult his or her own tax advisor regarding the consequences of the transaction.

Each holder of Company Common Stock, Series B Preferred Stock, Company Warrants or Company Options is urged to read the summary of principal federal income tax consequences of the Merger set forth below under "CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER," and to consult with his or her own tax advisor as to the specific tax consequences of the Merger to that holder.

COMPARATIVE PER SHARE DATA (UNAUDITED)

The following table presents historical and pro forma per share data for Lilly and historical per share data for IMS. The pro forma per share data for Lilly reflects the impact of the Merger and certain other transactions described in Note 1 below.

| | LILLY HISTORICAL | LILLY PRO FORMA/(1)/ | IMS HISTORICAL |
|---|---|---|---|
| YEAR ENDED DECEMBER 31, 1994 | | | |
| Cash dividends declared | $ 2.52 | $ 2.52 | $ 0 |
| Income (loss) from continuing operations | 4.10 | 3.59 | (0.70) |
| SIX MONTHS ENDED JUNE 30, 1995 | | | |
| Book value | $20.47 | $20.08 | $(2.42) |
| Cash dividends declared | 1.29 | 1.29 | 0 |
| Income (loss) from continuing operations | 2.37 | 2.48 | (0.98) |

(1) The unaudited consolidated pro forma per share data for the year ended December 31, 1994 and for the six months ended June 30, 1995 are based on Lilly's historical results from continuing operations adjusted to reflect the impact of the Merger as if it had occurred on January 1, 1994 and January 1, 1995, respectively. The consolidated pro forma per share data also assumes the number of shares of Lilly common stock outstanding and the weighted average number of shares of Lilly common stock outstanding used in the earnings per share calculations are reduced for the effect of the disposition of Guidant Corporation ("Guidant"). In addition, the unaudited pro forma consolidated earnings per share from continuing operations for the year ended December 31, 1994 assumes the acquisition of PCS was consummated on January 1, 1994.

The unaudited consolidated pro forma book value per share at June 30, 1995 reflects the impact of (i) the Merger; (ii) exclusion of the respective Guidant balances including elimination of the minority interest in Guidant; (iii) the effect of the tender of shares of Lilly common stock from the Guidant exchange offer on treasury stock; and (iv) recognition of the estimated net gain from the disposition of discontinued operations.

The unaudited pro forma per share data is not necessarily indicative of Lilly's consolidated per share data had the Merger, Guidant transaction, or acquisition of PCS reflected therein actually been consummated at the assumed dates, nor is it necessarily indicative of Lilly's consolidated per share data for any future period. The unaudited pro forma consolidated per share data should be read in conjunction with Lilly's consolidated financial statements and notes thereto incorporated by reference in this Proxy Statement-Prospectus.

Additional pro forma financial information, balance sheet and income statement are not presented since IMS does not fall within the definition of a "significant subsidiary" as defined in Rule 1-02 of Regulation S-X.

## THE SPECIAL MEETING

### TIME, DATE AND PLACE

The Special Meeting will be held on _____, 1995, at _____ A.M. local time, at _____.

### PURPOSE OF THE MEETING

At the Special Meeting, the IMS shareholders will be asked to consider and vote upon the proposed merger of Subsidiary into IMS. The Merger will result in IMS becoming a subsidiary of Lilly, with all of IMS's outstanding voting stock being owned by Lilly and all of IMS's other shareholders owning non-voting Series D Preferred Stock and Series B Preferred Stock.

### RECORD DATE AND OUTSTANDING SHARES

Record Holders of shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock at the close of business on the Record Date will be entitled to notice of and to vote at the Special Meeting. Each issued and outstanding share of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock is entitled to one vote per share with respect to the Merger. On the Record Date, there were 6,584,002 shares of Company Common Stock issued and outstanding held by approximately 197 holders, 2,000,000 shares of Series B Preferred Stock issued and outstanding held by approximately 23 holders and 3,000,000 shares of Series C Preferred Stock issued and outstanding all of which were held by wholly-owned subsidiaries of Lilly.

### REQUIRED VOTE

Under Colorado law and the Articles of Incorporation of IMS, the affirmative vote of two-thirds of the outstanding shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock, voting together as a single class, and the affirmative vote of two-thirds of the outstanding shares of each of the Series B Preferred Stock and the Series C Preferred Stock, each voting separately as a class, are required to approve the Merger. In addition, pursuant to the Merger Agreement, it is a condition to the consummation of the Merger that the Merger be approved by the affirmative vote of shares representing at least a majority of the voting power of the outstanding shares of Company Common Stock and Series B Preferred Stock that are not owned by Lilly or its subsidiaries.

As of the Record Date, the directors of IMS and their affiliates (other than Lilly or any subsidiary of Lilly) owned an aggregate of 3,337,795 shares of Company Common Stock, representing approximately 51% of the Company Common Stock entitled to vote on the Merger, and 1,581,562 shares of Series B Preferred Stock, representing 79% of the Series B Preferred Stock entitled to vote on the Merger. All of these shareholders have agreed with Lilly to vote their shares in favor of the Merger. In addition, Lilly, through its wholly-owned subsidiaries, owns 160,200 shares of Company Common Stock and all of the Series C Preferred Stock and will vote those shares in favor of the Merger. The shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock collectively owned by these shareholders and Lilly represent approximately 70% of the Company Common Stock, Series B Preferred Stock and Series C Preferred Stock entitled to vote as a class on the Merger. Thus, upon the vote of these shareholders in accordance with such agreements, shareholder approval of the Merger is assured.

The Board of Directors of IMS (with one director absent) has unanimously approved the proposed Merger and recommends approval and adoption of the Merger Agreement by IMS shareholders (except that Dr. Hunt and Mr. Moley, as Lilly's representatives on the Board, abstained from the Board's deliberations and vote). Each of the Boards of Directors of Lilly and Subsidiary, and Lilly, as the sole

shareholder of Subsidiary, have approved the proposed Merger. Lilly shareholder approval is not required for the consummation of the Merger.

## REVOCABILITY OF PROXIES

Shares of Company Common Stock, Series B Preferred Stock and Series C Preferred Stock represented by a properly executed proxy received by IMS will, unless such proxy is properly revoked prior to the Special Meeting, be voted at the Special Meeting in accordance with the instructions thereon. Shares represented by properly executed proxies that do not contain instructions to the contrary will be voted FOR approval of the proposed Merger and in the discretion of the proxy holder as to any other matter that may properly come before the Special Meeting or any adjournment or postponement thereof. Abstention from voting on the Merger will have the practical effect of voting against the Merger since it is one less vote for approval. The Board of Directors of IMS knows of no other business that will be presented for consideration at the Special Meeting other than the proposal to approve the Merger Agreement and the related matters described in this Proxy Statement-Prospectus. Proxies are being solicited hereby on behalf of the Board of Directors of IMS.

Any shareholder may revoke his or her proxy at any time before it is voted by executing and delivering to IMS a proxy bearing a later date, by delivering a written notice to the Secretary of IMS stating that the proxy is revoked, or by voting in person at the Special Meeting.

## SOLICITATION OF PROXIES

The cost of the solicitation of proxies, including expenses incurred by brokerage houses, nominees and fiduciaries in forwarding proxy materials to beneficial owners, will be paid by IMS. In addition to solicitation by mail, officers, directors and regular employees of IMS may solicit proxies by telephone, telegram or by personal interview. Such persons will receive no additional compensation for such services.

## SPECIAL FACTORS TO BE CONSIDERED

### RISK FACTORS APPLICABLE TO IMS

In addition to the other information contained elsewhere herein, shareholders of IMS, and particularly those who, if the Merger is approved, choose to receive Series D Preferred Stock, or options or warrants to acquire Series D Preferred Stock, or to hold their shares of Series B Preferred Stock, should carefully consider the risks of holding IMS equity securities, including the following:

Possible Inability to Pay Dividends or Redeem Preferred Stock. The financial condition of IMS resulting from the factors described below may preclude it under state corporate law from paying dividends on Series B Preferred Stock or Series D Preferred Stock or from redeeming Series D Preferred Stock in accordance with the terms of such securities. Lilly is not obligated to provide additional financing to IMS to permit IMS to pay dividends on preferred stock or to redeem Series D Preferred Stock in the future. Accordingly there can be no assurance that IMS will pay future dividends as they accrue or redeem outstanding Series D Preferred Stock in a timely manner, if ever. However, holders of Series D Preferred Stock who elect to enter into Put/Call Agreements will have the right to require Lilly to purchase such shares as provided in those agreements. See "PUT/CALL AGREEMENTS."

Controlling Shareholder. Upon completion of the Merger, Lilly and/or its affiliates will own 100% of the Company's outstanding voting stock and will be the controlling shareholder of the Company. Accordingly, Lilly will be able to control virtually every aspect of the Company's affairs.

Historical Operating Losses and Negative Cash Flow From Operations. As a result of its rapid growth, the investment required to establish its operating networks and the time required for networks to generate positive cash flow, the Company has incurred significant operating and net losses and negative cash flow since its inception. At June 30, 1995, IMS had an accumulated deficit of approximately $29.9 million. The Company had net losses of approximately $3.7 million, $5.9 million and $4.3 million for the fiscal years ended December 31, 1992, 1993 and 1994, respectively, and $6.5 million for the six month period ended June 30, 1995. The Company expects to continue to generate negative cash flow from operating activities while it emphasizes development and expansion of its IMS MEDACOM/(R)/ networks and until its operating networks have established a sponsor base generating sufficient recurring revenue to cover direct network operating expenses and the costs of corporate support and overhead. There can be no assurance that the Company will achieve or sustain profitability in the future.

Long Sales Cycle; Dependence on Licensing Revenue. The Company's long term recurring cash flow is dependent upon the Company being able to establish a substantial number of sponsors for its various networks and increasing the number of physicians with which the networks have connectivity. The Company normally anticipates that it will take from 12 to 36 months before a new network will generate a positive cash flow. During this period, the Company will expend substantial time, efforts and funds to obtain sponsors for a network, to market to physician subscribers and to increase network usage. If the Company is unable to establish networks with a sufficient number of sponsors to provide positive cash flow, the Company will continue to incur losses in the future. Moreover, pending the establishment of additional recurring revenue from fees paid by sponsors of networks, the Company will rely on fees from the periodic sales of network licenses and fees from existing sponsors. There are no assurances that the Company will be able to generate sufficient cash flow therefrom to meet the Company's cash requirements.

Competition. The market for healthcare information systems is intensely competitive. Computerized medical office management and data communication systems are offered to physicians, hospitals, payors and other potential network sponsors by a wide range of vendors, including manufacturers of computer equipment, software vendors, hospital information systems companies and systems integrators. In addition, certain claims processing organizations, hospitals, third party administrators, insurers and/or other organizations provide direct computer communication links between the physician and the

organization. These business firms have financial and other resources more extensive than those of the Company.

The Company relies on copyrights, trademarks and service marks, nondisclosure and noncompetition agreements and technical measures to protect its proprietary rights pertaining to its software products and network technology. Such protection may not preclude competitors from developing networks and software with features similar to those developed by the Company. The Company's business and anticipated future success depend on its technology, expertise and experience, all of which could be duplicated by competitors. There can be no assurance that future competition will not have a material adverse effect on the Company's business, financial condition and results of operations.

In addition, the network services industry in general is impacted by evolving standards and technology. The Company's ability to anticipate or guide these standards in the health care sector and to continue to apply advances in computer and telecommunications technology in the operation of its networks will be significant factors in the Company's success. Many of the Company's competitors have significantly greater financial, technical, product development and marketing resources than the Company, and there is no assurance that the Company will remain competitive.

Consolidation of the Healthcare Industry. The rapid emergence of managed care plans and especially the movement toward risk sharing or capitated provider payment methodologies is resulting in dramatic changes in the healthcare industry. The Company's market is being complicated by the formation of new multi-provider integrated delivery systems in which the goals of payors, provider institutions and hospitals become aligned. Many healthcare providers are consolidating to create larger healthcare delivery enterprises with greater regional market power. As a result, the number of potential sponsors for the Company's networks could be reduced, thereby shrinking the Company's total market.

Dependence on Key Management and Personnel. The Company depends to a significant extent on certain executive officers and technical personnel. The Company's growth and future success will depend in large part on its ability to attract, motivate and retain highly qualified personnel, in particular, trained and experienced professionals capable of developing, selling and installing healthcare information networks. Competition for such personnel is intense and there can be no assurance that the Company will be successful in hiring, motivating, training or retraining such qualified personnel. The loss of key personnel or the inability to hire or retain qualified personnel could have a material adverse effect on the Company's business, financial condition and results of operations. The Company does not currently maintain any key man life insurance policies on any of its management personnel or employees and does not have employment agreements with most of them.

Limited Experience in Expanding Networks. Because most of the Company's networks have become operational in the last two years, usage of many of these networks to date has been limited. The Company will depend upon the growth of recurring revenue from these networks as they mature, without which the Company's future results may be adversely affected. The Company's marketing strategy relies heavily on its ability to recruit local and national sponsors willing to pay fees to the Company to communicate with physicians and others using the networks. There is no assurance that this marketing approach will be successful. The Company's marketing efforts have been focused upon convincing hospitals, clinical laboratories, pharmacies, imaging centers and other medical payers and providers to convert from a traditional proprietary communications system approach of paper and phone based communications with physicians to the Company's nonproprietary and open architecture automated network solution. There can be no assurance that these conversions will occur or that the Company's network services will be the method of communication employed by such users.

BACKGROUND TO THE MERGER

Lilly, through its subsidiary, PCS, has been a shareholder of IMS since November 1994, when Lilly acquired the PCS pharmacy benefits management services business of McKesson. At that time McKesson owned 160,200 shares of Company Common Stock, 2,625,000 shares of Series C Preferred Stock and Warrants to buy an aggregate of 875,000 shares of Series C Preferred Stock at prices of $5 to $7 per share. (See "- Prior Agreements/Relationship of the Parties - Stock Purchases by McKesson" below.) Each share of Series C Preferred Stock is convertible into one share of Company Common Stock. At the time McKesson also held various agreements with IMS that are described below under "- Prior Agreements/Relationship of the Parties - McKesson Sponsorship Agreement" and "- Prior Agreements/Relationship of the Parties - McKesson Stockholder's Rights Agreement." By acquiring PCS, Lilly acquired McKesson's IMS shares and Warrants and contract rights. In January 1995, PCS exercised a Warrant to purchase 375,000 shares of Series C Preferred Stock at a price of $5 per share. As a result of the foregoing, since November 1994, Lilly, through PCS, has owned, or had the right to acquire, about 28% of the Company Common Stock on a fully-diluted basis and has been entitled to have two representatives on the IMS Board of Directors. Mr. Kevin Moley, an employee of PCS, has served as a Lilly representative on the IMS Board since November 1994. Mr. Moley served as a McKesson representative on the IMS Board since January 1994 and also served as interim Chief Executive Officer of IMS for the period from July 1994 to December 1994. Dr. Michael Hunt has served as a Lilly representative on the IMS Board since December 1994.

In December 1994, Lilly indicated to IMS that it was considering the possibility of proposing a transaction in which Lilly would acquire some or all of the shares of Company Common Stock that it did not already own. At a meeting held on December 20, 1994, the IMS Board established a special committee (the "Special Committee") to consider and explore any proposal received from Lilly for such a transaction, as well as to consider and explore alternative transactions. The Special Committee consisted of Messrs. Charles I. Brown, Alan S. Danson, John W. Hanes, Jr., David R. Holbrooke, James A. Larson and John A. McChesney, none of whom is an officer, employee or affiliate of Lilly and only one of whom, Mr. Brown, is an executive officer of IMS. The Special Committee was authorized to retain a financial advisor and legal counsel. At the request of the Special Committee, IMS retained special legal counsel to work with IMS's regular outside counsel and the investment banking firm of Smith Barney to serve as financial advisor in connection with any proposal from Lilly or other similar alternative transaction.

On January 16, 1995, representatives of Smith Barney and IMS's legal counsel met with representatives of Lehman Brothers ("Lehman"), Lilly's financial advisors. At that meeting, Lehman indicated that Lilly was aware of IMS's need for working capital. Lehman stated that Lilly would be prepared to make a proposal to acquire the remainder of the shares of IMS it did not own in a cash transaction valued in the $5.50 to $6.50 per share range if IMS were interested in receiving such a proposal. Over the course of the next several weeks, the Special Committee met several times by telephone with its legal and financial advisors to review that possible proposal and to discuss the alternatives that were available to IMS in light of the contract rights that may be held by Lilly as a result of its acquisition of PCS. The alternatives considered by the Special Committee included a merger or other strategic transaction with Lilly or with other possible parties, an initial public offering, a private placement of securities with new or existing investors and the establishment of additional sponsor arrangements. The Special Committee, with the advice of Smith Barney, determined that this value range was inadequate and that a proposal in that range would not warrant further exploration. In mid-February, following these meetings, Smith Barney advised Lehman that IMS did not want to pursue a transaction in that value range although it might be willing to consider a proposal for a transaction at a higher value. Lehman also was advised that IMS would begin to explore alternative transactions to raise needed working capital, such as an initial public offering of shares of Company Common Stock.

In the course of further discussions to see if Lilly would consider proposing a higher value, IMS provided Lilly with certain information about IMS that was not available publicly and that had not

previously been made available to IMS shareholders. This information included business plans prepared by IMS's senior management which included forecasts and projections of the future financial performance of IMS. The financial forecasts furnished to Lilly by IMS included annual revenue estimates for 1995 through 1999 of approximately $32 million, $53 million, $82 million, $115 million and $140 million, respectively, and operating profits (before minority interest and provision for income taxes) for the same years at approximately $1 million, $10 million, $22 million, $37 million and $48 million, respectively. Numbers of physicians connected to IMS networks for the same years were forecast to be approximately 33,000, 53,000, 76,000, 98,000 and 114,000, respectively. All of the estimates assumed that at least $27.7 million in additional working capital during the five years would be required. These estimates were prepared by senior management concerning the anticipated future performance of IMS as a stand-alone entity, without giving effect to any offer from Lilly, including the Merger.

IMS does not as a matter of course make public, or disclose generally to its shareholders, any projections as to future performance or earnings, and the projections set forth above are included in this Proxy Statement-Prospectus only because the information was made available to Lilly by IMS. IMS has informed Lilly that the projections were not prepared with a view to public disclosure or compliance with the published guidelines of the Commission or the guidelines established by the American Institute of Certified Public Accountants regarding projections or forecasts. IMS also has informed Lilly that its financial forecasts are, in general, prepared solely for internal use and capital budgeting and other management decision-making purposes and are subjective in many respects and thus susceptible to various interpretations and periodic revision based on actual experience and business developments. Projected information of this type is based on estimates and assumptions that are inherently subject to significant economic and competitive uncertainties and contingencies, all of which are difficult to predict and many of which are beyond the control of IMS or Lilly and their respective financial advisors. Many of the assumptions upon which the projections were based are dependent upon economic forecasting (both general and specific to IMS's business), which is inherently uncertain and subjective. Accordingly, actual results may vary materially from such projections, and none of IMS or Lilly or their respective financial advisors assumes any responsibility for the accuracy or validity of any of the projections. The inclusion of the foregoing projections should not be regarded as an indication that IMS or Lilly considers such projections an accurate prediction of future events, and Lilly has not relied on them as such.

During March and April of 1995, IMS undertook to explore several alternative transactions aimed at raising working capital. During this period the Special Committee met frequently by telephone with IMS's legal counsel and Smith Barney. Two additional current directors who are members of IMS's senior management, Messrs. Kevin R. Green and James T. Murphy, who were not then directors, participated in many of these meetings by invitation of the Special Committee. Substantial progress was made preparing IMS for an initial public offering that might be effected with Smith Barney serving as lead underwriter. IMS also had discussions with third parties about possible minority investments by such third parties in IMS. At a meeting of the IMS Board on April 21, 1995, the Board heard a presentation from Smith Barney concerning the viability of an initial public offering of IMS stock at that time. Dr. Hunt, one of the members of the IMS Board employed by Lilly, stated that Lilly would prefer to have IMS suspend efforts toward an initial public offering or placement of shares with minority investors and instead explore a transaction in which Lilly would acquire IMS. The Board determined that the working capital needs of IMS would not permit IMS to suspend these financing efforts and authorized management to proceed with preparations for an initial public offering to be consummated as soon as possible and to continue discussions with Lilly or potential minority investors to bridge IMS's working capital needs until the public offering could be completed. Shortly after this meeting, Lilly advised IMS that it believed the contract rights obtained from McKesson provided Lilly a right of prior approval of any sale of stock to one such potential investor, although not over certain other sales or an initial public offering.

On May 1, 1995, Lilly sent a letter to IMS outlining the terms of a proposed transaction Lilly was prepared to discuss with IMS. Under this proposal, Lilly would obtain control of IMS through a series of purchases of Company Common Stock. The proposed transaction contemplated purchases by

Lilly from the IMS shareholders at a price of $7.00 per share of Company Common Stock (subject to adjustment) and purchases by Lilly from IMS of newly issued shares ranging in price from $5.25 to $6.00 per share of Company Common Stock (subject to adjustment). Lilly would also commit to make an offer to any remaining holders of Company Common Stock three years after acquisition of control at a price of $8.29 per share of Company Common Stock (calculated based on a $7.00 per share price, plus interest on such amount in the amount of 6% per annum).

The Special Committee met with IMS's legal counsel and Smith Barney to discuss this proposed transaction on May 2, 1995. Smith Barney advised the Special Committee that, while the proposed transaction would provide needed working capital to IMS and liquidity to IMS shareholders, the offer appeared to be low and did not include any premium for either control or strategic value. Smith Barney believed that IMS could sell shares in the contemplated initial public offering in the same $7.00 per share range. The Special Committee and its advisors discussed the fact that a transaction with Lilly would eliminate the uncertainty caused by the differing interpretations of Lilly's contract rights and also would eliminate the risk that a financing could not be completed if the business did not achieve projected results in the near term.

Following this meeting, representatives of IMS and its legal counsel and Smith Barney had further conversations with representatives of Lilly about the proposed transaction. Lilly was advised that the proposed transaction did not provide enough value for the IMS shareholders and that a structure that would result in a tax-free transaction for IMS shareholders was preferred. On May 9, 1995, members of the Special Committee, Messrs. Green and Murphy, IMS's legal counsel and Smith Barney met with representatives of Lilly, Lehman and Lilly's counsel to continue negotiations concerning a possible transaction. Lilly indicated that if the parties could agree on the parameters of a proposed transaction, Lilly would offer to provide interim financing to IMS and thus would ask that IMS suspend efforts toward an initial public offering or other financing. At this meeting the parties agreed to negotiate a non-binding term sheet providing for a transaction that would provide $8.00 per share of Company Common Stock with an opportunity for tax deferral to IMS shareholders and would provide Lilly with control of IMS. Lilly indicated that, as part of any such transaction, it would require that the members of the Board, in their individual capacity as shareholders, enter into appropriate support arrangements aimed at ensuring that the transaction would be consummated. Over the next several weeks the parties negotiated successive drafts of the non-binding term sheet.

On June 12, 1995, Lilly and IMS executed a "Non-Binding Term Sheet" (the "Term Sheet") pursuant to which they agreed to discuss a definitive agreement under which Lilly or an affiliated entity would acquire IMS on terms outlined in the Term Sheet. Those terms with some modifications are reflected in the Merger Agreement.

The Term Sheet did not create any legal obligations, except that (1) IMS agreed that until such time as IMS reasonably determined and notified Lilly that the parties could not reach a definitive agreement, IMS would conduct its business in the ordinary course and any extraordinary transaction material to its business would be discussed with and approved by Lilly; (2) IMS agreed that it would immediately suspend all efforts to finance its business through a public offering or private placement of its shares or otherwise, or to sell IMS or any of its business or assets, until such time as IMS reasonably determined and notified Lilly that the parties could not reach a definitive agreement; and (3) IMS and Lilly agreed that they would keep the proposed transaction strictly confidential. In addition, Lilly agreed to loan IMS $3 million upon execution of the Term Sheet, and IMS agreed to amend the Warrant held by PCS to defer the increase in exercise price of $6 to $7 per share scheduled for July 12, 1995 until 30 days after the earlier of the termination of the definitive agreement and such time as IMS or Lilly reasonably determined and notified the other party that the parties could not reach a definitive agreement.

Upon execution of the Term Sheet, Lilly loaned IMS $3 millon to be repaid on July 1, 1996 with interest at the annual rate of 10%. The loan is subordinated to the indebtedness outstanding on

June 12, 1995 and is secured by a pledge of most of the assets of IMS, including shares of subsidiaries. The loan becomes immediately due and payable if IMS breaches the Merger Agreement, subject to certain rights of IMS to cure such breach. On July 27, 1995, Lilly loaned IMS an additional $1 million on the same terms as applied to the June 12 loan.

Following the execution of the Term Sheet, Lilly engaged in a due diligence review of the business and operations of IMS. While this review was ongoing, the parties negotiated the terms of the Merger Agreement. During the course of the extensive negotiations and discussions concerning the Merger Agreement, the Special Committee met frequently by telephone with IMS's legal counsel and Smith Barney and also received periodic updates from Mr. Brown, who participated actively in such negotiations and discussions as a member of the Special Committee and of senior management of IMS.

On August 2, 1995, a meeting of the IMS Board was held at which five members of the Special Committee and Messrs. Green and Murphy were in attendance. One member of the Special Committee was unable to attend and Dr. Hunt and Mr. Moley, as Lilly's representatives on the Board, did not attend except for a brief period during which they were in attendance at the invitation and request of the other members in attendance. Smith Barney and legal counsel reviewed with the Board the terms of the Merger and the Merger Agreement. Smith Barney orally advised the Board that, in its opinion, as of the date of such opinion, the consideration to be received by IMS shareholders (other than Lilly and its subsidiaries) in the Merger was fair to such shareholders from a financial point of view. The Board discussed at length the conditions to the parties' obligations to consummate the Merger and the risk that one or more of those conditions would not be satisfied. In that connection, the Board invited Dr. Hunt and Mr. Moley to join the meeting to discuss with the Board Lilly's expectations and intentions with respect to IMS's employees and its business plans. Dr. Hunt and Mr. Moley assured the Board that Lilly intended to continue to operate the business as an open architecture utility model. Lilly also stated that it did not anticipate any significant personnel changes at that time.

At Lilly's request, each of the IMS directors, other than Dr. Hunt and Mr. Moley, agreed to enter into support agreements concurrently with the execution of the Merger Agreement. Pursuant to the support agreements, each such person, in his capacity as an IMS shareholder, agreed that until the Merger is consummated or the Merger Agreement is terminated he will not transfer his IMS shares (subject to certain exceptions), will vote his IMS shares in favor of the Merger and will refrain from soliciting or supporting other proposals for the merger or sale of IMS. Each such person also agreed to exchange any shares of Series B Preferred Stock that he owns for cash and/or Series D Preferred Stock as he may elect pursuant to Merger Agreement, and to waive any rights that he may have to register IMS securities under the Securities Act or to require IMS to provide information to facilitate public resales of such securities.

Based on its review and consideration of the proposed Merger and the Merger Agreement, the Board determined that the proposed Merger was fair and reasonable and in the best interests of the Company and its shareholders (other than Lilly and its subsidiaries) and approved the Merger and the Merger Agreement. The Merger Agreement was executed on August 2, 1995.

LILLY'S PURPOSE OF THE MERGER

For Lilly, the Merger will provide an opportunity to forge closer ties with health care providers and payers, allowing it to deliver information quickly to people who provide care and make health care decisions. For Lilly, the primary purpose for the Merger is to expand Lilly's pharmaceutical management services by connecting to the existing 25,000 physicians connected to IMS Networks. Lilly intends to utilize the connectivity to provide disease management utilization tools to the existing base and future IMS subscribers. Lilly's desire is to expand its technological intervention capabilities and connectivity to not only physicians but to all disparate sources of the health care community. IMS is expected to play an integral role in the creation and expansion of this health care network.

RECOMMENDATION OF THE IMS BOARD OF DIRECTORS; FAIRNESS OF THE MERGER

The Board of Directors of IMS (with one director absent) has approved the Merger, determined that the proposed Merger is fair and reasonable and in the best interests of the Company and its shareholders (other than Lilly and its subsidiaries) and recommended that such shareholders approve and adopt the Merger Agreement (except that Dr. Hunt and Mr. Moley, as Lilly's representatives on the Board, abstained from the Board's deliberations and vote). The Board based its recommendation on a number of factors, including the following:

(a) Information with respect to the financial condition, results of operations, business and prospects of the Company, and, in particular, the failure of the Company to meet its budgeted results for the year to date and the need for substantial amounts of working capital in the near term.

(b) The oral opinion of Smith Barney, delivered to the Board on August 2, 1995 and subsequently confirmed in writing, that the consideration to be received by IMS's shareholders (other than Lilly) pursuant to the Merger was fair to such shareholders from a financial point of view as of the date of such opinion and its subsidiaries.

(c) Possible alternatives to the Merger (including continuing to operate as an independent entity, engaging in another strategic transaction or selling stock publicly or privately), the range of possible values to the Company's shareholders of such alternatives, and the timing and likelihood of actually accomplishing those alternatives.

(d) The fact that Lilly has reported that it has available liquid assets sufficient to promptly consummate the Merger.

(e) The terms and conditions of the Merger Agreement, including the amount and form of the consideration to be received thereunder, and the fact that the terms of the Merger Agreement and the consideration paid to shareholders were determined through arm's-length negotiations with the Special Committee and that members of the Special Committee voted unanimously (with one member absent) for approval of the Merger and the Merger Agreement.

(f) The uncertainty that exists as to the rights Lilly has under the McKesson contracts obtained as part of its acquisition of PCS and the likelihood that such uncertainty would limit the alternatives to the Merger available to IMS and affect the cost and timing of pursuing any such alternative.

(g) The impact of the Merger on the Company's employees and its business plans.

(h) The willingness of each member of the Board, in his individual capacity as shareholder, to support the Merger and to enter into the support agreements required by Lilly in connection with the proposed Merger Agreement.

In view of the wide variety of factors considered in connection with its evaluation of the Merger, the IMS Board found it impracticable to, and did not, quantify or otherwise assign relative weights to the specific factors considered in reaching their decisions.

OPINION OF FINANCIAL ADVISOR

IMS retained Smith Barney as its financial advisor in connection with the Merger. In connection with such engagement, IMS requested that Smith Barney evaluate the fairness, from a financial point of view, to the IMS shareholders (other than Lilly and its affiliates) of the Cash Election and the Stock Election (collectively, the "Elections") to be offered to such shareholders in the Merger. Smith Barney rendered an oral opinion to the IMS Board on August 2, 1995, which was subsequently confirmed in writing, in each case to the effect that, as of the date of such

opinion, the Elections to be offered to the IMS shareholders (other than Lilly and its subsidiaries) in the Merger was fair, from a financial point of view, to such shareholders.

The full text of the written opinion of Smith Barney, dated August 2, 1995, which sets forth the assumptions made, procedures followed, matters considered, limitations on and the scope of the review by Smith Barney in rendering its opinion, is attached as Appendix C to this Proxy Statement-Prospectus. SHAREHOLDERS ARE URGED TO READ THE OPINION IN ITS ENTIRETY.

In connection with rendering its oral opinion and preparing its written and oral presentations to the IMS Board, Smith Barney performed a variety of financial analyses, including those summarized below. The summary set forth below does not purport to be a complete description of the analyses performed by Smith Barney in this regard. Smith Barney's opinion is directed only to the fairness, from a financial point of view, to the IMS shareholders of the consideration to be received by such shareholders in the Merger, does not address the relative merits of the Merger as compared to any alternative business strategies that might exist for IMS or the effect of any other transaction in which IMS may engage nor does it address any other aspect of the Merger. Smith Barney's opinion does not constitute a recommendation to any IMS shareholder as to how such shareholder should vote with respect to the Merger. In addition, Smith Barney was not asked to, and did not, express any opinion as to the relative merits of receiving the cash consideration or the stock consideration in the Merger and, accordingly, Smith Barney's opinion does not constitute a recommendation to any IMS shareholder as to whether to make a Cash Election and receive the cash consideration or not to make a Cash Election and receive the stock consideration. Smith Barney was not asked to, and did not, express any opinion as to (a) what the value of the Series D Preferred Stock actually will be when issued to IMS shareholders pursuant to the Merger or the price at which the Series D Preferred Stock will trade, if at all, subsequent to the Merger, (b) any Election to Retain Series B Preferred Stock or (c) the relative fairness of the Merger to the holders of the Company Common Stock and the holders of the Series B Preferred Stock. The summary of Smith Barney's opinion set forth below is qualified in its entirety by reference to the full text of such opinion attached as Appendix C.

In arriving at its opinion, Smith Barney reviewed the Merger Agreement and held discussions with certain senior officers, directors and other representatives and advisors of IMS concerning the business, operations and prospects of IMS. Smith Barney examined certain business and financial information relating to IMS as well as certain financial forecasts and other data for IMS which were provided to Smith Barney by the management of IMS. Smith Barney reviewed the financial terms of the Merger as set forth in the Merger Agreement in relation to, among other things: IMS's historical and projected earnings and the capitalization and financial condition of IMS. Smith Barney considered, to the extent publicly available, the financial terms of certain other transactions that Smith Barney considered comparable to the Merger and analyzed certain financial and other publicly available information relating to the businesses of other companies whose operations Smith Barney considered comparable to those of IMS. Smith Barney also conducted such other analyses and examinations and considered such other financial, economic and market criteria as Smith Barney deemed necessary to arrive at its opinion.

In rendering its opinion, Smith Barney assumed and relied, without independent verification, upon the accuracy and completeness of all financial and other information publicly available or furnished to or otherwise reviewed by or discussed with Smith Barney. Except as described herein, Smith Barney did not conduct any review or investigation of IMS or Lilly. With respect to financial forecasts and other information provided to or otherwise reviewed by or discussed with Smith Barney, Smith Barney assumed that such forecasts and other information were reasonably prepared on bases that reflected the best currently available estimates and judgments of IMS's management as to the expected future financial performance of IMS. In addition, Smith Barney did not make, nor was it provided with, an independent evaluation or appraisal of the assets, liabilities (contingent or otherwise) or reserves of IMS nor did Smith Barney make any physical inspection of the properties or assets of IMS. No limitations were imposed on Smith Barney with respect to the investigations made or procedures followed by Smith Barney in rendering its opinion. Smith Barney's opinion necessarily is based on financial, stock market and other conditions and circumstances existing and disclosed to Smith Barney as of the date of its opinion.

In preparing its opinion to the Board of Directors of IMS, Smith Barney performed a variety of financial and comparative analyses, including those described below. The summary of such analyses does not purport to be a complete description of the analyses underlying Smith Barney's opinion or of its presentations to the IMS Board. The preparation of a fairness opinion is a complex analytical

process involving various determinations as to the most appropriate and relevant methods of financial analyses and application of those methods to the particular circumstances and, therefore, such opinion is not readily susceptible to summary description. In arriving at its opinion, Smith Barney did not attribute any particular weight to any analysis or factor considered by it, but rather made qualitative judgments as to the significance of each analysis and factor. Accordingly, Smith Barney believes that its analyses must be considered as a whole and that selecting portions of its analyses or the factors considered by it, without considering all analyses and factors, could create a misleading or incomplete view of the processes underlying such analyses and its opinion. In its analyses, Smith Barney made numerous assumptions with respect to IMS, industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of IMS. The estimates contained in such analyses are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by such analyses. In addition, analyses relating to the value of businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities may actually be sold. Accordingly, such analyses and estimates are inherently subject to substantial uncertainty.

Comparable Company Analysis. Using publicly available information, Smith Barney analyzed, among other things, the closing stock prices and market values of the following health care information technology companies: Cerner Corp.; CliniCom, Inc.; CyCare Systems, Inc.; GMIS Inc.; HBO & Company ("HBO"); HCIA, Inc.; Health Management Systems, Inc.; Medaphis Corp.; Medic Computer Systems, Inc.; Medicus Systems Corp.; Phamis, Inc.; and Shared Medical Systems Corp. (collectively, the "Comparable Companies"). Smith Barney compared the results of IMS to the results of the Comparable Companies.

Smith Barney compared market values as multiples of historical and estimated net income. The high, low and mean multiples of net income of the Comparable Companies for the latest twelve months ("LTM") were 63.3, 19.0 and 40.6. The high, low and mean multiples of estimated 1996 net income of the Comparable Companies were 35.6, 15.8 and 26.1, respectively. Smith Barney also compared the total enterprise values (equity market value plus total debt and the book value of preferred stock, minus cash and cash equivalents) to historical earnings before interest and taxes ("EBIT") and to historical earnings before interest, taxes, depreciation and amortization ("EBITDA") and the total enterprise values plus capitalized leases to historical revenues and to historical earnings before interest, taxes, depreciation, amortization and rent ("EBITDAR"). The high, low and mean multiples of LTM EBIT of the Comparable Companies were 35.3, 11.1 and 24.5, respectively; of EBITDA of the Comparable Companies, 28.4, 8.6 and 17.9, respectively. The high, low and mean multiples of LTM revenues of the Comparable Companies were 6.5, 1.5 and 3.9, respectively; of EBITDAR of the Comparable Companies, 24.7, 8.5 and 16.6, respectively.

Using a range of representative multiples derived from these calculations of total enterprise value plus capitalized leases to LTM revenues, Smith Barney derived a range of implied equity value of IMS of approximately $67.7 million to $90.6 million, which reflected a range of implied value per share of Company Common Stock (or equivalent) of $4.68 to $6.26. Using a range of representative multiples derived from these calculations of market value to estimated 1996 net income, Smith Barney derived a range of implied equity value of IMS of approximately $69.0 million to $93.4 million, which reflected a range of implied value per share of Company Common Stock (or equivalent) of $4.77 to $6.46.

Selected Merger and Acquisition Transactions Analysis. Using publicly available information, Smith Barney analyzed the purchase prices and transaction values in the following selected merger and acquisition transactions involving health care information services companies: HBO/CliniCom; HBO/First Data Health System Group; Medaphis Corp./Automation Atwork; Thomson Corp./MEDSTAT Group; HBO/Serving Software; and Inforum Inc./MEDSTAT Systems Inc. (collectively, the "Comparable Transactions").

Smith Barney compared the purchase prices as multiples of historical net income and book value. The high, low and mean multiples of LTM net income were 66.2, 12.0 and 38.6, respectively; of book value, 7.5, 2.5 and 4.5, respectively. Smith Barney also compared transaction values as a multiple of historical revenues and EBIT. The high, low and mean multiples of LTM revenues were 7.9, 1.4 and 4.8, respectively; of LTM EBIT, 49.4, 6.4 and 30.7, respectively.

Using a range of representative multiples derived from these calculations of transaction value to LTM revenues, Smith Barney derived a range of implied equity value of IMS of approximately $82.6 million to $110.7 million, which reflected a range of implied value per share of Company Common Stock (or equivalent) of $5.71 to $7.66.

No company, transaction or business used in the comparable company and selected merger and acquisition transactions analyses is identical to IMS or the Merger. Accordingly, an analysis of the results of the foregoing is not entirely mathematical; rather it involves complex considerations and judgments concerning differences in financial and operating characteristics and other factors that could affect the acquisition or public trading value of the comparable companies or the business segment or company to which they are being compared.

Discounted Cash Flow Analysis. Smith Barney performed a discounted cash flow analysis of the projected free cash flow of IMS for the fiscal years ended December 31, 1996 through December 31, 1998, assuming, among other things, discount rates of 30%, 35% and 40% and terminal multiples of 1998 EBITDA of 5.0, 6.0, 7.0 and 8.0. Utilizing these assumptions, Smith Barney arrived at a range of implied equity value of IMS of approximately $90.6 million to $118.7 million, which reflected a range of implied value per share of Company Common Stock (or equivalent) of $6.26 to $8.21.

Initial Public Offering Analysis. Smith Barney also analyzed the continued viability and attractiveness of an initial public offering of shares of Company Common Stock. However, Smith Barney concluded that an initial public offering was not viable and was therefore irrelevant in their analysis of the fairness of the consideration to be received by shareholders of IMS in the Merger.

Smith Barney is a nationally recognized investment banking firm and as part of its investment banking business, Smith Barney is regularly engaged in the valuation of businesses and their securities in connection with mergers and acquisitions, negotiated underwritings, secondary distributions of listed and unlisted securities, private placements and valuations for estate, corporate and other purposes. The Special Committee selected Smith Barney because of Smith Barney's experience in transactions similar to the Merger as well as Smith Barney's knowledge of the health care information services industry generally.

As compensation for Smith Barney's services as financial advisor to IMS in connection with the Merger, IMS has agreed to pay Smith Barney: (i) a retainer fee of $100,000; (ii) an opinion fee of $500,000, which was payable upon delivery by Smith Barney of its opinion; and (iii) a transaction fee of approximately $_____, payable upon consummation of the Merger, against which the retainer fee and the opinion fee will be credited. IMS has also agreed to reimburse Smith Barney for certain expenses incurred in connection with its engagement and to indemnify Smith Barney and its affiliates against certain liabilities, including certain liabilities under the Federal securities laws relating to, arising out of or in connection with its engagement. In the ordinary course of its business, Smith Barney may trade the securities of Lilly for its own account and for the accounts of its customers and, accordingly, may at any time hold a long or short position in such securities.

PRIOR AGREEMENTS/RELATIONSHIPS OF THE PARTIES

In June, 1993, McKesson made its initial investment in IMS by purchasing 50,000 shares of Company Common Stock at $5 per share, and in September 1993 by purchasing a note in the principal amount of $500,000 convertible into Company Common Stock. Pursuant to a Stock Purchase Agreement, dated January 6, 1994, McKesson purchased 1,250,000 shares of Series C Preferred Stock at a price of $4 per share in January 1994 payable in part by cancellation of the $500,000 convertible note, and purchased 1,000,000 shares at a price of $5 per share in July 1994. Also pursuant to that Agreement, McKesson acquired Warrants to purchase an aggregate of 1,250,000 shares of Series C Preferred Stock at initial exercise prices of $5 to $6 per share. McKesson purchased from an IMS shareholder an additional 110,200 shares of Company Common Stock at $5 per share in April, 1994. PCS exercised a Warrant in November 1994 for 375,000 shares of Series C Preferred Stock at $5 per share. On November 21, 1994, Lilly acquired the PCS pharmacy benefits management services business of McKesson, together with McKesson's IMS shares, Warrants and contract rights. In January 1995, PCS exercised a Warrant for 375,000 additional shares of Series C Preferred Stock, at a price of $5 per share. PCS continues to hold a Warrant to purchase 500,000 shares of Series C Preferred Stock at a price of $6 or $7 per share, depending on the date of exercise, exercisable until July 1996.

McKesson Sponsorship Agreement

McKesson and IMS entered into a Network Sponsorship and Participation Agreement, dated November 17, 1993 (the "McKesson Sponsorship Agreement"), under which McKesson was granted various rights to utilize IMS Networks to send and receive information between IMS Network sites and McKesson's clients, and to link IMS Networks to McKesson's transaction processing and data base management infrastructure to send and receive information in support of a variety of services. Under the Agreement, McKesson paid a sponsorship fee of $1 million which was subsequently credited against the purchase of shares of Series C Preferred Stock in July 1994 described above. All of McKesson's rights under this Agreement are now held by PCS as a result of Lilly's acquisition of PCS in November 1994.

Term. The McKesson Sponsorship Agreement will continue until December 1998 and will be renewed automatically for successive one-year terms unless McKesson cancels the Agreement or fails to make certain minimum payments to IMS.

Network Services. IMS is obligated to provide certain services to McKesson, including:

(a) With respect to existing IMS Networks located in the top fifty U.S. markets, IMS will provide, or in some cases will use its best efforts to provide, access for McKesson Product Lines to all Subscribers designated by McKesson.

(b) IMS will provide access for the McKesson Product Lines to all Subscribers designated by McKesson in all new IMS Networks established in the top fifty U.S. markets, and McKesson will have the right to become the initial Sponsor for such new IMS Networks.

(c) IMS will provide access for the McKesson Product Lines to all current subscribers designated by McKesson in IMS Networks in secondary markets. IMS and McKesson will negotiate in good faith the terms on which access would be made available to McKesson to new Subscribers in such Networks.

(d) IMS will provide and maintain for each IMS Network the ComCenter System, related personnel and services needed to support current and future IMS Networks.

(e) IMS will assist McKesson to develop and implement a plan to recruit prospective subscribers specified by McKesson for access to the McKesson Product Lines.

(f) IMS will develop and execute a technical implementation plan for each IMS Network, including meetings with appropriate personnel of McKesson and McKesson's clients.

(g) IMS will be responsible for installation of licensed software and for providing training, support, IMS Network administration and updates and enhancements of licensed software to subscribers sponsored by McKesson.

Fees. In exchange for the services described above, McKesson is obligated to pay IMS certain message volume fees related to the volume of messages for each subscriber site sponsored by McKesson, plus annual minimum sponsor fees, plus certain installation and training fees. To date, no fees have become payable under the McKesson Sponsorship Agreement and the first $1 million of fees under the Agreement was prepaid by McKesson and is unused as of the date hereof.

Approval Rights. IMS will not introduce Prescription Benefit Management Services throughout the term of the McKesson Sponsorship Agreement without the approval and except on terms acceptable to McKesson.

Database/Information Services. McKesson may elect to use IMS Networks to provide physicians and other health care entities with access to McKesson proprietary data base/information services. Subject to certain limitations, McKesson has the right to capture and compile data transmitted across IMS Networks in connection with McKesson Product Lines and to generate, use and sell compilations, analyses and reports based on such data.

Obligations of McKesson. McKesson will provide reasonable and appropriate cooperation with IMS's efforts to recruit potential Subscribers, and will provide IMS Network participants with access to the data center of PCS consistent with access customarily provided to PCS clients.

Certain Definitions in McKesson Sponsorship Agreement.

ComCenter Hardware. "ComCenter Hardware shall mean the message switching computer(s), owned by an IMS Network, on which the ComCenter Software runs."

ComCenter Software. "ComCenter Software shall mean that portion of the IMS-NET Software that resides on the ComCenter Hardware."

ComCenter System. "ComCenter System shall mean the ComCenter Software and ComCenter Hardware together."

IMS Network. "An IMS Network shall mean the ComCenter Hardware, ComCenter Software, IMS-Net Software, Synergy Series Software, Network Interfaces Software, the facility and staff required to provide IMS communications services in a specific market area, and the Sponsors, Subscribers and other participants from and to whom IMS communication services are transmitted in such market area."

McKesson Product Lines. "Each of the following shall be a McKesson Product Line (collectively, the "McKesson Product Lines"): (i) the Prescription Benefit Management Services transmitted through the IMS Networks; (ii) financial services products offered by McKesson or its direct or indirect subsidiaries; and (iii) other groups of products mutually agreed upon by the parties."

Prescription Benefit Management Services. "Prescription Benefit Management Services shall mean the following services provided by McKesson or its direct or indirect subsidiaries: transaction and medical information services related to prescription drugs. Prescription Benefit Management Services include, but are not limited to, the following: formulary management; quality of care alerts involving drug interactions with other drugs, medical diagnosis, and other health care information; patient

drug histories; patient instructions for drug use; electronic prescriptions and refill authorization; clinical information and educational sources related to drugs; information on drug distribution and pricing; clinical trial information; and drug sample management."

Sponsor. "Sponsor shall mean any participant on any IMS Network that pays a fee to IMS (or its subsidiaries) in order to allow communications with a Subscriber. Sponsors include, but are not limited to, hospitals, clinical laboratories, managed care organizations, drug companies, and other payors and providers."

McKesson Stockholder's Rights Agreement

In connection with McKesson's initial purchase of Series C Preferred Stock, IMS and McKesson executed a Stockholder's Rights Agreement, dated January 6, 1994 (the "McKesson Stockholder's Rights Agreement"). Under that Agreement, McKesson was granted (1) certain information and inspection rights, and rights to register shares of Company Common Stock under the Securities Act; (2) the right to elect two directors of IMS if the Board of Directors consisted of eight directors, or at least 20% of the directors if the Board of Directors consisted of more than eight directors; (3) the right to designate one member of the IMS Operating Company Advisory Board and one member of the IMS Business Development Group Advisory Board; (4) during the period the McKesson Sponsorship Agreement remains in effect, the right to have IMS ensure that any joint venture agreements, or other agreements for the operation of the IMS Networks, provide McKesson access for the McKesson Product Lines to all Subscribers designated by McKesson, and for such access to have the benefit of certain preferred pricing provisions under the McKesson Sponsorship Agreement; (5) the right to cause IMS to spend up to a total of $500,000 for regional or technical development efforts as directed by McKesson; (6) during the period that the McKesson Sponsorship Agreement is in effect, the right to approve the introduction by IMS of any Prescription Benefit Management Services and the terms thereof; and (7) during the period that the McKesson Sponsorship Agreement is in effect, the right to approve, subject to certain exceptions, any joint venture agreement, or other agreement, for the operation of an IMS Network with any entity engaged in a business defined as a McKesson Product Line.

Under the McKesson Stockholder's Rights Agreement, McKesson was granted a right of first offer to purchase all or a portion of "New Securities" which IMS may, from time to time, propose to sell. For this purpose, "New Securities" includes, subject to certain exceptions, any capital stock and rights, options or warrants to purchase capital stock and securities convertible into capital stock. The right of first offer does not apply to: (i) sales to persons who were directors, officers, employees or shareholders as of January 6, 1994; (ii) sales of up to 15% of New Securities per investor to accredited individual investors; (iii) sales of up to 15% of New Securities per investor to institutional investors; (iv) any sales of up to 5% per investor of New Securities to significant IMS customers, which means customers generating at least 5% of IMS's annual revenues; or (v) any sales of up to 15% per investor of New Securities to potential investors which the IMS Board of Directors identifies as potential strategic partners of IMS.

However, the exceptions set forth in clauses (i) through (v) do not apply to potential investors which are engaged to any degree, and for clauses (ii) and (iii) have invested to any degree, in any of the Businesses defined as McKesson Product Lines (as defined in the McKesson Sponsorship Agreement). In addition, if IMS sells New Securities to a purchaser pursuant to clauses (i) through (v), McKesson has the right to purchase capital stock on the same terms as those offered to such purchaser in such amounts as will preserve McKesson's percentage of equity ownership in IMS. Furthermore, McKesson has approval rights for prospective purchasers of New Securities to the extent that they are engaged in any of the businesses defined as McKesson Product Lines.

Nothing in the right of first offer is to constrain IMS's ability, at the sole discretion of its Board of Directors, to effect a public offering of stock. The right of first offer expires upon, and shall not be applicable to, the first sale of Company Common Stock to the public pursuant to a registration

statement filed under the Securities Act involving at least 15% of IMS's aggregate outstanding shares after giving effect to the public offering and resulting in gross proceeds of at least $15 million.

McKesson's right of first offer and approval rights described above are now claimed by Lilly's subsidiary, PCS. IMS has asserted (and PCS has disagreed) that certain of McKesson's rights under the McKesson Stockholder's Rights Agreement could be asserted only by McKesson and that such rights would not be enforceable by Lilly or PCS. If the Merger is effected, this potential dispute will be avoided.

Lilly Loans to IMS

In accordance with the Term Sheet and Merger Agreement, on July 12, 1995, July 27, 1995 and August 28, 1995, Lilly loaned IMS $3 million, $1 million and $1 million, respectively. Each loan is due and payable upon the earlier of any breach of the Merger Agreement by IMS (subject to certain rights of IMS to cure such breach) or July 1, 1996 with interest at the annual rate of 10%. Each loan is subordinated to the indebtedness outstanding on the date of such loan and is secured by a pledge of most of the assets of IMS, including shares of subsidiaries.

Pursuant to the Merger Agreement, Lilly has agreed to continue to advance to IMS from time to time (subject to certain exceptions), at IMS's request, funds, as required to fund the then current cash requirements of IMS but not to exceed $1.5 million per month. Each such advance will be on terms and conditions that are substantially similar to those contained in the earlier loans. IMS and Lilly currently anticipate that the aggregate amount of such loans will be approximately $_____ by the date of the Special Meeting.

## ACCOUNTING TREATMENT OF THE MERGER

The Merger will be accounted for as a purchase in accordance with GAAP. Accordingly, a determination of the fair market value of IMS's assets and liabilities will be made in order to allocate the purchase price of the assets acquired and the liabilities assumed. From and after the Effective Date, IMS's results of operations will be included in Lilly's consolidated results of operation.

## INTERESTS OF CERTAIN PERSONS IN THE MERGER

Under the Merger Agreement, at the Effective Date, nine senior executives of IMS will each be offered severance agreements with Lilly pursuant to which Lilly will agree not to reduce such executive's rates of compensation or benefits payable to such persons for one year from the Effective Date and will pay an amount equal to one year's base salary if during the one year period such person's employment is terminated by action of IMS for any reason other than for cause or if such person resigns because he is required by IMS to relocate to any office not within reasonable commuting distance from his place of residence. See "THE MERGER AGREEMENT - Certain Understandings and Agreements."

Certain provisions of the employment arrangement of Kevin R. Green with IMS require IMS to pay to Mr. Green an amount equal to two years' salary under certain circumstances in the event of a change of control of IMS, such as the Merger. See "MANAGEMENT OF IMS - Certain Transactions." Directors and officers of IMS will be afforded certain future rights to indemnification for liabilities which may arise from service as an officer or director of IMS prior to the Merger.

## NO STOCK EXCHANGE OR NASDAQ LISTING; RESALES OF SERIES D PREFERRED STOCK AND SERIES B PREFERRED STOCK

The shares of Series D Preferred Stock will not be listed on any stock exchange or traded on the National Association of Securities Dealers Automated Quotations ("NASDAQ") National Market System. In addition, it is likely that there will be fewer than 300 holders of Series D Preferred Stock and therefore that IMS will not be subject to the reporting requirements of Section 12(g) or 15(d) of the

Exchange Act once it has filed its first annual report on Form 10-K in March 1996. Also, any shares that the holders elect to make subject to Put/Call Agreements will be subject to contractual restrictions on transfer, as described below under "PUT/CALL AGREEMENTS." Accordingly, it is not expected that any trading market will develop for shares of Series D Preferred Stock.

Subject to the foregoing, the shares of Series D Preferred Stock to be issued in the Merger to persons who elect to receive such shares, and any shares that are subsequently issued upon conversion of Series B Preferred Stock, will be freely transferable, except for any shares received by "affiliates" of IMS, as that term is defined in Rule 405 under the Securities Act at the time of the Merger.

IMS affiliates may resell such shares of Series D Preferred Stock only in compliance with the resale provisions of Rule 145 under the Securities Act or as otherwise permitted by the Securities Act. Under Rule 145, during the first two years following the Merger, such shares could be sold publicly by an IMS affiliate only if IMS is then making publicly available adequate current information pursuant to Rule 144(c), and if the number of shares to be sold, together with the number of shares sold by such affiliate within the three months preceding such sale, does not exceed one percent of the outstanding shares of Series D Preferred Stock. After such two years, such shares could be sold publicly without compliance with the volume limitations if at the time of sale the seller is not an affiliate of IMS provided that IMS continues to make available the information required by Rule 144(c). It is not expected that IMS will be making such information publicly available except during the limited period that it will be subject to the reporting requirements of Section 15(d) of the Exchange Act. After a period of three years following the Merger, such shares could be sold publicly without compliance with the volume and current public information requirements noted above if at the time of sale the seller is not, and has not been for at least three months, an affiliate of IMS. Currently, the only persons expected to be "affiliates" of IMS at the time of the Merger are the officers and directors of IMS, certain members of their families, and certain affiliated entities. Persons who continue to be affiliates of IMS after the Merger would remain subject to the requirement to make public resales in accordance with all of the provisions of Rule 144 while they retain that status.

Shares of Series D Preferred Stock that are issued subsequent to the Merger upon the conversion of Company Options or Company Warrants may be subject to transfer restrictions under the securities laws, depending on whether the sale of those shares to the holder was registered under the Securities Act, whether such holder is then an affiliate of IMS and whether IMS is then making publicly available adequate current information.

Any shares of Series B Preferred Stock that remain outstanding following the Merger will be subject to the same limitations on transfer described above that apply to Series D Preferred Stock. In addition, the Series B Preferred Stock is currently held by only 23 persons and IMS anticipates that a substantial number of these holders will elect to exchange their shares of Series B Preferred Stock for the Merger Consideration. Seven IMS directors who collectively own more than a majority of the shares of Series B Preferred Stock have already committed to do so. Accordingly, IMS does not expect that any trading market for the shares of Series B Preferred Stock will develop.

GOVERNMENTAL AND REGULATORY APPROVALS

In connection with exercises of Warrants, Lilly filed a Notification with the Federal Trade Commission and the Department of Justice pursuant to the HSR Act on February 27, 1995, seeking clearance to acquire 50% or more of the voting stock of IMS. No second request for additional information was received and the mandatory waiting period expired on March 29, 1995. As a result, no further action is required under the HSR Act in connection with the Merger provided that the Merger is completed by March 29, 1996.

MARKET PRICES

IMS. No public market exists for the Company Common Stock or the Series B Preferred Stock and, accordingly, market price information is not available for such stock.

Lilly. The shares of Lilly Common Stock are listed and principally traded on the New York Stock Exchange, Inc. (the "NYSE"). On August 2, 1995, the last full trading day prior to the first public announcement of the Merger, the reported closing price per share of Lilly Common Stock on the NYSE Composite Tape was $77. On _____, 1995, the reported closing price per share of Lilly Common Stock on the NYSE Composite Tape was $_____.

## THE MERGER AGREEMENT

The following is a brief summary of the Merger Agreement, a copy of which is included as an exhibit to the Registration Statement of which this Proxy Statement-Prospectus is a part and is incorporated herein by reference. Such summary is qualified in its entirety by reference to the Merger Agreement.

### THE MERGER

The Merger Agreement provides that, upon the terms and subject to the satisfaction or waiver of certain conditions set forth therein, Subsidiary will be merged into IMS, the separate corporate existence of Subsidiary will cease and IMS will continue as the surviving corporation. The Merger will become effective on the Effective Date upon the filing with the Secretary of State of the State of Colorado of duly executed Articles of Merger in accordance with Section 7-111-105 of the Colorado Business Corporation Act.

Pursuant to the Merger, (i) each outstanding share of Company Common Stock (other than shares held by IMS as treasury shares, shares owned by Lilly or any subsidiary of Lilly, or shares as to which dissenters' rights have been perfected under Colorado law) will be converted into, at the holder's election, either (a) $8.00 in cash, without interest, or (b) one share of Series D Preferred Stock, (ii) each outstanding share of Series B Preferred Stock (other than shares as to which dissenters' rights have been perfected under Colorado law) will either (a) be converted into, at the holder's election, either (1) $5.33 in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the Effective Date or (2) two-thirds of a share of Series D Preferred Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Series B Preferred Stock to the Effective Date or (b) remain outstanding (with the amended preferences, limitations and rights set forth in the Articles of Incorporation of the surviving corporation), (iii) each outstanding share of Series C Preferred Stock of the Company will be converted into one share of common stock of the surviving corporation and (iv) each share of common stock of Subsidiary then issued and outstanding will be converted into and become 120,000 shares of common stock of the surviving corporation.

No fractional shares of Series D Preferred Stock will be issued but in lieu thereof cash payments will be made to each holder of Series B Preferred Stock in respect of any fractional share that would otherwise be issuable to such holder (after aggregating all of the shares of Series D Preferred Stock to be issued to such holder) in an amount equal to such fractional part of a share of Series D Preferred Stock multiplied by $8.00. No such holder shall be entitled to dividends, voting rights or any other shareholder right in respect of any fractional share.

In addition, each holder of Company Common Stock, Series B Preferred Stock, Company Options or Company Warrants will be offered the right to enter into a Put/Call Agreement with Lilly with respect to any or all of the shares of Series D Preferred Stock that such holder may acquire. See "PUT/CALL AGREEMENTS."

If the Merger is adopted by the requisite vote of the shareholders of IMS and certain other conditions to the Merger are satisfied or waived, the Closing will be held promptly thereafter, or if later, on the day three business days following the date on which the last of the required conditions to the Closing has been fulfilled or waived, or at such other time as is agreed upon by Lilly and IMS.

DESCRIPTION OF ELECTION PROCEDURES

Subject to the election procedures set forth below, each record holder immediately prior to the Effective Date of shares of Company Common Stock or Series B Preferred Stock (other than Lilly or any subsidiary of Lilly) will be entitled (i) to make a Cash Election for any or all of such shares, or (ii) to make a Stock Election for any or all of such shares. In addition, each record holder immediately prior to the Effective Date of shares of Series B Preferred Stock will be entitled to make an Election to Retain Series B Preferred Stock.

Elections must be made by mailing to the Exchange Agent a duly completed Form of Election. To be effective, a Form of Election must be properly completed, signed and submitted to the Exchange Agent and (except if an Election to Retain Series B Stock is made or deemed to have been made), accompanied by the certificates representing the shares of Company Common Stock or Series B Preferred Stock as to which the election is being made (or by an appropriate guarantee of delivery of such certificates by a commercial bank or trust company in the United States or a member of a registered national securities exchange or the National Association of Securities Dealers, Inc.). All duly completed Forms of Election must be received by the Exchange Agent by the Election Deadline. Lilly will have the discretion, which it may delegate in whole or in part to the Exchange Agent, to determine whether Forms of Election have been properly completed, signed and submitted or revoked and to disregard immaterial defects in Forms of Election. The decision of Lilly (or the Exchange Agent) in such matters will be conclusive and binding. Neither Lilly nor the Exchange Agent will be under any obligation to notify any person of any defect in a Form of Election submitted to the Exchange Agent.

A HOLDER OF COMPANY COMMON STOCK OR SERIES B PREFERRED STOCK WHO DOES NOT SUBMIT A PROPERLY COMPLETED AND SIGNED FORM OF ELECTION WHICH IS RECEIVED BY THE EXCHANGE AGENT PRIOR TO THE ELECTION DEADLINE WILL BE DEEMED TO HAVE MADE A CASH ELECTION, IN THE CASE OF A HOLDER OF COMPANY COMMON STOCK, AND AN ELECTION TO RETAIN SERIES B PREFERRED STOCK, IN THE CASE OF A HOLDER OF SERIES B PREFERRED STOCK. If Lilly or the Exchange Agent determines that any purported Cash Election, Stock Election or Election to Retain Series B Preferred Stock was not properly made, the shareholder making such purported Election will be deemed to have made a Cash Election, in the case of a holder of Company Common Stock, and an Election to Retain Series B Preferred Stock, in the case of Series B Preferred Stock.

An election may be revoked, but only by written notice received by the Exchange Agent prior to the Election Deadline. Upon any such revocation, unless a duly completed Form of Election is thereafter submitted in accordance with the procedures described herein, such shares will be deemed to be Cash Election shares, in the case of Company Common Stock, and Election to Retain Series B Preferred Stock shares, in the case of Series B Preferred Stock.

PROCEDURES FOR EXCHANGE OF CERTIFICATES

IMS SHAREHOLDERS THAT WISH TO SUBMIT A FORM OF ELECTION SHOULD DELIVER THEIR STOCK CERTIFICATES TOGETHER WITH SUCH FORM OF ELECTION OR PROVIDE FOR, AND COMPLY WITH THE REQUIREMENTS OF, GUARANTEED DELIVERY.

As soon as reasonably practicable after the Effective Date (unless the Company, prior to the Effective Date, agrees to an earlier mailing), Lilly will instruct the Exchange Agent to mail to each holder of record (other than (x) holders of dissenting shares or (y) Lilly or any subsidiary of Lilly) of a certificate or certificates which immediately prior to the Effective Date evidenced outstanding shares of Company Common Stock or Series B Preferred Stock (the "Certificates"), (i) a letter of transmittal, (ii) instructions for use in effecting the surrender of the Certificates in exchange for certificates evidencing shares of Series D Preferred Stock or cash and (iii) a Form of Election. With respect to a holder of a Certificate, other than a Certificate representing Series B Preferred Stock for which a valid Election to

Retain Series B Preferred Stock, or a deemed Election to Retain Series B Preferred Stock, has been made, upon surrender of a Certificate for cancellation to the Exchange Agent together with such letter of transmittal, duly executed and such other customary documents as may be required pursuant to such instructions, the holder of such Certificate will be entitled to receive in exchange therefor (A) certificates evidencing that number of shares of Series D Preferred Stock which such holder has the right to receive in respect of the shares of Company Common Stock or Series B Preferred Stock formerly evidenced by such Certificate, (B) cash which such holder is entitled to receive, (C) cash in lieu of a fractional share of Series D Preferred Stock which such holder is entitled to receive and (D) any dividends or other distributions to which such holder is entitled, and the Certificate so surrendered will be cancelled; provided, however, -------- -------

that as to any holder who executed a Put/Call Agreement with respect to any shares of Series D Preferred Stock, the certificates evidencing such shares will be delivered to the Escrow Agent under the Escrow Agreement contemplated by the Put/Call Agreements. In the event of a transfer of ownership of shares which is not registered in the transfer records of the Company, for transferees who elect to receive the Merger Consideration, a certificate evidencing the proper number of shares of Series D Preferred Stock and/or cash may be issued and/or paid to that transferee if the Certificate evidencing such transferred shares is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and by evidence that any applicable stock transfer taxes have been paid. Until surrendered, each Certificate, other than a Certificate representing shares of Series B Preferred Stock for which a valid Election to Retain Series B Preferred Stock, or a deemed Election to Retain Series B Stock, has been made, will be deemed at any time after the Effective Date to evidence only the right to receive upon such surrender the appropriate Merger Consideration.

No dividends or other distributions declared or made with respect to Series D Preferred Stock will be paid to the holder of any unsurrendered Certificate with respect to the shares of Series D Preferred Stock evidenced thereby, and no other part of the Merger Consideration will be paid to any such holder until the holder of such Certificate surrenders such Certificate. No interest will accrue or be paid on the Merger Consideration.

All shares of Series D Preferred Stock issued and cash paid upon conversion of the shares of Company Common Stock or Series B Preferred Stock in accordance with the terms of the Merger Agreement will be deemed to have been issued or paid in full satisfaction of all rights pertaining to such shares of Company Common Stock or Series B Preferred Stock. On the Effective Date, each holder of a certificate or certificates up to that time representing shares of Company Common Stock or Series B Preferred Stock, other than a holder of a certificate or certificates representing Series B Preferred Stock for which a valid Election to Retain Series B Preferred Stock, or a deemed Election to Retain Series B Preferred Stock, has been made, will cease to have any rights as a shareholder of the Company and will not be deemed to be a shareholder of, or be entitled to any rights of a shareholder with respect to, the surviving corporation but thereafter will have only the rights described herein.

Neither Lilly nor IMS will be liable to any shareholder for any shares or cash in respect of shares delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. In the event any Certificate has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such certificate to be lost, stolen or destroyed and, if required by the Company, the posting by such person of a bond in a form and an amount specified by Lilly and reasonably acceptable to the Company as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration, without any interest or dividends or other payments thereon, upon due surrender of and deliverable in respect of such Certificate pursuant to the Merger Agreement.

IMS will be entitled to deduct and withhold from the consideration otherwise payable pursuant to the Merger Agreement such amounts as IMS is required to deduct and withhold with respect to the making of such payment under the Internal Revenue Code (the "Code"), or any provision of state, local or foreign tax law.

After the Effective Date, there will be no transfers on the stock transfer books of the Company of any shares of Company Common Stock, other than any shares of Company Common Stock held by Lilly or any subsidiary of Lilly, or any shares of Series B Preferred Stock which were outstanding immediately prior to the Effective Date other than shares of Series B Preferred Stock for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made. If, after the Effective Date, Certificates formerly representing shares of Company Common Stock which were outstanding immediately prior to the Effective Date, other than any shares of Company Common Stock held by Lilly or any subsidiary of Lilly, or shares of Series B Preferred Stock which were outstanding immediately prior to the Effective Date (for which a valid Election to Retain Series B Stock has not been made or deemed to be made) are presented to the Company or the Exchange Agent, they will be cancelled and (subject to applicable abandoned property, escheat and similar laws and, in the case of Dissenting Shares, subject to applicable law) exchanged for Merger Consideration.

SHAREHOLDERS SHOULD NOT SEND IN ANY CERTIFICATES WITH THEIR PROXY CARDS

EFFECT OF THE MERGER ON COMPANY OPTIONS AND COMPANY WARRANTS

Each holder of outstanding Company Options on the Effective Date will have the right immediately following the Merger to elect to have such Company Options converted, in whole or in part, into (i) the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such Company Option was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Option, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable), or (ii) the right to purchase for the same exercise price one share of Series D Preferred Stock for each share of Company Common Stock for which such Company Option was exercisable as of the Effective Date, or (iii) fully vested Lilly Options to acquire shares of Lilly Common Stock under the 1994 Lilly Stock Plan. Any election pursuant to clause (ii) above must be for a whole number of shares of Series D Preferred Stock.

Each Company Option for which an election to convert into Lilly Options is duly made will be converted as follows: each such Company Option will become a Lilly Option with an exercise price that bears the same relationship to the fair market value of Lilly Common Stock on the Effective Date (as such value is determined under the 1994 Lilly Stock Plan) as the exercise price of the Company Option bears to $8.00, and the number of shares subject to the Lilly Option will be the number that results in the Lilly Option having the same aggregate "spread" as existed on the Company Option. (For this purpose, the aggregate "spread" on the Company Option shall be (x) the difference between $8.00 and the exercise price of the Company Option multiplied by (y) the number of shares subject to the Company Option; and the aggregate "spread" on the Lilly Option shall be (x) the difference between the exercise price of the Lilly Option and the fair market value of Lilly Common Stock on the Effective Date multiplied by (y) the number of shares subject to the Lilly Option.) By way of illustration, if a holder owns a Company Option on 100 shares of Company Common Stock at an exercise price of $2.00 per share, then the aggregate "spread" is $600, i.e., ($8.00 - $2.00) x 100. If the fair market value of Lilly Common Stock on the Effective Date is $80 per share, the exercise price of the Lilly Option will be $20, i.e., 2/8 = 20/80, and the number of Lilly shares subject to the Lilly Option will be 10, i.e., the aggregate "spread" of $600 divided by the per share "spread" of $60 under the Lilly Option. The other terms and conditions of the Lilly Option will, to the extent practicable and permitted under the 1994 Lilly Stock Plan, be substantially the same as the Company Option for which the Lilly Option is substituted. Notwithstanding the foregoing, no Lilly Option to purchase a fractional share of Lilly Common Stock will be issued to a holder of a Company Option. In lieu thereof, a cash payment will be made in respect of any such Lilly Option that would otherwise be issuable to such holder (after aggregating all of the Lilly Options to be issued to such holder) in an amount equal to such fractional part of a Lilly Option multiplied by the "spread" on a Lilly Option for one share of Lilly Common Stock.

Each holder of outstanding Company Warrants on the Effective Date (other than warrants owned by Lilly or any of its subsidiaries) will have the right to elect to have such Company Warrants converted into (i) the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Warrant, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable) or (ii) the right to purchase for the same exercise price one share of Series D Preferred Stock for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date. Each warrant to purchase Series C Preferred Stock owned by Lilly or any of its subsidiaries will, on the Effective Date, be converted into the right to purchase one share of common stock of the surviving corporation for each share for which such warrant was exercisable as of the Effective Date.

A Form of Election for use by holders of Company Options and Company Warrants will be mailed separately to holders thereof following the Merger. To be effective, a Form of Election must be properly completed, signed and received by the Exchange Agent by the Election Deadline. HOLDERS OF COMPANY OPTIONS OR COMPANY WARRANTS WHO DO NOT PROPERLY COMPLETE AND RETURN THE FORM OF ELECTION BY THE ELECTION DEADLINE WILL BE DEEMED TO HAVE ELECTED TO RECEIVE THE LILLY OPTIONS, IN THE CASE OF A COMPANY OPTION, OR THE RIGHT TO PURCHASE SHARES OF SERIES D PREFERRED STOCK, IN THE CASE OF COMPANY WARRANTS.

In addition, each holder of a Company Option or a Company Warrant will be offered the right to enter into a Put/Call Agreement with Lilly with respect to any and all of the shares of Series D Preferred Stock that such holder may acquire. See "PUT/CALL AGREEMENTS."

REPRESENTATIONS AND WARRANTIES

The Merger Agreement contains various representations and warranties of IMS as to, among other things: (i) the due organization, valid existence and good standing of IMS and its subsidiaries; (ii) the capitalization of IMS; (iii) the minute books and stock books of IMS and certain of its subsidiaries; (iv) the authorization, execution and delivery of the Merger Agreement and certain ancillary agreements, the validity and enforceability thereof against IMS, the noncontravention thereby of the articles or certificate of incorporation or by-laws (or other organizational documents) of IMS or any subsidiary or affiliated entity, or the Company Options or Company Warrants, or any note, bond, mortgage, indenture, deed of trust, license, partnership agreement, joint venture agreement, collaborative arrangement or relationship or any contract, commitment or agreement or other instrument or obligation or with any order, writ, injunction, decree, statute, rule or regulation and the absence of requirements for any consents, approvals, notices or registrations to be obtained or filed in connection with the Merger; (v) possession of licenses, permits and authorizations and compliance with applicable laws; (vi) the preparation of, and presentation of certain information in, the financial statements of IMS and its subsidiaries; (vii) the absence of undisclosed liabilities; (vii) the absence of certain changes or events since May 31, 1995; (viii) tax matters; (ix) the ownership or lease of properties and assets; (x) accounts receivable; (xi) the number of physicians connected to IMS networks; (xii) the existence and enforceability of certain contracts; (xiii) intellectual property matters; (xiv) pending or threatened litigation; (xv) insurance; (xvi) accuracy of information provided to Lilly; (xvii) employee benefit plans; (xviii) personnel and labor matters; (xix) environmental matters; (xx) transactions involving affiliates of IMS; (xxi) the opinion of financial advisor; (xxii) fees owed to brokers or finders; and (xxiii) powers of attorney and suretyships of IMS or any subsidiary.

The Merger Agreement also contains representations and warranties of each of Lilly and Subsidiary as to, among other things: (i) their due organization, valid existence and good standing; and (ii) their authorization, execution and delivery of the Merger Agreement and certain ancillary agreements, the validity and enforceability thereof against Lilly and Subsidiary and the noncontravention thereby of the Articles of Incorporation or By-Laws of Lilly or Subsidiary, or of any order, writ, injunction, decree,

statute, rule or regulation and the absence of requirements for any consents, approvals, notices or registrations to be obtained or filed in connection with the Merger.

The Merger Agreement also contains representations and warranties of Lilly as to, among other things: (i) the accuracy and completeness of information provided by Lilly; (ii) fees owed to brokers or finders; and (iii) the absence of any intention to engage in certain restricted transactions.

CERTAIN UNDERSTANDINGS AND AGREEMENTS

Conduct of the IMS Business Prior to Effective Time

IMS has agreed that, except as set forth on the Disclosure Schedule to the Merger Agreement or as expressly contemplated by the Merger Agreement, during the period from the date of the Merger Agreement to the Effective Date, the business of IMS and its Controlled Subsidiaries and Controlled Affiliated Entities (each as defined in the Merger Agreement) will be conducted only in the ordinary and usual course consistent with past practices, that IMS will use and will cause each of its Controlled Subsidiaries, and any Controlled Affiliated Entities, to use best efforts to maintain and preserve and, as appropriate in the ordinary course of business, further their respective business relationships and business prospects, and to keep available the services of its directors, officers and employees, and that neither IMS nor any Controlled Subsidiary, nor any Controlled Affiliated Entity, will take any of the following actions or permit to occur any of the following events without the prior written consent of Lilly: (i) except pursuant to Company Options and Company Warrants, issue or sell, agree to issue or sell or authorize the issuance or sale of any shares of its capital stock or the capital stock of any subsidiary or other securities exchangeable for or convertible into shares of capital stock of the Company or any subsidiary or grant any options or rights to acquire any shares of capital stock of the Company or any subsidiary or amend any currently outstanding Company Options or Company Warrants or other rights or securities of IMS or any subsidiary; (ii) purchase or otherwise acquire, directly or indirectly, any shares of capital stock of the Company or any subsidiary or any securities exchangeable for or convertible into shares of capital stock of the Company or any subsidiary; (iii) declare or pay any dividends on capital stock of the Company or any subsidiary not wholly-owned by IMS, except that IMS may declare immediately prior to the Effective Date a cash dividend on the Series B Preferred Stock in an amount equal to all accrued and unpaid dividends to the time of declaration; (iv) enter into any material transaction relating to IMS or any subsidiary or affiliated entity, including, without limitation, any material joint venture, partnership, sponsorship or network licensing arrangements or relationships, or modify or effect material changes to any existing material joint venture, partnership, sponsorship or network licensing arrangements or relationships; (v) merge or consolidate with, purchase substantially all of the assets of, or otherwise acquire any business or any proprietorship, firm, association, corporation or other business organization or division thereof; (vi) make any change in the respective banking or safety deposit box arrangements of IMS and its Controlled Subsidiaries; (vii) grant any powers of attorney, except in connection with patent and trademark applications and prosecutions, and in the ordinary course of business; (viii) increase or decrease the rates of direct compensation payable or to become payable to their respective officers, employees, agents or consultants, other than routine increases or decreases made in the ordinary course of business, or grant, make or agree to any bonus, service award or other like benefit for any such officer, employee, agent or consultant, or make or agree to any welfare, pension, retirement or similar payment or arrangement, except payments made pursuant to the existing agreements or plans described in the Disclosure Schedule to the Merger Agreement and except payments or arrangements agreed to in the ordinary course of business and consistent with past practice or as required by law; (ix) amend or change the articles or certificate of incorporation or by-laws (or other organizational documents) of IMS or certain of its subsidiaries or affiliated entities; (x) issue or sell any promissory notes, bonds or other corporate debt securities of IMS or certain of its subsidiaries or affiliated entities or otherwise incur any indebtedness for borrowed money except (a) in the ordinary course of business, (b) under their existing lines of credit as of the date of the Merger Agreement or (c) pursuant to Section 7.15 of the Merger Agreement (relating to funds to be advanced by Lilly to fund the current cash requirements of IMS); (xi) discharge or satisfy any lien, charge or encumbrance or pay any obligation or liability,

absolute or contingent, other than current liabilities and the current portion of bank debt as shown on the balance sheet of the Company at May 31, 1995 and current liabilities incurred since that date in the ordinary course of business; (xii) mortgage, pledge or subject to lien, charge or any other encumbrance, any of their respective assets, tangible or intangible, except pursuant to existing lines of credit or Section 7.15 of the Merger Agreement (relating to funds to be advanced by Lilly to fund the current cash requirements of IMS); (xiii) lend any money of IMS or any certain of its subsidiaries or affiliated entities or otherwise pledge the credit of IMS or certain of its subsidiaries or affiliated entities, or sell, assign or transfer any of the tangible assets or cancel any debts or claims of IMS or certain of its subsidiaries or affiliated entities, except in each case in the ordinary course of business; (xiv) cancel, amend, terminate, waive, or sell, assign or transfer any material intellectual property; (xv) waive any rights of substantial value, whether or not in the ordinary course of business; (xvi) settle or otherwise compromise any material litigation against IMS or certain of its subsidiaries or affiliated entities; (xvii) reclassify any shares of its capital stock; (xviii) enter into any collective bargaining agreement; (xix) make expenditures for items deemed to be capital items under generally accepted accounting principles, of more than $25,000 in any one case or $125,000 in the aggregate; (xx) change its method of accounting or accounting practice; (xxi) enter into any contract, agreement, or understanding to cause or allow any of the foregoing; or (xxii) cause any other event or condition of any character which in any one case or in the aggregate would reasonably be expected to have a material adverse effect.

IMS has further agreed that, prior to the Effective Date, it will and will cause certain of its subsidiaries or affiliated entities to: (i) use its best efforts to duly comply with all laws applicable to them and to the conduct of their businesses in all material respects and all laws applicable to the transactions contemplated by the Merger Agreement; (ii) use its best efforts to maintain in full force and effect its insurance policies (or policies providing substantially the same coverage); (iii) use its best efforts to take such action as may reasonably be necessary to preserve its properties wherever located, including, but not limited to, all steps reasonably necessary to maintain its material intellectual property and any pending applications therefor, and any other intangible assets which are material to their businesses; (iv) maintain its books and records in accordance with generally accepted accounting principles and in the usual, regular and ordinary manner; and (v) promptly advise Lilly in writing of any occurrence or event, including, without limitation, the commencement or threat of any litigation, which individually or in the aggregate has had or might reasonably be expected to have a material adverse effect.

Certain Other Agreements

Pursuant to the Merger Agreement, IMS has agreed to take all action necessary in accordance with applicable law and its Articles of Incorporation and By-Laws to convene the Special Meeting as promptly as practicable to consider and vote upon the approval and adoption of the Merger Agreement and to consider and vote upon such other matters as may be necessary to effectuate the transactions provided for therein. The Board of Directors of IMS has resolved to recommend, and except as the Board of Directors determines in good faith, based on the advice of outside counsel to IMS, is required to satisfy its fiduciary duties, IMS has agreed that the Board of Directors will continue to recommend, and will take all lawful action to solicit proxies for and otherwise obtain, such approval and adoption. Lilly has agreed to vote, or cause its subsidiaries to vote, any shares of capital stock of the Company held by Lilly or such subsidiaries and entitled to vote in favor of the approval and adoption of the Merger Agreement and the transactions contemplated thereby.

IMS has agreed that neither it nor any of its subsidiaries or Controlled Affiliated Entities or any of their respective employees, agents or representatives (including, without limitation, its investment bankers) will, directly or indirectly, solicit or enter into any agreement or understanding with, or otherwise encourage inquiries or proposals from, or furnish any non-public information concerning IMS or any subsidiary or affiliated entity to, any person or entity other than Lilly or a representative thereof with respect to the acquisition (by purchase, merger or otherwise) of any or all of the capital stock of IMS or any subsidiary or affiliated entity or any or all of the assets of IMS or any of its subsidiaries or affiliated entities

or any other material corporate transactions relating to IMS or its subsidiaries or affiliated entities; provided, however, that IMS may engage in discussions or negotiations with a third party who, unsolicited, seeks to initiate such discussions or negotiations and may pursuant to confidentiality agreements furnish such party information concerning IMS and its business, properties and assets, provided that the Board of Directors of IMS will conclude in good faith on the basis of the advice of IMS's outside counsel that such action is necessary to satisfy the fiduciary duties of the Board of Directors. Should IMS receive an unsolicited offer for such a transaction, or obtain information that such an offer is likely to be made, IMS has agreed to provide Lilly with prompt notice thereof, including the identity of the prospective offeror and the terms and conditions of such offer.

Lilly, Subsidiary and the Company have agreed to use, and the Company has agreed to cause its Controlled Subsidiaries and Controlled Affiliated Entities to use, their best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the Merger, including, without limitation, using their best efforts to satisfy the conditions to the Merger described under " -Conditions to the Merger" below.

Lilly has agreed to advance to the Company from time to time, subject to certain conditions, at the Company's request, funds, as required to fund the then current cash requirements of the Company but not to exceed $1.5 million per month. See "SPECIAL FACTORS TO BE CONSIDERED -Prior Agreements/Relationships of the Parties - Lilly Loans to IMS."

In addition, Lilly has agreed to offer to enter into agreements at or prior to the Closing with specified members of IMS's management under which the Company would agree not to reduce such person's respective rates of compensation and benefits for the one year period beginning on the Effective Date and Lilly would pay, or cause the Company to pay, such person an amount equal to one year's base salary if during the one-year period beginning on the Effective Date such person's employment is terminated by action of the Company for any reason other than for cause or such person resigns because he is required by the Company to relocate to any office not within reasonable commuting distance of his or her residence. Such agreement will also contain a non-compete provision for the period during which such person is receiving such severance payments. See "SPECIAL FACTORS TO BE CONSIDERED - Interests of Certain Persons in the Merger."

Lilly has agreed that it will not, prior to the third anniversary of the Closing, engage in or cause, or otherwise permit to occur, a merger (other than the Merger) or other extraordinary transaction that would result in the holders of the Series D Preferred Stock being deemed for Federal income tax purposes to have sold their shares of Series D Preferred Stock in such merger or other extraordinary transaction.

CONDITIONS TO THE MERGER

The respective obligations of each of Lilly, Subsidiary and IMS to effect the Merger are subject to the fulfillment or waiver, at or prior to the Effective Date, of certain conditions, including: (i) the approval of the Merger by IMS shareholders; (ii) the receipt of all consents, authorizations, orders and approvals of, and filings and registrations with, any federal or state governmental authority that are required for the consummation by each of Lilly, Subsidiary and IMS of the transactions provided for in the Merger Agreement; the effectiveness of the Registration Statement under the Securities Act and the absence of any stop orders in effect or proceedings commenced seeking such a stop order; (iii) the absence of any claim, action, suit, order or other proceeding, pending or threatened by any public authority or private person before any court, agency or governmental or administrative body or other entity of competent jurisdiction which, in the reasonable opinion of Lilly or IMS, creates any substantial likelihood that the consummation of the Merger will be restrained, enjoined or otherwise prevented or that any material damages will be recovered or other material relief obtained as a result of the Merger or as a result of any agreement entered

into in connection with, or as a condition precedent to, the consummation of the Merger; (iv) the receipt at the Special Meeting of the affirmative vote of shares representing at least a majority of the voting power of the outstanding shares of the Company Common Stock and Series B Preferred Stock that are not owned by Lilly or its subsidiaries for the Merger Agreement and the Merger.

The obligations of Lilly and Subsidiary to effect the Merger are further subject to the fulfillment or waiver, at or prior to the Effective Date, of certain additional conditions, including: (i) the accuracy of the representations and warranties of IMS in all material respects on the Effective Date; (ii) the performance in all material respects of each of the obligations of IMS on the Effective Date; (iii) the taking of all action required to be taken by, or on the part of, IMS to authorize the execution, delivery and performance of the Merger Agreement and the consummation of the transactions contemplated thereby; (iv) the receipt of certain opinions of counsel; (v) the exercise by the holders of not more than 10% of the total number of shares of Company Common Stock or Series B Preferred Stock of dissenters' rights; (vi) the absence of litigation, except with respect to the matters disclosed in the Disclosure Schedule to the Merger Agreement, which in the reasonable opinion of Lilly creates any reasonable possibility of material interference with the ability of Lilly, through representatives designated by it, to manage following the Effective Date the business theretofore conducted by IMS and its subsidiaries; (vii) the receipt by Lilly on or prior to the Effective Date of a statement pursuant to Section 1445(b)(2) of the Code and Treasury Regulations Section 1.1445-2(c)(3) thereunder, certifying that the shares of capital stock of the Company do not constitute a "U.S. real property interest" for purposes of Sections 897 and 1445 of the Code and the Treasury Regulations thereunder; and (vii) the requirements of the Letter Agreement having been met to Lilly's reasonable satisfaction.

The obligation of IMS to effect the Merger is further subject to the fulfillment, at or prior to the Effective Date, of certain additional conditions, including: (i) the accuracy of the representations and warranties of Lilly and Subsidiary in all material respects on the Effective Date; (ii) the performance in all material respects of each of the obligations of Lilly and Subsidiary on; (iii) the taking of all action required to be taken by, or on the part of, Lilly and Subsidiary to authorize the execution, delivery and performance of the Merger Agreement and the consummation of the transactions contemplated thereby; (iv) the receipt of certain opinions of counsel; and (v) the execution by Lilly of Put/Call Agreements with each holder of shares of capital stock the Company, Company Options or Company Warrants who will have elected to enter into such Agreements.

AMENDMENT AND MODIFICATION

The provisions of the Merger Agreement may be amended or supplemented by written agreement of Lilly, Subsidiary and IMS at any time prior to the Effective Date; provided, however, that after adoption of the
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Merger Agreement by the shareholders of IMS, no material amendment or supplement may be made unless such amendment or supplement is also adopted by the shareholders of IMS.

TERMINATION

The Merger Agreement may be terminated at any time prior to the Effective Date: (i) by mutual consent of Lilly, Subsidiary and IMS; (ii) by Lilly and Subsidiary, or by IMS, respectively, if, at or before the Effective Date, any condition set forth in the Merger Agreement for the benefit of Lilly and Subsidiary or IMS, respectively, will not have been timely met and such failure will not have been cured or eliminated, or by its nature cannot be cured or eliminated; (iii) by Lilly and Subsidiary, or by IMS if the Closing will not have occurred on or before December 31, 1995, or such later date as may have been agreed upon by Lilly, Subsidiary and IMS or as is provided for in the Merger Agreement in connection with Lilly's right to delay or suspend the effectiveness of the Registration Statement; (iv) by Lilly and Subsidiary, or by IMS, respectively, if any representation or warranty made in the Merger Agreement for the benefit of Lilly and Subsidiary or IMS, respectively, or in any certificate, schedule or document furnished to Lilly and Subsidiary or IMS, respectively, pursuant to the Merger Agreement, if qualified as to materiality, is untrue

in any respect, or, if not so qualified, is untrue in any material respect, or IMS or Lilly and Subsidiary, respectively, have defaulted in any material respect in the performance of any obligation under the Merger Agreement; (v) by Lilly and Subsidiary if the IMS Board fails to recommend that the IMS shareholders approve the Merger or fails to submit the Merger to the shareholders for their approval; or (vi) by Lilly and Subsidiary if the shareholders of IMS have voted upon and not approved the Merger.

LIABILITY OF THE PARTIES UPON TERMINATION

In the event that the Merger Agreement is terminated pursuant to one of the items set forth above under "- Termination," the Merger Agreement will terminate and there will be no other liability on the part of Lilly and Subsidiary or IMS to each other (except liability relating to a breach of confidentiality, liability of each party to pay its own expenses and liability for the termination fee).

In the event of a termination by Lilly and Subsidiary pursuant to clause (iv), (v) or (vi) above under "- Termination," or a termination by IMS pursuant to clause (iv) above under "- Termination," the terminating party will be paid by wire transfer in immediately available funds a fee of $4 million (subject to any credit against such amount payable by Lilly of the principal and interest amounts payable by IMS to Lilly pursuant to the loans made by Lilly).

EXPENSES

All costs and expenses incurred in connection with the Merger Agreement and the transactions contemplated thereby will be paid by the party incurring such expenses.

INDEMNIFICATION OF OFFICERS AND DIRECTORS

Pursuant to the Merger Agreement, from and after the Effective Date, IMS will indemnify and hold harmless each director and officer of IMS (and each such person's personal representative, estate, heirs, testator or intestate successors) against any costs or expenses (including reasonable attorney's fees), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement in connection with any actual or threatened claim, action, suit, proceeding or investigation arising out of matters existing or occurring on or prior to the Effective Date (including without limitation any which arise out of or relate to the transactions contemplated by the Merger Agreement), whether asserted or claimed prior to, or on or after, the Effective Date, in accordance with the indemnification provisions of the Articles of Incorporation and the By-Laws of IMS immediately following the Merger in the same manner and to the same extent as if such person were a director or officer of IMS following the Merger.

## PUT/CALL AGREEMENTS

The following is a brief summary of the terms of the form of Put/Call Agreement, a copy of which is attached as Appendix B to this Proxy Statement-Prospectus and is incorporated herein by reference. Such summary is qualified in its entirety by reference to the Put/Call Agreement.

### GENERAL

Lilly will offer each holder of Company Common Stock, Series B Preferred Stock, Company Options or Company Warrants (a "Holder") the opportunity to enter into a Put/Call Agreement that would apply to any or all of the Holder's shares of Series D Preferred Stock as the Holder may elect (the "Subject Shares").

### PUT RIGHT

Under a Put/Call Agreement, a Holder will have the right to require Lilly to purchase any or all of the Holder's Subject Shares during each of two Put Periods at a price of $8.00 per share, plus any unpaid dividends accrued to the purchase date (the "Purchase Price").

The initial Put Period shall be a period of at least 10 business days beginning on the first anniversary of the Merger; the second Put Period shall be a period of at least 10 business days beginning approximately 30 months after the Merger. However, Lilly will have the right to defer commencement of a Put Period, or to suspend a Put Period that has commenced, or to defer the making of purchases pursuant to the exercise of a Put in order to permit compliance with all applicable laws; provided, however, that Lilly will use its commercially reasonable efforts
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to cause such compliance so as to avoid or minimize any such deferral or suspension, except that if commencement or continuation of a Put Period, or the making of purchases pursuant to the exercise of a Put, would require the disclosure to the Holder of information about IMS or Lilly that, in Lilly's reasonable judgment, it is not then in the best interests of IMS or Lilly to disclose, Lilly may, in its discretion, defer the commencement of, or may suspend, the Put Period or defer such purchases, for up to 90 days.

### CALL RIGHT

Under a Put/Call Agreement, Lilly will have the right to require a Holder to sell any or all of the Holder's Subject Shares to Lilly at the Purchase Price in whole at any time or in part from time to time after the third anniversary of the Merger.

### ESCROW

The stock certificates representing the Subject Shares will bear a restrictive legend and must be deposited into an escrow accompanied by an undated stock power endorsed in blank relating to the Subject Shares. To that end, the Exchange Agent will, following the Merger, deliver directly to the Escrow Agent the certificates for any Subject Shares issued in the Merger. The escrowed certificates will be held in the escrow pending possible purchase by Lilly pursuant to the put/call rights, but if for any reason the Escrow Agreement has not been terminated by December 31, 2001, the Escrow Agent shall promptly release the escrowed shares to the Holders.

TRANSFERS OF SUBJECT SHARES

The Holder will have the right to sell, assign, donate, pledge or otherwise transfer or encumber any or all of the Subject Shares and any related rights and obligations under the Put/Call Agreement only with Lilly's prior written consent. Lilly will grant such consent provided that:

(i) the transferee shall have executed and delivered an agreement reasonably satisfactory to Lilly confirming that the Subject Shares being transferred will remain subject to the Put/Call Agreement;

(ii) the certificates for the Subject Shares being transferred remain deposited in the escrow and the transferee shall have executed and delivered to the Escrow Agent an undated stock power for those Subject Shares (subject to certain exceptions where the transfer is a bona fide pledge);

(iii) Lilly is reasonably satisfied that the transfer will comply with all applicable securities laws and other legal requirements and will not result in the outstanding Series D Preferred Stock being held of record by 500 or more persons within the meaning of Section 12(g) of the Exchange Act, as amended, and the rules and regulations thereunder.

NO RESTRICTIONS ON LILLY

The existence of any Put/Call Agreement will not impair or restrict in any way Lilly's right, following the Merger, to transfer all or any of its interest in IMS or to cause IMS to merge, sell its assets or engage in other extraordinary transactions, including, without limitation, transactions that would result in the cashing out of Series D Preferred Stock or the exchange of Series D Preferred Stock for other securities, except that prior to the third anniversary of the Merger Lilly will not cause IMS to engage in a merger or other extraordinary transaction that would result in a Holder's being deemed for Federal income tax purposes to have sold Subject Shares in such merger or other extraordinary transaction. Lilly will represent that, as of the date of the Put/Call Agreement, it has no present intention to cause IMS to engage in such a merger or other extraordinary transaction prior to the fifth anniversary of the Merger.

If pursuant to a merger, consolidation, recapitalization, reorganization, sale of substantially all of the assets or other such transaction involving IMS, the outstanding shares of Series D Preferred Stock are converted into or exchanged for cash, property or securities of IMS or any other issuer, then the put and call rights shall apply to such cash, property or securities and the Purchase Price and other terms of the Put/Call Agreement shall be subject to appropriate adjustment, so as to preserve unchanged to the fullest extent possible the rights and obligations of the parties to the Put/Call Agreement.

SUBMISSION TO JURISDICTION

Any action or proceeding arising out of a Put/Call Agreement may be heard and determined by any state or federal court sitting in the State of Colorado.

## AMENDMENT TO THE ARTICLES OF INCORPORATION OF IMS

Approval of the Merger by IMS shareholders will include approval of an amendment to the Articles of Incorporation of IMS (as amended, the "New Charter") set forth in the Articles of Merger, effective upon consummation of the Merger, as described below. The following is a summary of such amendments, and is qualified in its entirety by reference to the Articles of Merger which are attached hereto as Appendix A to this Proxy Statement-Prospectus. For a more complete description of the preferences, limitations and relative rights of the capital stock of IMS following the Merger, see "DESCRIPTION OF CAPITAL STOCK OF IMS."

### CAPITALIZATION

The New Charter changes the total authorized capital of IMS from 25,000,000 shares of common stock, without par value, and 7,000,000 shares of preferred stock, $0.01 par value, to 20,000,000 shares of common stock, without par value, 2,000,000 shares of Series B Preferred Stock, $1.00 par value and 12,000,000 shares of Series D Preferred Stock, $0.01 par value.

The New Charter will also establish the Series D Preferred Stock with the preferences, limitations and relative rights as described under "DESCRIPTION OF IMS CAPITAL STOCK - Series D Preferred Stock." Inasmuch as, pursuant to terms of the Merger, the Series C Preferred Stock will be converted into shares of common stock of IMS, references to the Series C Preferred Stock have been eliminated from the New Charter.

### VOTING RIGHTS

Under the New Charter, following the Merger, holders of Series B Preferred Stock and Series D Preferred Stock will have no voting rights other than those voting rights required by the Colorado Business Corporation Act and other than, in the case of Series D Preferred Stock, rights to elect directors following certain failures in the payment of dividends and the redemption of the Series D Preferred Stock. Prior to the Merger, holders of the Series B Preferred Stock have voting rights identical and equal to the voting rights of the Company Common Stock.

In addition, the New Charter explicitly reduces the vote required for any matter that pursuant to the Colorado Corporation Code (as in effect immediately prior to July 1, 1994) required a two-thirds vote of all of the outstanding shares of the corporation entitled to vote or all of the outstanding shares of each class where class voting was required to only a majority of all the votes entitled to be cast on the matter by each voting group entitled to vote separately on the matter.

### LIQUIDATION RIGHTS

Under the New Charter, following the Merger, the Series B Preferred Stock and the Series D Preferred Stock will be parity stock in respect of the rights to payments upon the liquidation, dissolution or winding-up of IMS. Prior to the Merger, the rights of the holders of Series B Preferred Stock upon the liquidation, dissolution and winding-up of IMS are superior to similar rights for all other classes of IMS capital stock.

### CONVERSION RIGHTS

The Articles of Incorporation of IMS prior to the Merger provide that the Series B Preferred Stock is convertible into Company Common Stock. However, they also provide that, upon a merger of IMS with another entity, the shares of Series B Preferred Stock shall, after such merger, be convertible into the kind and number of shares of stock or other securities or property to which such holder would have been entitled if, immediately prior to such merger, such holder had converted his shares of

Series B Preferred Stock into Company Common Stock. Accordingly, following the Merger, shares of Series B Preferred Stock will be convertible into, at the holder's option, either $5.33 in cash, without interest, or two-thirds of a share of Series D Preferred Stock.

## COMPARISON OF SHAREHOLDER RIGHTS

The following is a summary of the material differences between the rights of IMS shareholders prior to the Merger and following the Merger. As IMS is the surviving corporation in the Merger with Subsidiary, the differences arise from the New Charter set forth in the Articles of Merger, to be effective upon consummation of the Merger (a copy of which is attached hereto as Appendix A to this Proxy Statement-Prospectus), as well as from the new By-Laws ("New By-Laws") to be adopted by IMS following the Merger. This summary does not purport to be a complete statement of the rights of holders of Company Common Stock and Series B Preferred Stock following the Merger under, and is qualified in its entirety by reference to, Colorado law, as well as the Articles of Merger and the By-Laws in effect prior to and following the Merger. For a description of the rights preferences, limitations and relative rights of the capital stock of IMS following the Merger, see "DESCRIPTION OF CAPITAL STOCK OF IMS."

### VOTING RIGHTS

The New Charter explicitly reduces the vote required for any matter that pursuant to the Colorado Corporation Code (as in effect immediately prior to July 1, 1994) required a two-thirds vote of all of the outstanding shares of the corporation entitled to vote or all of the outstanding shares of each class where class voting was required to only a majority of all the votes entitled to be cast on the matter by each voting group entitled to vote separately on the matter.

### NOTICE OF SHAREHOLDER MEETINGS

In the By-Laws of IMS in effect prior to the Merger, written notice of each meeting of the shareholders was required to be given to each shareholder of record not less than 10 nor more than 50 days before the date of the meeting. The New By-Laws have changed the notice requirement to not less than 10 nor more than 60 days before the date of the meeting. In addition, the New By-Laws add a provision that at least 20 days notice be given if a sale, lease, exchange or other disposition of all or substantially all of the property and assets of the Company not in the usual and regular course of business is to be voted on.

### CONFLICTING INTEREST TRANSACTIONS

The Colorado law and the New By-Laws contain provisions relating to certain conflicting interest transactions and the approval of such transactions by the Board of Directors. The Board of Directors or a committee thereof cannot authorize a loan by the Company to a director of the Company or to an entity in which a director of the Company is a director or officer or has a financial interest, or a guaranty by the Company of an obligation of a director of the Company or of an obligation of an entity in which a director of the Company is a director or officer or has a financial interest, until at least 10 days after written notice of the proposed authorization of the loan or guaranty has been given to the shareholders who would be entitled to vote thereon if the issue of the loan or guaranty were submitted to a vote of shareholders.

### VOTE REQUIRED FOR EXTRAORDINARY MATTERS

Generally, only the common stock is entitled to vote on matters submitted to a shareholder vote. However, the New By-Laws provide that if a voting group is entitled to vote separately on a particular proposal, then such a proposal must be approved by a majority of all the votes entitled to be cast by such voting group. Under Colorado law, holders of the shares of a particular class are entitled to vote

as a separate voting group on an amendment to the articles of incorporation or on a merger which (a) increases or decreases the aggregate number of authorized shares of that class, (b) effects an exchange or reclassification of all or part of the shares of the class into shares of another class, (c) effects an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class, (d) changes the designation, preferences, limitations or relative rights of all or part of the shares of the class, (e) changes the shares of all or part of the class into a different number of shares of the same class, (f) creates a new class of shares having rights or preferences with respect to distributions or dissolutions that are prior, superior or substantially equal to the shares of the class, (g) increases the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, superior or substantially equal to the shares of the class, (h) limits or denies an existing preemptive right of all or a part of the shares of the class, and (i) cancels or otherwise affects rights to distributions or dividends that have accumulated but have not yet been declared on all or part of the shares of the class.

INDEMNIFICATION

The Articles of Incorporation in effect prior to the Merger state that the Company possesses and may exercise all powers of indemnification of directors, officers, employees, agents and other persons, and all powers and authority incidental thereto without regard to whether or not such powers and authority are provided for by Colorado law. Although the New Charter does not provide for indemnification, the New By-Laws provide that the Company will indemnify any person who was, is or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director against specified liabilities incurred in, related to, or as a result of, the proceeding to the fullest extent permitted by law, including without limitation in circumstances in which, in the absence of a provision to the contrary in the by-laws, indemnification would be discretionary under the Colorado Business Corporation Act, if (a) the person conducted himself or herself in good faith; (b) the person reasonably believed: (i) in the case of conduct in an official capacity with the Company, that his or her conduct was in the Company's best interests; and (ii) in all other cases, that his or her conduct was at least not opposed to the Company's best interests; and (c) in the case of any criminal proceeding, the person had no reasonable cause to believe his or her conduct was unlawful.

In accordance with Colorado law, the New By-Laws provide that the Company will not indemnify a director under the provisions described above in connection with a proceeding by or in the right of the Company in which the director was adjudged liable to the Company or in connection with any other proceeding charging that the director derived an improper personal benefit, whether or not involving action in an official capacity, in which proceeding the director was adjudged liable on the basis that he or she derived an improper personal benefit.

In addition to the foregoing, the New By-Laws provide that the Company will indemnify a person who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the person was a party because the person is or was a director, against reasonable expenses incurred by him or her in connection with the proceeding.

In addition, the New By-Laws provide that the Company will indemnify an officer, employee, fiduciary or agent of the Company to the same extent as to a director.

HOLDERS OF SERIES B PREFERRED STOCK

Voting Rights

Under the New Charter, following the Merger, holders of Series B Preferred Stock and Series D Preferred Stock will have no voting rights other than those voting rights required by the Colorado Business Corporation Act and other than, in the case of the Series D Preferred Stock, rights to elect

directors following certain failures in the payment of dividends and the redemption of the Series D Preferred Stock. Prior to the Merger, holders of the Series B Preferred Stock have voting rights identical and equal to the voting rights of the Company Common Stock.

Liquidation Rights

Under the New Charter, following the Merger, the Series B Preferred Stock and the Series D Preferred Stock will be parity stock in respect of the rights to payments upon the liquidation, dissolution or winding-up of IMS. Prior to the Merger, the rights of the holders of Series B Preferred Stock upon the liquidation, dissolution and winding-up of IMS are superior to similar rights for all other classes of IMS capital stock.

Conversion Rights

The Articles of Incorporation of IMS prior to the Merger provide that the Series B Preferred Stock is convertible into Company Common Stock. However, they also provide that, upon a merger of IMS with another entity, the shares of Series B Preferred Stock shall, after such merger, be convertible into the kind and number of shares of stock or other securities or property to which such holder would have been entitled if, immediately prior to such merger, such holder had converted his shares of Series B Preferred Stock into Company Common Stock. Accordingly, following the Merger, shares of Series B Preferred Stock will be convertible into, at the holder's option, either $5.33 in cash, without interest, or two-thirds of a share of Series D Preferred Stock.

## DESCRIPTION OF CAPITAL STOCK OF IMS

The following are summaries of the terms of the capital stock of IMS following the consummation of the Merger, including the amendment to the Articles of Incorporation described in "AMENDMENT TO THE ARTICLES OF INCORPORATION OF IMS." Such summaries are qualified in their entirety by reference to the provisions of the Articles of Incorporation of IMS to be in effect following the Merger, which can be found in the Articles of Merger, which is attached as Exhibit A to the Merger Agreement which is attached as Appendix A to this Proxy Statement-Prospectus.

### AUTHORIZED CAPITAL STOCK

Following the Merger, the aggregate number of shares that IMS shall have authority to issue is 20,000,000 shares of common stock, without par value, 12,000,000 shares of Series D Preferred Stock, $0.01 par value, and 2,000,000 shares of Series B Preferred Stock, $1.00 par value.

### COMMON STOCK

Following the Merger, each shareholder of record of common stock entitled to vote will have one vote for each share of such stock standing in his name on the books of the corporation, except that in the election of directors such holder will have the right to vote such number of shares for as many persons as there are directors to be elected. Cumulative voting will not be allowed in the election of directors or for any other purpose. Pursuant to the Merger Agreement, immediately following the Merger, all the common stock of IMS will be held by Lilly.

SERIES D PREFERRED STOCK

Rank

Shares of Series D Preferred Stock will have a preference over shares of IMS's common stock upon liquidation, dissolution or winding-up of IMS.

Dividends

Holders of Series D Preferred Stock will be entitled to receive, if, as and when declared by the Board of Directors out of funds legally available therefor, cumulative cash dividends at an annual rate of $0.62 per share, in preference to and in priority over any dividends with respect to the common stock of IMS. Dividends will begin to accrue and be cumulative (regardless of whether such dividends have been declared by the Board of Directors) beginning on the date of issuance, and will be payable annually in arrears each December 31 until and unless redeemed by IMS.

Voting Rights

Outstanding shares of Series D Preferred Stock will have no voting rights other than voting rights required by the Colorado Business Corporation Act or as otherwise provided below.

Whenever, at any time or times, dividends payable on any share or shares of Series D Preferred Stock are in arrears in an amount equal to at least two full annual dividends (whether or not declared and whether or not consecutive and whether or not funds are legally available for such dividends), the holders of record of the outstanding Series D Preferred Stock will have the exclusive right, voting separately as a single class, to elect one director of IMS at a special meeting of shareholders of IMS or at IMS's next annual meeting of shareholders, and at each subsequent annual meeting of shareholders. At elections for such director, the holders of shares of Series D Preferred Stock will be entitled to cast one vote for each share held.

Upon a failure by IMS to redeem any shares of Series D Preferred Stock pursuant to any demand duly made pursuant to a holder's redemption right discussed in "- Redemption - At the Option of Holders" below (whether or not such failure results from IMS's failure to have sufficient funds legally available for such redemption), then the holders of record of the Series D Preferred Stock will have, as their sole remedy in respect of such failure, the exclusive right, voting separately as a single class, to elect the smallest number of directors of IMS that will constitute a majority of the authorized number of members of the Board of Directors (including new directorships created) at a special meeting of shareholders of IMS or at IMS's next annual meeting of shareholders, and at each subsequent annual meeting of shareholders. At elections for such directors, the holders of shares of Series D Preferred Stock will be entitled to cast one vote for each share held. If such holders exercise such right to elect a majority of the directors, then following the election of such directors and during the period in which a majority of the directors are persons elected by such holders (or the successors of such directors), IMS will be required to redeem all of the shares of Series D Preferred Stock for which redemption was duly demanded as soon as practicable if and to the extent that funds are legally available therefor.

Upon the vesting of a right of the holders of the Series D Preferred Stock to elect any directors, the maximum authorized number of members of the Board will be automatically increased, (i) in case of a right because of a failure to pay dividends, by one and, (ii) in the case of a right because of a failure to redeem, by the maximum number of members of the Board of Directors immediately up to that time authorized (but excluding from such maximum number the member, if any, authorized because of a failure to pay dividends), plus one, and the vacancy or vacancies so created will be filled by vote of the holders of the outstanding Series D Preferred Stock as set forth below. A special meeting of the shareholders of IMS then entitled to vote will be called by the Chairman of the Board of Directors or the

President or the Secretary of IMS, if requested in writing by the holders of record of not less than 25% of the Series D Preferred Stock then outstanding. At such special meeting, or, if such special meeting will not have been called, then at the next annual meeting of shareholders of IMS, the holders of the Series D Preferred Stock will elect, voting as above provided, a director or directors to fill such vacancy or vacancies created by the automatic increase in the number of members of the Board of Directors. At any and all such meetings for such election, the holders of a majority of the outstanding shares of the Series D Preferred Stock will be necessary to constitute a quorum for such election, whether present in person or by proxy, and such director or directors will be elected by the vote of at least a plurality of shares held by such shareholders present or represented at the meeting. Any director elected by holders of the Series D Preferred Stock pursuant to this Section may be removed at any annual or special meeting, by vote of a majority of the outstanding shares of the Series D Preferred Stock, with or without cause. In case a director so elected will vacate such position, such vacancy may be filled by unanimous agreement of the remaining directors so elected, or their successors then in office, if any, or may be filled in the same manner as is provided above for the initial election of a director by the holders of the Series D Preferred Stock.

The right of the holders of the Series D Preferred Stock, voting separately as a class, to elect one director of the Board because of a failure to pay dividends will continue until, and only until, such time as all arrears in dividends (whether or not declared) on the Series D Preferred Stock will have been paid or declared and set apart for payment, at which time such right will terminate, except as expressly provided by law, subject to revesting in the event of each and every subsequent failure of the character above-mentioned. The right of such holders, voting separately as a class, to elect directors because of a failure to redeem will continue until, and only until, such time as IMS has redeemed all of the shares of Series D Preferred Stock for which redemption was duly demanded at which time such right will terminate, except as expressly provided by law. Upon any termination of the right of the holders of the Series D Preferred Stock as a class to vote for a director or directors as herein provided, the term of office of any such director or directors then in office will terminate immediately.

Redemption

At the Option of Holders. During the period of 30 days beginning on the fifth anniversary of the Effective Date, any one or more holders of shares of Series D Preferred Stock, at the option of such holders, may demand that IMS redeem any or all of their shares of Series D Preferred Stock at a redemption price of $8.00 per share, plus an amount equal to all accrued and unpaid dividends thereon (whether or not declared) to and including the date of redemption. Such demand will be made by delivering to IMS at its principal executive offices a written demand during the 30-day period. Such demand must specify the number of shares to be redeemed and will be irrevocable, except with the consent of IMS. Following receipt of any such demand, IMS may, at its option, choose to redeem, or not to redeem, shares in accordance with such demand and the provisions described herein. If shares are to be so redeemed, IMS will fix a redemption date that will be not later than 90 days after such fifth anniversary. IMS will give notice of redemption by first class mail, postage prepaid, mailed not less than 20 days prior to the date fixed for redemption to the holders whose shares are to be redeemed at their respective addresses appearing on the stock books of IMS. Notice so mailed will be conclusively presumed to have been duly given whether or not actually received. Such notice must state: (i) the date fixed for redemption; (ii) the redemption price; (iii) the number of shares of Series D Preferred Stock to be redeemed and if less than all the shares held by such holder are to be redeemed, the number of shares to be so redeemed from such holder; (iv) the place where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that after the close of business on such date fixed for redemption the shares to be so redeemed will not accrue dividends. If IMS does not redeem all of the shares of Series D Preferred Stock for which redemption has been duly demanded, the sole remedy of the holders of such shares in respect of such failure to redeem will be the exercise of the voting rights described under "- Voting Rights" above. For these purposes, IMS will be considered to have redeemed any shares for which redemption has been duly demanded if such shares are thereafter purchased by IMS or any person or entity that then owns, directly or indirectly, at least 50% of IMS's then outstanding common stock.

At the Option of IMS. On and after the fifth anniversary of the Effective Date, IMS, at its option, may redeem any or all shares of Series D Preferred Stock at a redemption price of $8.00 per share, plus an amount equal to all accrued and unpaid dividends thereon (whether or not declared) to and including the date of redemption.

Redemption Procedures. If IMS redeems less than all of the shares for which demands for redemption were duly made, or if less than all of the outstanding shares of Series D Preferred Stock are to be redeemed at the option of IMS, the shares to be redeemed will be selected pro rata (subject to rounding to avoid fractional shares) as nearly as practicable or by lot, or by such other method as IMS's Board may determine to be equitable; provided, however, that if IMS is proposing to redeem shares at its option and any shares for which demands for redemption were duly made have not been redeemed, then priority will be given to the redemption of such shares for which such demands were duly made.

Notice of any redemption at the option of IMS will be given by first class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the date fixed for redemption to the holders of record of the Series D Preferred Stock to be redeemed at their respective addresses appearing on the stock books of IMS. The IMS Board will fix a record date for determining holders of record who are entitled to receive notice of any redemption, not more than 10 days prior to the mailing of such notice. Notice so mailed will be conclusively presumed to have been duly given whether or not actually received. Such notice will state: (i) the date fixed for redemption; (ii) the redemption price; (iii) the number of shares of Series D Preferred Stock to be redeemed and if less than all the shares held by such holder are to be redeemed, the number of shares to be so redeemed from such holder; (iv) the place where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that after the close of business on such date fixed for redemption the shares to be so redeemed will not accrue dividends.

Upon surrender in accordance with the notice of redemption, the certificate for any shares of Series D Preferred Stock so redeemed (duly endorsed or accompanied by appropriate instruments of transfer, if so required by IMS in such notice), the holders of record of such shares will be entitled to receive the redemption price, without interest. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate will be issued representing the unredeemed shares without cost to the holder thereof.

Notice of redemption having been mailed as provided above, from and after the redemption date (unless default will be made by IMS in providing money for the payment of the redemption price) dividends on the shares of the Series D Preferred Stock called for redemption will cease to accrue, and said shares will no longer be deemed to be outstanding, and all rights of the holders thereof as shareholders of IMS (except the right to receive from IMS the redemption price) will cease.

Preemptive Rights

No holder of Series D Preferred Stock will, because of such holder's ownership of such stock, have a preemptive right to purchase, subscribe for or take any part of any capital stock of IMS nor will any such holder have a preemptive right to purchase, subscribe for or take any part of notes, debentures, bonds or any other securities of IMS, including, but not limited to, securities convertible into or carrying options or warrants to purchase capital stock of IMS.

Liquidation Preference

Upon any voluntary or involuntary liquidation, dissolution or winding-up of IMS, the holders of the Series D Preferred Stock will be entitled to receive out of the assets of IMS available for distribution to shareholders, before any distribution of assets is made to the holders of shares of common stock, an amount in cash equal to $8.00 per share, plus an amount equal to all accumulated and unpaid dividends on such shares of Series D Preferred Stock to and including the date of such liquidation,

dissolution or winding-up. If, upon any voluntary or involuntary liquidation, dissolution or winding-up of IMS, the amounts payable with respect to the Series D Preferred Stock and any parity stock are not paid in full, the holders of the Series D Preferred Stock and such parity stock will share ratably in any such distribution of assets of IMS in proportion to the full respective preferential amounts (including accumulated and unpaid dividends) to which they are entitled. After payment to the holders of the Series D Preferred Stock (including accumulated and unpaid dividends) described in this paragraph, the holders of Series D Preferred Stock will be entitled to no further participation in any distribution of assets of IMS.

Conversion Rights

Holders of the Series D Preferred Stock will have no rights to convert the Series D Preferred Stock into any other class of capital stock of IMS.

Cancellation of Redeemed Shares

All shares of Series D Preferred Stock redeemed as described in "- Redemption" above will be cancelled and will not be issuable by IMS.

No Other Rights

The shares of Series D Preferred Stock will not have any preferences, voting powers or relative, participating or other special rights except as set forth above and in the Articles of Incorporation or as otherwise required by applicable law.

SERIES B PREFERRED STOCK

Dividends

The Series B Preferred Stock will earn cumulative dividends at a rate of 10% of the Liquidation Value (i.e., $.10 per share annually), which will be payable quarterly each September 30, December 31, March 31 and June 30 until and unless converted as provided under "- Conversion" below. All payments of dividends on the Series B Preferred Stock and the outstanding Series D Preferred Stock will be made in pari passu among the holders of

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the Series D Preferred Stock and the holders of the Series B Preferred Stock and no holder of Series D Preferred Stock or holder of Series B Preferred Stock will be preferred over the other. See "- Series D Preferred Stock" above.

Voting Rights

Outstanding shares of Series B Preferred Stock will have no voting rights other than such voting rights as will be required by the Colorado Business Corporation Act.

Preemptive or Purchase Rights

Holders of Series B Preferred Stock will not have preemptive rights to purchase, subscribe for or take any part of any capital stock of IMS nor will any such holders have preemptive rights to purchase, subscribe for or take any part of notes, debentures, bonds or any other securities of IMS, including, but not limited to, securities convertible into or carrying options or warrants to purchase capital stock of IMS.

Rights on Liquidation, Dissolution and Winding-up of IMS

Upon any liquidation, dissolution or winding-up of IMS, the holders of the Series B Preferred Stock will be entitled to be paid, before any distribution or payment is made to the holders of the outstanding common stock, an amount in cash equal to $1.00 per share plus accrued and unpaid dividends (the "Series B Liquidation Value"), and the holders of the Series B Preferred Stock will not be entitled to any further or additional payment. The Series B Preferred Stock and the Series D Preferred Stock will be parity stock in respect of rights to payment upon liquidation, dissolution or winding-up.

Conversion

The holders of the Series B Preferred Stock will have conversion rights as follows (the "Series B Conversion Rights"):

Right to Convert. Each share of Series B Preferred Stock will be convertible, at the option of the holder thereof, at any time, into either (i) the Series B Liquidation Value, payable in cash, of the Series B Preferred Stock on the date of conversion, without interest, or (ii) two-thirds of a share of the Series D Preferred Stock.

Mechanics of Conversion. Before any holders of Series B Preferred Stock will be entitled to convert their shares into cash or shares of Series D Preferred Stock, such holder must surrender the certificate or certificates therefor, duly endorsed, and must give written notice to IMS that such holder elects to convert the shares into cash or Series D Preferred Stock. IMS will, as soon as practicable thereafter, either pay the required cash to the holder of Series B Preferred Stock or issue and deliver to such holder of Series B Preferred Stock a certificate or certificates for the number of shares of Series D Preferred Stock to which such holder will be entitled. Such shares of Series D Preferred Stock will be subject to redemption by the Company as described above in "- Series D Preferred Stock - Redemption."

Fractional Shares. No fractional shares of Series D Preferred Stock will be issued upon conversion of the Series B Preferred Stock. Fractional shares will not be issued; and, in lieu of fractional shares to which the holder would otherwise be entitled, IMS will pay cash equal to said fraction multiplied by 150% of the Series B Liquidation Value of a share of the Series B Preferred Stock.

Changes in Series D Preferred Stock. IMS will not issue any shares of Series D Preferred Stock other than those shares issued in connection with the Merger or any shares subsequently issued upon conversion of Series B Preferred Stock as provided above or upon exercise of the Company Options and the Company Warrants contemplated by the Articles of Merger.

The number of shares of Series D Preferred Stock outstanding at any time after the Effective Date may not be increased by a stock dividend payable in shares of Series D Preferred Stock or by a subdivision or split-up of shares of Series D Preferred Stock.

The number of shares of Series D Preferred Stock outstanding at any time after the Effective Date may not be decreased by a combination of the outstanding shares of Series D Preferred Stock.

If at any time after the Effective Date there occurs any capital reorganization, or any reclassification of the capital stock of IMS (other than a change in par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of IMS with or into another person (other than a consolidation or merger in which IMS is the continuing entity and which does not result in any change in the Series D Preferred Stock), or the sale or other disposition of all or substantially all of the properties and assets of IMS as an entity to any other person, the shares of Series B Preferred Stock will, after such reorganization, reclassification, consolidation, merger, sale or other

disposition, be convertible into the kind and number of shares of stock or other securities or property of IMS or of the entity resulting from such consolidation or surviving such merger or to which such properties and assets will have been sold or otherwise disposed to which such holder would have been entitled if, immediately prior to such reorganization, reclassification, consolidation, merger, sale or other disposition, such holder had converted his shares of Series B Preferred Stock into Series D Preferred Stock. The provisions of this paragraph similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or other dispositions.

Notices of Record Date

In the event of any taking by IMS of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, IMS will mail to each holder of Series B Preferred Stock, at least 20 days prior to the specified date, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

Reservation of Stock Issuable Upon Conversion

IMS will at all times reserve and keep available out of its authorized but unissued shares of Series D Preferred Stock solely for the purpose of effecting the conversion of the shares of Series B Preferred Stock such number of its shares of Series D Preferred Stock as will from time to time be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock.

Protective Provisions

For as long as any of the Series B Preferred Stock is outstanding, IMS will not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least 51% of the outstanding shares of Series B Preferred Stock, alter or change the rights, preferences or privileges of the Series B Preferred Stock.

No Reissuance of Preferred Stock

No share or shares of Series B Preferred Stock acquired by IMS by reason of redemption, purchase, conversion or otherwise will be reissued, and all such shares will be cancelled, retired and eliminated from the shares that IMS will be authorized to issue.

Amendment and Waiver

Amendments, modifications or waivers of any of the above terms of the Series B Preferred Stock will be binding and effective if the prior written consent of holders of at least 51% of the Series B Preferred Stock outstanding at the time such action is taken is obtained; provided that no such action will change (a) the rate at which or the manner in which dividends on the Series B Preferred Stock accrue or the times at which such dividends become payable, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained, (b) the Series B Conversion Rights or the number of shares or class of stock into which the Series B Preferred Stock is convertible, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained or (c) the percentage required to approve any change described in clauses (a) and (b) above, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained.

## CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE MERGER

The following discussion is a summary of the principal federal income tax consequences of the Merger to holders of IMS stock, warrants and options. The discussion is applicable to persons who hold their stock (or warrants) as capital assets and to persons who received their options in consideration for personal services rendered to IMS. The discussion assumes that the IMS stock is not, and the Series D Preferred Stock will not be, traded on an established securities market or an over-the-counter market or quoted in an interdealer quotation system. The discussion is based on laws, regulations, rulings and decisions currently in effect, all of which are subject to change (which change could apply retroactively). Certain of the consequences described below are based on provisions of the Code that have not yet been the subject of final regulations or other definitive guidance by the Internal Revenue Service. The discussion does not take account of rules that are applicable to persons that are subject to special treatment under the Code, including without limitation, foreign persons. The discussion also does not address state, local or foreign tax consequences of the Merger. No rulings have been or will be requested from the Internal Revenue Service with respect to the tax consequences of the Merger. Each holder of IMS stock should consult his or her own tax advisor as to the specific tax consequences of the Merger to that holder.

Receipt of Cash. A holder of Company Common Stock or Series B Preferred Stock (or Company Warrants) who elects to receive cash in exchange for all or a portion of his or her IMS stock (or Company Warrants) will recognize taxable gain or loss for federal income tax purposes with respect to those shares (or Company Warrants) in an amount equal to the difference between (a) the amount of the cash received by such holder and (b) the holder's adjusted tax basis in the shares of IMS stock (or Company Warrants) surrendered in exchange therefor. Such gain or loss will be long-term capital gain or loss if such IMS stock (or Company Warrants) are considered to have been held for more than one year.

Receipt of Series D Preferred Stock Without Entering Into Put/Call Agreement. The exchange of all or a portion of a holder's Company Common Stock or Series B Preferred Stock for Series D Preferred Stock by a holder who elects not to have such stock subject to a Put/Call Agreement should be treated as part of a tax-free reorganization under Section 368(a)(1)(E) of the Code. Accordingly, such holder should not recognize taxable gain or loss for federal income tax purposes with respect to those shares of IMS stock exchanged for Series D Preferred Stock, and the aggregate tax basis of the Series D Preferred Stock received in the exchange should be equal to the basis of the IMS stock exchanged therefor.

Receipt of Series D Preferred Stock Subject to Put/Call Agreement. The federal income tax treatment of the exchange of all or a portion of a holder's IMS stock for Series D Preferred Stock by a holder who elects to have such stock subject to a Put/Call Agreement is uncertain. The transaction could be treated generally as a nontaxable exchange of stock for stock pursuant to a tax-free reorganization of IMS, or it could be treated as a taxable exchange of IMS stock for a deferred payment obligation issued by Lilly. Based on the relevant facts and circumstances, however, the better view is that the transaction should be treated generally as a nontaxable exchange of stock for stock pursuant to a reorganization described in Section 368(a)(1)(E) of the Code. Consistent with that view, Lilly and IMS intend to treat the transaction in accordance with its form and the Series D Preferred Stock that is subject to a Put/Call Agreement as constituting stock of IMS that is owned by the holder of the Series D Preferred Stock, and neither Lilly nor IMS will claim an interest deduction with respect thereto. (The tax consequences of the possible treatment as a taxable deferred payment sale are described below under "Alternative Characterization".) In addition, while the characterization of the put and call rights with Lilly under the Put/Call Agreement is not free from doubt, they should be viewed as a property right that is separate from the Series D Preferred Stock.

If the transaction is treated generally as a nontaxable exchange, the consequences to such a holder should be similar to those described under "Receipt of Series D Preferred Stock Without Entering Into Put/Call Agreement" above, except that such a holder should recognize taxable gain (but possibly not loss) for federal income tax purposes in respect of the net fair market value (if any) to the holder of the put and call rights with Lilly. Any such gain or loss should be long-term capital gain or loss if such IMS stock

is considered to have been held for more than one year. The aggregate tax basis of the Series D Preferred Stock received in the exchange should generally be equal to the basis of the IMS stock exchanged therefor, subject to possible adjustment in respect of the put and call rights with Lilly. The holder's tax basis in the put rights should be equal to their fair market value.

Holders of IMS stock who receive Series D Preferred Stock that is subject to a Put/Call Agreement will be treated for federal income tax purposes as entering into a "conversion transaction" as defined in Section 1258(c) of the Code. As a result, in the absence of regulations or other guidance to the contrary, any amount that otherwise would be treated as capital gain arising from the disposition of the Series D Preferred Stock (or from the expiration or termination of the call options with Lilly) will be treated instead as ordinary income to the extent that the gain does not exceed the amount of interest income that would have accrued on the holder's net investment in the conversion transaction. For this purpose, the net investment is equal to the fair market value of the Series D Preferred Stock plus the net fair market value of the put and call rights (if any) at the time of the Merger, and the interest on such net investment is computed by utilizing a rate equal to 120 percent of the applicable Federal rate (which is based on prevailing market interest rates on U.S. Government debt instruments having a maturity comparable to that of the conversion transaction). Under regulations that have not yet been issued, the amount of gain that is recharacterized as ordinary income should be reduced to reflect ordinary income received in respect of the conversion transaction, including dividend income.

Discount Preferred Stock. If and to the extent that the fair market value of the Series D Preferred Stock received in the Merger (as determined without taking account of any put and call options with Lilly) is less than $8.00 per share (i.e., the Series D Preferred Stock's
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redemption price at maturity), the Series D Preferred Stock will have an issue price that is less than its redemption price at maturity. Under Section 305(c) of the Code, in general (subject to regulations that have not yet been issued in final form), a holder of such stock will be deemed to receive distributions from IMS, equal in the aggregate to the difference between the issue price and the redemption price at maturity of such Series D Preferred Stock, on a constant yield basis over the life of the Series D Preferred Stock. Such a deemed distribution will be taxable to a holder of the Series D Preferred Stock as ordinary dividend income to the extent of the current and accumulated earnings and profits of IMS in the year of the deemed distribution. A holder's adjusted tax basis in the Series D Preferred Stock will be increased by the amount of such dividend income recognized by the holder. To the extent that the amount of the deemed distributions is greater than the current and accumulated earnings and profits of IMS, the deemed distributions will be treated as a non-taxable return of capital (to the extent of the holder's basis in the Series D Preferred Stock) and there should be no net effect on a holder's tax basis in those shares as a result of such deemed distributions. If and to the extent such deemed distributions exceed the holder's tax basis in the Series D Preferred Stock, they will be treated as taxable gain.

Alternative Characterization. The Internal Revenue Service may take the position that the exchange of IMS stock for Series D Preferred Stock by a holder who elects to have such stock subject to a Put/Call Agreement should be treated as a taxable purchase of IMS stock by Lilly in exchange for its deferred payment obligation rather than as a nontaxable exchange pursuant to a tax-free reorganization. In that case, a holder of IMS stock will recognize taxable gain or loss equal to the difference between (a) the amount realized (in general, $8.00 per share of Series D Preferred Stock) and (b) the holder's adjusted tax basis in the shares of IMS stock exchanged therefor. Such gain or loss will be long-term capital gain or loss if such IMS stock is considered to have been held for more than one year.

Under the foregoing characterization, unless a holder elects to recognize gain in the taxable year of the Merger, the exchange of IMS stock for a deferred payment obligation (i.e., the Series D Preferred Stock
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subject to the Put/Call Agreement) issued by Lilly should be eligible for installment sale treatment under Section 453 of the Code. In general, such installment sale gain would be recognized proportionally as proceeds are received by the holder upon a redemption or other disposition of the deferred payment obligation or upon a pledge of the deferred payment obligation to secure a loan. Under Section 453A

of the Code, a holder who reports such gain on the installment method generally would be required to pay to the Internal Revenue Service interest on the deferred tax liability if the sales price of the IMS stock by such holder exceeds $150,000 and the face amount of all installment obligations held by the taxpayer which arose during, and are outstanding as of the close of, the taxable year exceeds $5 million.

Election to Retain Series B Preferred Stock. A holder of Series B Preferred Stock who elects to retain such stock will not recognize any taxable gain or loss in respect of such stock at the time of the Merger. Upon a subsequent redemption of such stock for cash or a conversion of such stock into Series D Preferred Stock, the tax consequences to the holder generally will be as described under "Receipt of Cash", "Receipt of Series D Preferred Stock Without Entering Into Put/Call Agreement", "Receipt of Preferred Stock Subject to Put/Call Agreement" and "Accrued Dividend on Series B Preferred", as the case may be, except that (x) payments in respect of accrued dividends will be taxable as ordinary dividend income to the extent of the current and accumulated earnings and profits of IMS for the taxable year and (y) in the case of a conversion of the Series B Preferred Stock into Series D Preferred Stock, the risk that such conversion will be treated as described in "Alternative Characterization" is probably greater than the risk of such treatment to a holder who acquires such stock at the time of the Merger.

Accrued Dividend on Series B Preferred. IMS believes that it will have no accumulated or current earnings and profits for the taxable year in which the Merger takes place. Accordingly, any accrued dividend on the Series B Preferred Stock that is paid at the time of the Merger should be treated as a non-taxable return of capital that reduces the holder's tax basis in the Series B Preferred Stock (to the extent thereof) and, to the extent such accrued dividend exceeds such tax basis, it will be treated as taxable gain. Such gain will be long-term capital gain if the Series B Preferred Stock is considered to have been held for more than one year.

Cash in Lieu of Fractional Shares. In the event that a holder of IMS stock receives, in the Merger, cash in lieu of a fractional share of IMS stock, such holder will recognize taxable gain or loss in an amount equal to the difference between (a) the amount of such cash and (b) the portion of the holder's adjusted tax basis in the IMS stock that is allocable to such fractional share. Such gain loss will be long-term capital gain or loss if such IMS stock is considered to have been held for more than one year.

Exercise of Warrants. A holder of Company Warrants who exercises his or her warrants so as to receive (or be deemed to receive) Company Common Stock and elects to receive Series D Preferred Stock pursuant to the Merger generally should be subject to the same federal income tax consequences as described above, except that (i) the holder's initial tax basis in the Company Common Stock received (or deemed to be received) upon exercise of the warrants generally will equal the exercise price plus the holder's tax basis in the warrants, and (ii) the holder's holding period in the Company Common Stock will begin on the exercise date of the warrants.

Exchange of Warrants. A holder of Company Warrants who elects to exchange all or a portion of his or her warrants for warrants in respect of Series D Preferred Stock should recognize taxable gain or loss for federal income tax purposes in an amount equal to the difference between (a) the fair market value of the warrants in respect of Series D Preferred Stock received by such holder and (b) the adjusted basis of the Company Warrants surrendered in exchange therefor. Such gain or loss will be long-term capital gain or loss if the Company Warrants are considered to have been held for more than one year. The holding period of warrants in respect of Series D Preferred Stock received in the exchange will begin the day after the exchange.

Treatment of Series D Preferred Stock. Assuming the Series D Preferred Stock is respected as stock of IMS for federal income tax purposes (see "Receipt of Series D Preferred Stock Subject to Put/Call Agreement" and "Alternative Characterization" above), distributions in respect of such stock will be taxable as ordinary dividend income to the extent of the current and accumulated earnings and profits of IMS for the taxable year. To the extent that the amount of such distributions is greater than the current

and accumulated earnings and profits of IMS, the distributions will be treated as a non-taxable return of capital that reduces the holder's tax basis in such stock (to the extent thereof), and to the extent the distributions exceed such tax basis they will be treated as taxable gain. See also "Discount Preferred Stock" above. In general, a corporate holder of Series D Preferred Stock that is subject to a Put/Call Agreement will not be eligible for the dividends received deduction.

Subject to the preceding discussion (including the discussion of conversion transactions under Section 1258 of the Code), gain or loss on the sale, exchange, or redemption of the Series D Preferred Stock generally will be capital gain or loss. Such gain or loss will be long-term capital gain or loss if the Series D Preferred Stock is considered to have been held for more than one year. The holding period of the Series D Preferred Stock received by a holder of Company Common Stock or Series B Preferred Stock generally will include the period during which the shares of Company Common Stock or Series B Preferred Stock, respectively, surrendered in exchange therefor were held, assuming the exchange is treated as part of a tax-free reorganization under Section 368(a)(1)(E) of the Code. See "Exercise of Warrants" above for a discussion of the holding period of a holder of warrants who receives stock upon the exercise of those warrants.

Treatment of Stock Options -- Cash Out of Option. Each holder of a Company Option who received the option in connection with his or her performance of personal services for IMS (an "Optionee") and who elects to receive cash in exchange for the option will be required to recognize compensation taxable as ordinary income for federal income tax purposes in an amount equal to the amount of cash received.

-- Conversion to Lilly Option. An Optionee who elects to have his or her Company Option converted into a Lilly Option should not be required to recognize income for federal income tax purposes as a result of such conversion. Rather, the Optionee will generally be required to recognize compensation taxable as ordinary income for federal income tax purposes at the time of the exercise of the Lilly Option.

-- Conversion to Option to Purchase Series D Preferred Stock Without Entering Into Put/Call Agreement. An Optionee who elects to have his or her Company Option converted into an option to purchase Series D Preferred Stock and who elects not to have the Put/Call Agreement apply to such stock should not be required to recognize income for federal income tax purposes with respect to the converted option prior to the exercise of the option. At the time of the exercise of the option, the Optionee would be required to recognize compensation taxable as ordinary income for federal income tax purposes equal to the excess of the fair market value of such stock at the time of exercise over the exercise price of the option and the Optionee will have a basis in the stock equal to the sum of the exercise price plus the amount of income required to be recognized. The Optionee's holding period in the stock will begin on the exercise date of the option. See "Discount Preferred Stock" and "Treatment of Series D Preferred Stock" above with respect to the treatment of Series D Preferred Stock received by an Optionee pursuant to the exercise of an option. In the event that an option is redeemed for cash, the Optionee will be required to recognize compensation taxable as ordinary income in an amount equal to the amount of cash received upon redemption.

-- Conversion to Option to Purchase Series D Preferred Stock With Put/Call Agreement. Although the federal income tax consequences from such conversion are not free from doubt, an Optionee who elects to have his or her Company Option converted into an option to purchase Series D Preferred Stock and who elects to have the Put/Call Agreement apply to such stock probably would not be required to recognize income for federal income tax purposes with respect to the converted option prior to the exercise of the option. At the time of the exercise of the option, the Optionee would be required to recognize compensation taxable as ordinary income for federal income tax purposes equal to the excess of the fair market value of such stock at the time of exercise over the exercise price of the option and the Optionee will have a basis in the stock equal to the sum of the exercise price plus the amount of income

required to be recognized. The Optionee's holding period in the stock will begin on the exercise date of the option. See "Discount Preferred Stock" and "Treatment of Series D Preferred Stock" above with respect to the treatment of Series D Preferred Stock received by an Optionee pursuant to the exercise of an option. In the event that an option is redeemed for cash, the Optionee will be required to recognize compensation taxable as ordinary income in an amount equal to the amount of cash received upon redemption.

It is possible that an Optionee who elects to have his or her option converted into an option to purchase Series D Preferred Stock and who elects to have a Put/Call Agreement apply to such stock would be required to recognize income for federal income tax purposes at the time that the Optionee's 12-month or 30-month put rights become exercisable. If the alternative treatment described in this paragraph applies, the Optionee would be required to recognize compensation taxable as ordinary income for federal income tax purposes at the time that the applicable put right becomes exercisable in an amount equal to the excess, if any, of (i) the amount that could be received by the Optionee if the Optionee put the stock to Lilly at such time over (ii) the sum of the exercise price of the Option and, with respect to the 30-month put right, any amount previously recognized by the Optionee as compensation with respect to the option. The Optionee would also be required to recognize compensation taxable as ordinary income at the time that he or she exercises the option equal to the excess, if any, of (i) the fair market value at the time of exercise of the stock subject to the option over (ii) the sum of the exercise price of the option and any amount previously recognized by the Optionee as compensation with respect to the option. If, at the time that the option is exercised, the excess of the fair market value of the stock subject thereto over the exercise price thereof is less than the amount of income previously recognized by the Optionee with respect to the option, the Optionee would not be entitled to a deduction for federal income tax purposes with respect to such difference, but may be entitled to take a capital loss with respect thereto, although the ability to take such loss is not free from doubt.

-- Federal Employment Tax. In general, any amount required to be recognized as compensation taxable as ordinary income with respect to an option will also be treated as wages for purposes of the health insurance portion of FICA withholding taxes, and for other federal employment tax purposes.

## RIGHTS OF DISSENTING SHAREHOLDERS

Pursuant to the terms of the Merger Agreement, if holders of capital stock of IMS have exercised dissenters' rights in connection with the Merger in accordance with the provisions of Article 113 of the Colorado Business Corporation Act ("Article 113"), any Dissenting Shares (as defined below) will not be converted into the Merger Consideration but will be converted into the right to receive such consideration as may be determined to be due with respect to such Dissenting Shares pursuant to the laws of the State of Colorado.

The following summary of the provisions of Article 113 is not intended to be a complete statement of such provisions and is qualified in its entirety by reference to the full text of Article 113, a copy of which is attached to this Proxy Statement-Prospectus as Appendix D and is incorporated herein by reference.

If the Merger is approved by the required vote of IMS's shareholders and is not abandoned or terminated, each holder of shares of Company Common Stock or Series B Preferred Stock who does not vote in favor of the Merger and who follows the procedures set forth in Article 113 will be entitled to have his shares of Company Common Stock or Series B Preferred Stock purchased by IMS for cash at their Fair Value (as defined below). The "Fair Value" of shares of Company Common Stock or Series B Preferred Stock will be determined as of the day before the first announcement of the terms of the proposed Merger, excluding any appreciation or depreciation in anticipation of the proposed Merger, except to the extent that exclusion would be inequitable. The shares of Company Common Stock or Series B Preferred Stock with respect to which holders have perfected their purchase demand in accordance with Article 113 and have not effectively withdrawn or lost such rights are referred to in this Proxy Statement-Prospectus as the "Dissenting Shares."

Prior to the vote taken to approve the proposed Merger at the Special Meeting, a shareholder who wishes to assert dissenters' rights must (a) deliver written notice to IMS of his intent to demand payment for shares if the proposed Merger is approved and (b) not vote any of his shares in favor of the proposed Merger. Within 10 days after approval of the Merger by IMS's shareholders, IMS must mail a notice of such approval (the "Approval Notice") to all shareholders who are entitled to demand payment for their shares under Article 113, together with a copy of Article 113 and a form for demanding payment. If a shareholder's shares are held of record by a third party (for example, a broker), the record holder must either assert the dissenters' rights or must consent to the beneficial owner's assertion of dissenters' rights.

A shareholder of IMS electing to exercise dissenters' rights must, within 30 days after the date on which the Approval Notice is mailed to such shareholder, demand in writing from IMS the purchase of his or her shares of Company capital stock and payment to the shareholder of their Fair Value and must submit the certificate(s) representing the Dissenting Shares to IMS in accordance with the terms of the Approval Notice. A shareholder who does not demand payment and deposit share certificates as required by the date set in the Approval Notice is not entitled to payment for shares under Article 113. A holder who elects to exercise dissenters' rights should mail or deliver his or her written demand for payment to IMS at its principal offices directed to the attention of James A. Larson, Secretary. The demand should specify the holder's name and mailing address, the number of shares of Company Common Stock or Series B Preferred Stock owned by such shareholder and state that such holder is demanding purchase of his or her shares in payment of their Fair Value. Upon the later of the Effective Time and receipt by IMS of each payment demand made pursuant to Article 113, IMS must pay the amount IMS estimates to be the Fair Value of the Dissenting Shares, plus interest at the rate of interest then paid by IMS on its principal bank loans, to each dissenter who has complied with the requirements of Article 113 and who has not yet received payment, together with certain financial information of IMS, an explanation of how interest was calculated and a copy of Article 113.

Any holder of Dissenting Shares who has not accepted an offer made by IMS may, within 30 days after IMS first offered payment for his or her shares, notify IMS in writing of his or her own estimate of the Fair Value of his or her shares and demand payment of the estimated amount, plus interest, less any payment made under Article 113, if (i) the holder of Dissenting Shares believes that the amount offered or paid by IMS under Article 113 is less than the Fair Value of the shares, or that the interest due was incorrectly calculated, (ii) IMS fails to make payment within 60 days after the date set by IMS as the date by which it must receive the payment demand, or (iii) IMS, having failed to consummate the proposed Merger, does not return share certificates deposited by a holder as required by Article 113. If IMS and the shareholder fail to agree upon the Fair Value of the shares, then within 60 days after receiving the payment demand IMS must petition the District Court of Jefferson County (the "Court") to determine the Fair Value of such holder's shares of Company capital stock. If IMS does not commence the proceeding within the 60-day period, it must pay each holder of Dissenting Shares whose demand remains unresolved the amount demanded. IMS must make all holders of Dissenting Shares whose demands remain unresolved parties to the proceeding as an action against their shares. The Court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of Fair Value. Each holder of Dissenting Shares made a party to the proceeding is entitled to judgment for the amount, if any, by which the Court finds that the Fair Value of his or her shares, plus interest, exceeds the amount paid by IMS.

If any holder of shares of Company Common Stock or Series B Preferred Stock who demands the purchase of his or her shares under Article 113 fails to perfect, or effectively withdraws or loses his or her right to, such purchase, the shares of such holder will be converted into the right to receive the Merger Consideration, in the case of the Company Common Stock, or be deemed to have made an Election to Retain Series B Preferred Stock in the case of the Series B Preferred Stock, each in accordance with the Merger Agreement.

SELECTED CONSOLIDATED FINANCIAL DATA OF LILLY
(IN MILLIONS, EXCEPT OTHER DATA AND PER SHARE AMOUNTS)

The following selected consolidated financial data for the five years ended December 31, 1994 are derived from consolidated financial statements of Lilly which have been audited by Ernst & Young LLP, independent auditors. The financial data for the six months ended June 30, 1995 and June 30, 1994 are derived from unaudited consolidated financial statements. The consolidated financial data for the six-month periods ended June 30, 1995 and June 30, 1994 include all adjustments, consisting of normal recurring accruals, which Lilly considers necessary for a fair presentation of the consolidated financial position and consolidated results of operations for these periods. Operating results for the six months ended June 30, 1995 are not necessarily indicative of the results that may be expected for the entire year ending December 31, 1995. The following data should be read in conjunction with the information concerning Lilly incorporated by reference in this Proxy Statement-Prospectus.

| | SIX MONTHS ENDED JUNE 30, | | YEAR ENDED DECEMBER 31, | | | | |
|---|---|---|---|---|---|---|---|
| | 1995 | 1994 | 1994 | 1993 | 1992 | 1991 | 1990 |
| | (UNAUDITED) | | | | | | |
| INCOME STATEMENT DATA: | | | | | | | |
| Net Sales | $3,332.1 | $ 2,655.9 | $ 5,711.6 | $5,198.5 | $4,963.1 | $4,533.4 | $4,179.0 |
| Income from continuing operations before income taxes and cumulative effect of changes in accounting principles | 964.5 | 893.3 | 1,698.6 | 662.8 | 1,193.5 | 1,626.3 | 1,418.1 |
| Income from continuing operations before cumulative effect of changes in accounting principles | 684.8 | 619.9 | 1,185.1 | 464.8 | 842.5 | 1,166.1 | 1,022.7 |
| Discontinued operations, net of tax | 35.5 | 57.4 | 101.0 | 26.3 | (14.9) | 148.6 | 104.6 |
| Income before cumulative effect of changes in accounting principles | 720.3 | 677.3 | 1,286.1 | 491.1 | 827.6 | 1,314.7 | 1,127.3 |
| Cumulative effect of changes in accounting principles, net of tax | -- | -- | -- | (10.9) | (118.9) | -- | -- |
| Net income | 720.3 | 677.3 | 1,286.1 | 480.2 | 708.7 | 1,314.7 | 1,127.3 |
| PER-SHARE DATA: | | | | | | | |
| Income from continuing operations | $ 2.37 | $ 2.14 | $ 4.10 | $ 1.58 | $ 2.86 | $ 3.99 | $ 3.54 |
| Income (loss) from discontinued operations | .12 | .20 | .35 | .09 | (.05) | .51 | .36 |
| Cumulative effect of changes in accounting principles | -- | -- | -- | (.04) | (.40) | -- | -- |
| Net income | 2.49 | 2.34 | 4.45 | 1.63 | 2.41 | 4.50 | 3.90 |
| Cash dividends declared | 1.29 | 1.25 | 2.52 | 2.44 | 2.255 | 2.05 | 1.73 |
| Ratio of earnings to fixed charges(1) | 7.0x | 19.6x | 14.0x | 7.6x | 11.7x | 19.1x | 15.7x |

| | JUNE 30, | YEAR ENDED DECEMBER 31, | | | | |
|---|---|---|---|---|---|---|
| | 1995 | 1994 | 1993 | 1992 | 1991 | 1990 |
| | (UNAUDITED) | | | | | |
| BALANCE SHEET DATA: | | | | | | |
| Current assets | $ 4,410.3 | $ 3,962.3 | $3,697.1 | $3,006.0 | $2,939.3 | $2,501.3 |
| Other assets | 6,219.3 | 6,133.6 | 1,726.3 | 1,594.7 | 1,576.8 | 1,704.8 |
| Property and equipment | 4,467.6 | 4,411.5 | 4,200.2 | 4,072.1 | 3,782.5 | 2,936.7 |
| Total assets | 15,097.2 | 14,507.4 | 9,623.6 | 8,672.8 | 8,298.6 | 7,142.8 |
| Short-term borrowings | 3,169.2 | 2,724.4 | 524.8 | 591.2 | 690.2 | 1,239.5 |
| Other current liabilities | 2,484.0 | 2,945.1 | 2,403.2 | 1,807.4 | 1,581.8 | 1,578.1 |
| Long-term debt | 2,102.1 | 2,125.8 | 835.2 | 582.3 | 395.5 | 277.0 |
| Other noncurrent liabilities | 1,368.1 | 1,356.5 | 1,291.6 | 799.8 | 665.0 | 580.7 |
| Shareholders' equity | 5,973.8 | 5,355.6 | 4,568.8 | 4,892.1 | 4,966.1 | 3,467.5 |
| Borrowings as a percentage of total capitalization(2) | 46.9% | 47.5% | 22.9% | 19.3% | 17.9% | 30.4% |
| Book value per share | $ 20.47 | $ 18.35 | $ 15.61 | $ 16.72 | $ 16.97 | $ 12.98 |

(1) The ratio of earnings to fixed charges is computed by dividing the sum of income from continuing operations before income taxes and cumulative effect of changes in accounting principles and fixed charges excluding capitalized interest by fixed charges. Fixed charges represent interest on indebtedness from continuing operations.
(2) This percentage is computed by dividing the sum of short-term borrowings and long-term debt by total capitalization.

## CAPITALIZATION OF IMS FOLLOWING THE MERGER

The following unaudited table sets forth the capitalization of the Company as of June 30, 1995 and as adjusted to give effect to the Merger. The table below assumes push-down accounting methodology will be utilized and that holders of (i) 50% and (ii) 100%, respectively, of all outstanding Company Common Stock (other than shares held by Lilly) and Series B Preferred Stock elect to receive Series D Preferred Stock in accordance with the conversion terms as described in the terms of the Merger.

| | June 30, 1995 (unaudited) | | |
|---|---|---|---|
| | | As Adjusted | |
| | Actual | (50% converted) | (100% converted) |
| LONG-TERM DEBT | $ 3,245,155 | $ 3,245,155 | $ 3,245,155 |
| SERIES D REDEEMABLE PREFERRED STOCK, $0.01 par value; 12,000,000 shares authorized; 5,398,268 and 10,796,535 shares to be outstanding as adjusted, respectively | - | 37,107,690(1)(3)(5) | 74,215,380(6)(7)(8) |
| STOCKHOLDERS' EQUITY (DEFICIT) | | | |
| Series B Preferred Stock, $1 par value; 2,000,000 shares authorized, issued and outstanding before the Merger; 2,000,000 shares authorized and zero shares outstanding as adjusted | 2,000,000 | - (1) | - (6) |
| Series C Preferred Stock, $1 par value; 5,000,000 shares authorized, 3,000,000 shares issued and outstanding before the Merger; no Series C Preferred Stock exists as adjusted | 13,750,000 | - (2) | - (2) |
| Common stock, no par value; 25,000,000 shares authorized, 6,577,162 shares issued and outstanding before the Merger; 20,000,000 shares authorized, 15,160,200 shares outstanding as adjusted | 8,947,591 | 53,058,690(1)(2)(3)(4)(5) | 15,951,000(2)(4)(6)(7)(8) |
| Capital contributions from joint ventures | 6,508,230 | - | - |
| Accumulated deficit | (29,905,317) | - | - |
| Less Stock subscriptions and joint venturers' contributions receivable | (50,000) | - | - |
| Total stockholders' equity (deficit) | 1,250,504 | 53,058,690 | 15,951,000 |
| Total capitalization | $ 4,495,659 | $93,411,535 | $93,411,535 |

(1) Assumes that 50% of the outstanding shares of Series B Preferred Stock are each converted to two-thirds of a share of Series D Preferred Stock; assumes that accrued dividends of $1,400,000 are paid at the Effective Date of the Merger by Lilly, which is treated as a capital contribution to IMS; and assumes that the remaining 1,000,000 shares of Series B Preferred Stock are redeemed for cash of $5,330,000 by Lilly. Assumes no holders of Series B Preferred Stock elect to hold such shares following the Merger as the return on Series D Preferred Stock would be substantially higher than the return available by continuing to hold Series B Preferred Stock.

(2) All shares of Series C Preferred Stock are converted 1:1 to 3,000,000 shares of Common Stock.

(3) Assumes that 50% of shares of Company Common Stock outstanding as of June 30, 1995, other than 160,200 shares of Company Common Stock (at a cost of $801,000) held by Lilly, are converted on a 1:1 basis to shares of Series D Preferred Stock. The remaining 50% of shares of Company Common Stock is assumed to have been surrendered at the Effective Date of the Merger for $8.00 per share in cash from Lilly for total proceeds of $25,667,848.

(4) All outstanding Trans-IMS shares are converted 1:120,000 to 12,000,000 shares of Company Common Stock. Assumes that no capital is attributed to shares issued upon conversion of Trans-IMS shares.

(5) Assumes that 50% of outstanding options and warrants are converted to options to purchase an equivalent number of shares of Series D Preferred Stock resulting in options and warrants for 1,523,120 new shares of Series D Preferred Stock. The remaining 50% of outstanding options and warrants are assumed to be surrendered at the Effective Date of the Merger for $8.00 per option and warrant, net of the exercise price, totaling $6,109,842.

(6) Assumes all shares of Series B Preferred Stock are converted to two-thirds of a share of Series D Preferred Stock at $5.33 per share or $10,660,000; additionally, assumes accrued dividends of $1,400,000 on Series B Preferred Stock are paid at the Effective Date of the Merger by Lilly, which is treated as a capital contribution to IMS. Assumes no holders of shares of Series B Preferred Stock elect to hold such shares following the Merger as the return on Series D Preferred Stock would be substantially higher than the return available by continuing to hold Series B Preferred Stock.

(7) Assumes all shares of Company Common Stock outstanding as of June 30, 1995, other than 160,200 common shares held by Lilly (at a cost of $801,000), are converted on a 1:1 basis to 6,416,962 shares of Series D Preferred Stock at a $8.00 per share effective price for a total of $51,335,696.

(8) Assumes all outstanding options and warrants are converted to options to purchase an equivalent number of shares of Series D Preferred Stock resulting in options and warrants for purchase 3,046,240 shares of Series D Preferred Stock at an effective price of $8.00 per option and warrant net of the exercise price for a total of $12,263,684. Assumes no option holders elect to receive options to purchase Lilly shares in lieu of options to purchase Series D Preferred Stock.

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

OVERVIEW

The Company develops and operates computer based communication networks that automate routine and specialized text, voice, data and image exchanges from hospitals, managed care organizations, clinical laboratories, pharmaceutical companies, pharmacy chains and other healthcare providers to physicians. The networks, generally referred to as IMS MEDACOM/(R)/ Networks, enable such healthcare entities ("sponsors") to be linked with participating physician offices and physicians to be linked to each other to facilitate the exchange of clinical, financial and administrative information related to the delivery of healthcare services.

Sponsors pay various fees to utilize an IMS MEDACOM/(R)/ Network to communicate with selected physicians or other network users in a given market on a single network (a "local" sponsor) or on several networks (a "national" sponsor). Physicians are not charged fees to participate on a network for basic network communication services and generally are designated for participation on a network, with the approval of the physician, by a sponsor seeking to improve communication with certain physicians. Generally, licenses to physicians for the proprietary IMS software installed at the physician practice sites on devices owned by physicians are directly maintained with IMS.

IMS markets its software and networks under three general arrangements.

Large Markets

In 26 of the largest 50 metropolitan markets in the United States, the Company operates, directly or under a contract with a local network partner, IMS MEDACOM/(R)/ Networks in which all healthcare providers, suppliers, payors and others in the market have an opportunity to utilize the network for various aspects of medical communication needs. The "open architecture" networks may be utilized by any sponsor which intends to communicate with physicians or other sponsors in the market area under a "network services agreement" ("NSA"). Under an NSA, local sponsors contract with IMS or the network, for implementation of an individualized automated communications plan utilizing the network for an annual fee determined by either (a) the size of the sponsoring institution and scope of the network design, or (b) the volume and characteristics of communications with designated physician sites or other external sites (pharmacies, clinics, ancillary treatment services, etc.). In addition to annual sponsor fees, IMS may receive implementation fees, as well as incremental development and deployment fees for custom software interfaces or workstation applications as requested by the sponsor. The typical term for an NSA is five years, though shorter participation commitments are available under significantly higher fee structures. Most NSAs include general renewal upon expiration at increased or renegotiated fees. NSA revenue is recognized as earned monthly by prorating the fixed annual fee while certain custom development or implementation fees are recognized upon project completion.

The Company intends to aggressively pursue the development of open architecture IMS MEDACOM/(R)/ Networks in at least the 50 largest metropolitan markets, measured by the number of practicing physicians in the market.

Smaller Market Networks

In selected smaller markets (typically those with less than 1,500 practicing physicians), a local healthcare service provider or management entity contracts with IMS to receive a license of IMS technology and to implement a network under a network license agreement ("NLA"). Under an NLA, the licensee generally receives a nonexclusive license to use the IMS proprietary software for a fixed period, generally a five year term with annual renewals thereafter. The licensee can operate a network on its own or retain

IMS to manage the network. All physician site licenses under an NLA are with the Company so the Company retains the right in most cases to permit other local sponsors or licensees or national sponsors to communicate with the NLA physicians. At the Company's option, the NLA licensee receives a negotiated portion of local and national sponsorship fees in the nonexclusive territory to implement the network service.

Typically, NLA licensees pay fees at approximately 50% of the corresponding aggregate five-year fees under an NSA, and include a defined obligation for the NLA licensee to staff, operate, market and support the local network and attain physician participation.

The NLA license fee is recognized as revenue in the year in which the NLA licensee receives the installation of the network software. Any technology support and maintenance fees associated with the NLA are recognized on a prorated monthly basis. In addition, the Company may receive implementation fees that are recognized as earned. Other NLA revenue sources include optional monthly management services fees for services provided by the Company, generally at the election of the NLA licensee, to provide network oversight and operation, and custom development or new services implementation fees that are recognized upon project completion.

Certain National Sponsors

National network sponsors enter into national sponsor agreements ("NSPA") pursuant to which the licensee is afforded the right to communicate with designated physicians or other users in various networks. Typically, the NSPA provides fees determined as an annual charge per physician or other recipient of the communication or of the sites to which the communication is directed, usually based upon the sponsor's communication application and annualized communications volumes, with annual minimum fees. As the number of national sponsors increase, the Company expects that incremental recurring revenue will increase as will profit margin as there is minimal additional expense incurred and most of the significant operations/expenses related to network usage are covered by fees paid by local sponsors. The Company recognizes the annual minimum fees prorated monthly until actual network communication fees exceed the minimum.

RESULTS OF OPERATIONS

The following discussion of the results of operations and financial condition of the Company should be read in conjunction with the Company's Consolidated Financial Statements and Notes thereto included elsewhere in this Proxy Statement-Prospectus. The table below sets forth certain items of revenue and expenses reflected in the Company's income statement and the percentages of total revenue represented by the items.

| | YEAR ENDED DECEMBER 31 | | | | SIX MONTHS ENDED JUNE 30, | | | |
|---|---|---|---|---|---|---|---|---|
| | 1993 | | 1994 | | 1994 | | 1995 | |
| | | | | | (UNAUDITED) | | | |
| NET SALES AND FEE REVENUE | | | | | | | | |
| Network Service Agreement revenue..... | $ 5,131 | 65.8% | $ 7,457 | 41.7% | $ 3,261 | 52.4% | $ 5,436 | 68.5% |
| Network License Agreement revenue..... | 2,550 | 32.7% | 10,058 | 56.3% | 2,893 | 46.5% | 1,371 | 17.3% |
| Network License Service revenue..... | 113 | 1.5% | 366 | 2.0% | 69 | 1.1% | 1,123 | 14.2% |
| Total revenue..... | 7,794 | 100.0% | 17,881 | 100.0% | 6,223 | 100.0% | 7,930 | 100.0% |
| COSTS AND EXPENSES: | | | | | | | | |
| Salaries, payroll taxes and benefits.. | 7,205 | 92.4% | 11,839 | 66.2% | 4,689 | 75.3% | 8,478 | 106.9% |
| Facilities..... | 1,679 | 21.5% | 3,187 | 17.8% | 1,364 | 21.9% | 2,377 | 30.0% |
| Selling, general and administrative... | 2,609 | 33.5% | 5,848 | 32.7% | 2,246 | 36.0% | 3,419 | 43.1% |
| Costs of subsidiary litigation..... | 1,659 | 21.3% | 785 | 4.4% | 714 | 11.5% | 53 | .7% |
| Reorganization costs..... | -- | 0.0% | 479 | 2.7% | -- | A 0% | -- | A 0% |
| Total expenses..... | 13,152 | 168.7% | 22,138 | 123.8% | 9,013 | 144.7% | 14,327 | 180.7% |
| LOSS FROM OPERATIONS..... | (5,358) | (68.7)% | (4,258) | (23.8)% | (2,790) | (44.7)% | (6,397) | (80.7)% |
| OTHER INCOME (EXPENSE): | | | | | | | | |
| Interest income..... | 24 | .3% | 343 | 1.9% | 120 | 1.9% | 103 | 1.3% |
| Interest expenses..... | (171) | (2.2)% | (119) | (.7)% | (33) | (.5)% | (85) | (1.1)% |
| Loss on dissolution of partnership.... | (214) | (2.7)% | -- | A 0% | -- | A 0% | -- | A 0% |
| Other, net..... | (33) | (.3)% | (65) | (.4)% | (31) | (.3)% | -- | A 0% |
| Total other income (expense).. | (394) | (5.0)% | 159 | .9% | 56 | .9% | 18 | .2% |
| LOSS BEFORE MINORITY INTEREST IN OPERATION OF SUBSIDIARIES..... | (5,752) | (73.8)% | (4,098) | (22.9)% | (2,734) | (43.8)% | (6,379) | (80.5)% |
| MINORITY INTEREST IN INCOME FROM OPERATIONS OF SUBSIDIARIES..... | (184) | (2.4)% | (153) | (.9)% | (57) | (.9)% | (85) | (1.1)% |
| NET LOSS..... | (5,936) | (76.1)% | (4,252) | (23.8)% | (2,791) | (44.7)% | (6,464) | (81.4)% |

SIX MONTHS ENDED JUNE 30, 1995 COMPARED TO SIX MONTHS ENDED JUNE 30, 1994 (UNAUDITED)

NET SALES AND FEE REVENUE. Total revenue increased $1.7 million (27%) from $6.2 million in 1994 to $7.9 million for the first half of 1995. Sponsor revenue under Network Service Agreements increased 67%, however, from $3.3 million in the first half of 1994 to $5.4 million in the first half of 1995, reflecting an increased number of operating networks, a greater number of sponsors participating in the networks and a substantial increase in the number of physicians with which networks are connected. Sponsorship revenue under NSAs increased in each quarter for the last 10 fiscal quarters, again reflecting the growth of the Company's IMS MEDACOM/(R)/ networks. The Company anticipates continued expansion of both the number of NSAs and networks in operation and plans to emphasize such growth in the next one to two years.

Revenue from Network License Agreements declined from $2.9 million in the first half of 1994 to $1.4 million in the first half of 1995. The 1994 first half was exceptionally strong, reflecting recognition of substantial revenue from the sale of a network license for Hawaii in the first half of 1994 and several other smaller licenses. In the first half of 1995, the Company completed only two license sale transactions which reflects the historical fluctuation in this revenue as network licenses sold in smaller markets are unpredictable in nature and generally require 12 to 18 months from the time the licensee initially indicates interest in a network until the sale is completed and the initial network installation is in place.

Network license service revenue increased from $69,000 in the first half of 1994 to $1.1 million in the first half of 1995, reflecting increased management service fees, implementation fees and recognition of a portion of initial license fees sold in previous periods. Service revenue tends to reflect services provided to licensees and sponsors that became participants on networks in previous periods and therefor should tend to increase as the number of licenses for which IMS will provide network management increases and as the number of sponsors under NSAs increase.

SALARIES AND BENEFITS. Salaries and benefits increased approximately $3.8 million or 81% in the first half of 1995 compared to the first half of 1994, and due to only slightly increased revenue in the first half of 1995, salaries and benefits represented 107% of revenue in the first half of 1995 compared to 75% of revenue in the first half of 1994. The substantial increase reflects an increase in the number of employees from 146 at the beginning of 1994 to 275 at the beginning of 1995.

FACILITIES AND RELATED EXPENSES. Facilities and related expenses are composed of rent, equipment, maintenance and depreciation, telephone, utilities, insurance and taxes. Facilities expenses increased $1.0 million over the first half of 1994 to $2.4 million for the first half of 1995, or 74%. The Company incurred increases due to opening of additional administrative offices in Denver in January 1995 and opening more field offices. Rent and related facilities expenses in 1995 for the San Diego office closed at the end of 1994 were charged to reorganization in 1994 and are not included in the first half 1995 facilities expenses, although such expenses were paid in 1995. Telephone expenses increased 137% over the comparable period in 1994, reflecting substantially increased network traffic.

SELLING, GENERAL AND ADMINISTRATIVE. Selling, general and administrative ("SG&A") expenses include travel and entertainment, marketing, sales and promotion expenses and other uncategorized expenses. SG&A expenses increased approximately $1.2 million, or 52%, in the first half of 1995 compared to the first half of 1994. Travel and related selling expenses increased due to the Company's transition to a national sales force in late 1994 and other SG&A expenses increased as the level of activities rose due to the Company's growth.

YEAR ENDED DECEMBER 31, 1994 COMPARED TO YEAR ENDED DECEMBER 31, 1993

NET SALES AND FEE REVENUE. Net sales and fee revenue increased approximately $10.1 million or 128% from 1993 to 1994. The growth in net sales and fee revenue is attributable to an increase in the number of NSAs and to an increase in revenue per contract. The number of hospital NSAs increased from 76 in 1993 to 109 in 1994, or 43%, and other NSAs increased from 38 at the end of 1993 to 66 in 1994, or 74%. Revenue from hospital NSAs increased from $5.1 million in 1993 to $7.5 million in 1994, or 47%. Revenue from other sponsor NSAs and from NLAs increased from $2.7 million in 1993 to $10.4 million in 1994, or 285%.

SALARIES AND BENEFITS. Salaries and benefits increased $4.6 million or 64%, for fiscal 1994 compared to fiscal 1993. Salaries and benefits as a percentage of revenue were 66% in 1994 compared to 92% in 1993 because revenue was substantially higher in 1994. The increase in salaries and benefits was due to the addition of field, technical and corporate employees required to support the increase in NSAs, installation of NLAs and to enhance network software. The Company also transitioned to a national sales force in late 1994, increasing the selling staff from eight at the end of 1993 to 14 at the end of 1994.

FACILITIES AND RELATED EXPENSES. Facilities expenses increased approximately $1.5 million to $3.2 million in 1994, or 90%. These expenses increased principally from increased costs for rent, depreciation and telephone expenses, new field offices and depreciation from increased computer equipment purchases as a result of an increase in the number of sponsor contracts. Telephone expenses, including long distance charges, increased 114% due to the large increase in the number of network messages transmitted over phone lines.

SELLING, GENERAL AND ADMINISTRATIVE. SG&A were $5.8 million or 33% of revenue for 1994 compared to $2.6 million or 34% of revenue for 1993, representing an increase of $3.2 million, or 124%. The increase included travel and related expenses which increased approximately 100% to $1.65 million, marketing sales and promotions which increased 58% to approximately $.8 million and executive training services in 1994 for which there were no similar expenditures in the prior year. Substantially all the increases were related generally to the Company's increased business activity in 1994.

COST OF SUBSIDIARY LITIGATION. Litigation involving the Company, two subsidiaries and certain directors was commenced in 1992. The cost of this litigation was substantial and materially affected the Company's cash flow and loss for 1992, 1993 and 1994. Costs of litigation, representing professional fees and expenses and the cost of indemnifying a director, were $1.7 million in 1993 and $785,000 in 1994 when the litigation was substantially concluded. The litigation resulted in judgment in favor of the Company and the directors following trials. The Company is not currently involved in any material litigation.

REORGANIZATION COSTS. In 1994, the Company closed its San Diego office and charged the costs to expenses for 1994. Approximately $100,000 of the $479,000 of expenses relate to net leasehold expenses which will be paid over the remaining term of the lease and approximately $280,000 represents expenses and severance compensation to be paid in 1995 to the former chairman and founder of the Company who continued on as a director following the reorganization.

LIQUIDITY AND CAPITAL RESOURCES

The Company has incurred and expects to continue to incur significant operating and net losses and to continue to generate negative cash flow from operating activities while it emphasizes development and enhancement of networks and until the Company establishes sufficient sponsor revenue for each network. In view of the anticipated negative cash flow from operating activities and the cash required for the continuing development of the Company's products and services, the expansion of existing networks and the construction and acquisition of new networks, the Company will require substantial amounts of capital for the balance of fiscal 1995 and the foreseeable future from outside sources.

IMS had working capital of $617,000 at December 31, 1994 compared to a working capital deficit of $612,000 at June 30, 1995. At June 30, 1995, IMS had $1,318,000 cash and cash equivalents on hand compared to $1,358,000 at December 31, 1994. This increase was attributable to sale of receivables remaining under NLAs, and borrowings from Lilly. IMS's contract receivables at December 31, 1994 was $6,803,000 compared to $3,103,000 at June 30, 1995, again because of sales of contract receivables.

The Company had an accumulated deficit of approximately $23.4 million at December 31, 1994 and approximately $29.9 million at June 30, 1995. Since December 31, 1994, the Company has funded operations primarily through $4 million in borrowings from Lilly and $1.9 million from the exercise by Lilly of a warrant to purchase 375,000 shares of Series C Preferred Stock (see "SPECIAL FACTORS TO BE CONSIDERED - Background to the Merger"), and $4.3 million from the sale of receivables under network license and service agreements to financial institutions on a discounted cash flow basis. In addition, the Company has used portions of a $1 million line of credit which is secured by guarantees of certain directors and of which there was no amount outstanding as of June 30, 1995.

The Company believes that the relationship with Lilly created by the Merger will add financial credibility to the Company as well as add direct financing from Lilly through either future debt or equity capital infusions from Lilly. Consequently, the Company anticipates a more rapid growth pattern than if the Merger were not consummated.

If the Merger is not consummated, which is not expected, IMS would continue to fund its operations with revenue from operations, sale of equity securities, sale of contract receivables and potential debt financing. The failure to obtain sufficient amounts from such future financing efforts would result in the delay or abandonment of some or all of the Company's development and expansion plans which could have a material adverse effect on the Company's business and competitive position.

## BUSINESS OF IMS

Founded in 1985, the Company develops and operates computerized medical communication networks that link participants in the healthcare delivery system to deliver routine and specialized messages in automated format. The Company's networks provide a practical means for healthcare providers and payers to develop integrated information delivery management programs. Healthcare, and especially the individual physician's practice of medicine, generates prolific requirements for multi-location, multi-system clinical, financial and administrative communications and information transfer. The Company believes that it is a leading provider of physician-focused, multi-participant, multi-media, bi-directional automated healthcare communications through a common user connection based on total number of communications delivered, variety of communications, number of physician participants, number and variety of connected host healthcare information systems, number of institutions (hospitals, managed care plans, clinical laboratories, ancillary care providers and healthcare information and administrative services) and number of operational networks and markets served.

The first IMS medical communication network was deployed in 1988. Since that time, IMS has developed networks in more than 43 areas across the United States. IMS has pioneered the concept of "open" architecture (available on a fee-for-use basis regardless of the user's affiliation) medical communication networks (the "IMS MEDACOM/(R)/ Networks").

IMS MEDACOM/(R)/ Networks connect healthcare information systems and departmental workstations utilizing proprietary network controller software and proprietary message handling software on personal computers at the user's site. IMS MEDACOM/(R)/ networks increase the timeliness and accuracy of clinical communications, ease the burden of compliance with managed care and financial transaction requirements and reduce the information management burden for physicians, hospitals and other network users. Also, unlimited communication between all physicians in a given network is available. The Company estimates that over 30 million total messages were delivered over IMS MEDACOM/(R)/ Networks in 1994.

The Company's core set of three software connectivity tools are: RELAY/TM/, which provides a system integration of diverse formats; ComCenter, the network switch which distributes messages among network users; and PC-COM, the software on each workstation which enables the user to access the network. These software components are installed as a network in each healthcare market area in which the Company operates. A local operations staff of IMS employees manages the connectivity of the various communications software of network users, provides on-going training and workstation support and works with network sponsors to continually expand their services and applications provided to physicians and other users over the network.

Physicians gain access to networks at no cost. Network sponsors are healthcare institutions, organizations and services which communicate regularly with physicians in the normal course of business. Sponsors pay annual network communications or license fees that typically relate to the number of physicians the sponsor chooses to reach on the network. As more sponsors pay for network connectivity, the Company receives additional license and implementation fees and more physicians are connected. Growing numbers of sponsors and physicians on networks lead to increased usage and acceptance and, ultimately, revenue to the Company.

### INDUSTRY BACKGROUND

Changes and cost containment pressures in the nation's healthcare system are placing new demands on providers and payers. An aging population, advances in technology and the rapid growth of managed care have all resulted in increased demand for the timely and cost-effective collection, analysis, management, sharing and communication of information among healthcare providers and between them and payers. This change has caused a reorientation of the role of healthcare information systems from transaction

processing of episodic health service events to active decision support and cumulative tracking and reporting of comprehensive, multi-point courses of care. In response, an entirely new sub-industry has been created-integrated healthcare communication networking.

The physician's office is now the focal point of hundreds of monthly communication "transactions." Historically, the healthcare industry focused on automation of provider claims submissions. In fact, in medical practices, there are multiple communications, clinical and administrative messages and information exchanges required to fulfill the service that results in just one payment claim submission to a payer. While there are estimated to be approximately 2.5 billion claims that flow from providers to payers annually, the Company believes that the total physician-focused medical communications volume is eight to ten times as large.

Not only must physicians deal with increasing amounts of information, they also must manage and synthesize inputs from, and reply appropriately to, an ever more diverse group of other service providers, payers and intermediaries. These institutions and referral services recognize the need to improve communication with physicians, the patients they serve and the employers who ultimately fund a significant portion of the medical services. The driving force behind this need is concern for the timely delivery of quality patient care. In today's environment, healthcare depends upon efficient information management and communication transactions.

The Company estimates that nationwide there are 570,000 private practicing physicians engaged in direct patient care within approximately 200,000 medical practices. Approximately 50% of these physicians practice in the largest 50 markets. Further, approximately 70% of the practices are somewhat automated with either an in-office computer or a link into a computer service. Most of these computers today can be characterized as medical practice management systems with applications limited to various levels of sophistication in patient, scheduling, billing and accounting processes.

While vitally important to the administrative operation of a medical practice, billing and patient account management activities address only a portion of a physician's practice automation and communication requirements. Other automated systems and services should directly support the provision of clinical care, before, during and following the patient encounter. Most of these communications are presently nonintegrated, nonautomated media: voice, printed text, facsimile, clinical graphic printouts and handwritten notations with the attendant problems of routing delays, filing mistakes, recipient unavailability, transcription errors and other mechanical management problems. The Company's IMS MEDACOM/(R)/ Networks improve the physician's professional service environment by (i) simplifying information access, (ii) eliminating delivery delays, (iii) integrating diverse communications and data sources into a common and easy-to-use format at the point-of-care, and (iv) providing automated access to the full range of clinical referral and support services typically required by the physician. Ultimately, communications with hospitals, other service providers and payers, such as insurance companies or managed care providers, are improved, thereby increasing efficiency and quality of care and helping to hold costs down.

Other attempts to address these challenges usually result in proprietary, single function automated communication between physicians and other entities (such as a laboratory or a managed care provider), with no ability or right to link with others. The technologies have ranged from simplistic transaction telephone terminals, to dedicated fax machines, smart modem printers, uni-directional communication software protocols or the in-office installation of single purpose mainframe terminals or personal computers. Because these efforts each addressed only the specific needs of one entity in linking with the physician and the applications were driven from the perspective of large institutional information systems departments, they are often characterized by difficulty of use and require that the physician's office staff install and learn to operate a variety of incompatible devices and communications protocols. The result has often been limited deployment and minimal use.

With the rapid emergence of managed care and the movement toward risk sharing or "capitated" provider payment methodologies, integration of healthcare delivery will be accelerated. Essentially, healthcare payers are forcing healthcare providers to assume the economic risks of healthcare.

This change creates increased provider dependence upon information and multi-point communications. There is now a demand for new and more sophisticated information processing systems at the point of care, accessible, as appropriate, by other providers and by payers. Basic systems which served practice automation during the past decade are of decreasing value in the evolving practice environment. To participate fully in the managed care world, physician offices must be able to record, store, analyze and distribute clinical information, automate the processing and communication of third-party reimbursement transactions, validate patient eligibility and comply with health plan formulated treatment regimens, pharmaceutical therapies and governmental regulation.

Medical practice is further complicated by the formation of new multi-provider integrated delivery systems ("IDS") to address full capitation of the medical treatment risk for entire patient populations. IDS' create a new need for automated medical communications to coordinate care across diverse and otherwise unrelated providers. With integrated delivery, goals of payers, provider institutions and hospitals become aligned with an emphasis on coordination, cooperation, information sharing and mutual accountability to achieve the organizational, operational and financial goals of the participants.

Physician practices, and in particular primary care practices, are positioned at the apex for implementing the IDS strategies. The Company believes that these industry factors will continue to position physicians as the focal point for constructing true integrated healthcare delivery and cause hospitals, payers and physician organizations to seek access to open architecture, automated medical communication networks which fulfill the efficient communication needs of all participants.

STRATEGY

The Company's objective is to be the leading provider of physician-focused automated medical communication networks and services which deliver decision-critical information to the healthcare industry. IMS MEDACOM/(R)/ Network services are designed to improve healthcare information technology to assist physicians, other healthcare providers and payers to better manage all aspects of patient care through the application of efficient, accurate and timely communication. The Company's strategy includes the following key elements:

. Focus on Physician Office Requirements: The Company attracts physician participation on networks by emphasizing ease of use, minimal investment and immediate and relevant value to the practice. There is no charge to physicians for the Company's software, installation, training, on-going support or messages and communications services. A physician can use an existing office computer to serve as the IMS MEDACOM/(R)/ Network communications workstation ("NCW") with the Company's PC-Com/TM/ software. The Company believes that its physician focus creates an on-going relationship and alliance that will accelerate the attraction of network sponsors and generate new network uses and applications with potential revenue sources for the Company.

. Establish IMS MEDACOM/(R)/ Networks in Additional Markets: The Company is working to develop owned and operated IMS MEDACOM/(R)/ Networks in the largest 50 markets (based on numbers of practicing physicians); and become the "utility" for computerized medical communications across the entire spectrum of healthcare delivery in the market area. In smaller markets, the Company licenses the operation of its IMS MEDACOM/(R)/ Networks to one or more qualified local operators.

. Add Additional Sponsors to Existing Networks: In the largest 50 markets in which the Company establishes IMS MEDACOM/(R)/ Networks, the addition of local sponsors generates both significant financial leverage and attracts additional physician participation which in turn increases the

importance of the network in the local market. The addition of national sponsors which communicate with physicians across several IMS MEDACOM/(R)/ Networks also add leveraged revenue for the Company in both operated and licensed networks.

. Technology and Services Leadership: The Company has established a single method of access for physicians and other users. This method combines open architecture, ease of use and bi-directional communications and employs a common look and feel for network users. The system is simple, utilizes whatever computer operating system is in place and is easily upgradable. The Company intends to extend this presence and reputation for successful new service integration into higher speed transmissions, more complex system interfaces and an array of physician "desktop" information management services.

## HEALTH CARE INDUSTRY INFORMATION NEEDS

Today 60% of health care occurs outside the hospital and 80% of health system patient encounters begin in the community physician's office. Consequently, a great deal of patient care information must be relayed in a timely manner between geographically disparate locations. For example, primary care physicians confer with specialists; pharmacists communicate with physicians; managed care providers require pre-authorizations before procedures are scheduled and referrals authorized; and hospital staff consult with physicians, insurers, home care agencies and other providers. The volume of information that must be exchanged within a health care community is increasing exponentially and the stakeholders in health care systems are becoming more diverse.

As early as 1985, there were attempts to provide communication links between physicians and hospitals. Most of these early attempts failed for a variety of reasons:

. the systems were closed, requiring expensive investments in proprietary equipment that was limited in use and cumbersome to access;

. the networks appeared to be self-serving because they were installed by hospitals or other entities for limited specialized uses; and only provided for hospital-physician communication; and

. the information available over the network did not include important clinical data such as test results or X-rays, and lacked features such as physician-to-physician voice messaging, electronic signature and continuing medical education programs.

IMS created IMS MEDACOM/(R)/ Networks to fulfill the need for an effective, easy-to-use communication system available to all users on all equipment. IMS's proprietary networks improve the efficiency and effectiveness of medical communication and information management.

## IMS MEDACOM/(R)/ NETWORK

### Design

A network to support the electronic exchange of text, voice, graphics and images in the health care industry must be highly reliable and provide connectivity to any computer system in use by both subscribers and sponsors. The Company provides this service through proprietary software which can run on most hardware, and which is delivered by a full range of field operational services, all of which it has developed since 1985.

Each IMS MEDACOM/(R)/ Network has at its core the ComCenter, a communications controller and switch which hosts proprietary IMS software. The participants in a local healthcare delivery system can be connected as a network through the ComCenter to automate routine and specialized communications. The network converts transactions such as clinical results reporting, referral notifications, admission forms, medical transcriptions, consultant reports, clinical monitor tracings, medical records,

calendars, prescriptions, third party claims and managed care encounter protocols from mail, fax, phone or courier distribution to a common computerized, bi-directional pathway. Physician offices (subscribers) join the network at no cost for the service when the Company's proprietary workstation software ("PC-COM") is installed on their computer. Healthcare institutions, such as hospitals, pay annual communications and license fees to become network sponsors with the right to communicate electronically with their designated group of physicians. The sponsors link into the local IMS MEDACOM/(R)/ Network using both interfaces to their own proprietary automated systems with the Company's RELAY/TM/ software and an unlimited site license for PC-COM to enable in-house computers across their organization to become network communication workstations ("NCWs"). Each institutional department or function of the hospital can format standard automated transactions for an unlimited range of routine communications to physicians or other network participants using the Company's proprietary computer protocols (Script) and imbedding the Scripts in the subscriber NCWs under a multi-level directory-driven communications module.

The ComCenter maintains the network directory of users, message ordering system and transaction log. In the largest 50 markets, each ComCenter is installed in a centrally located office leased by the Company that houses an IMS network staff which develops, coordinates and supports the network. The network staff also provides training with scheduled classes covering all aspects of network use and benefits along with new sponsor and subscriber orientation and specialty training covering new sponsor applications or network enhancements.

The networks do not process data or provide and operate value-added data management or storage applications. The IMS strategy is focused on connectivity, message delivery, automated message handling systems, facilitating functional systems integration initiatives and enabling the practical implementation of multi-provider organized delivery systems. During 1995 the Company deployed its ComCenter NT software, based upon the MicroSoft Windows NT/(R)/ network operating system, to enhance its core strategy, gain flexibility in scaling ComCenters and to add communications options such as on-line sessions, "near-time" automated response host inquires and single point access for national sponsors communicating across multiple networks.

The IMS MEDACOM/(R)/ Network provides multi-platform functionality. The RELAY/TM/ software enables the network to permit sponsors to automate virtually any communication to any network user from any host computer system that can generate a print stream. Utilizing RELAY/TM/, the Company has connected networks with healthcare information systems sold by all of the major computer or software vendors. The majority of the NCWs on the Company's various networks are IBM-compatible, DOS-based personal computers, either stand-alone units or as participants on a local area network. The Company's software can also be installed on computers operating under other operating systems, such as UNIX, ZENIX and AIX. The Company has designed a Microsoft Windows/(R)/ based operating system version for its software which is scheduled for release to network users during the first half of 1996.

A key feature of IMS MEDACOM/(R)/ Networks is that communication for every NCW is bi-directional. As opposed to general purpose E-mail systems, or special purpose EDI applications (such as electronic claims submission), the IMS MEDACOM/(R)/ Network permits a message to be launched to or from a designated NCW. In this way, network participants are assured that their network messages have been received at the destination and the receiver can process the message instantly because it is resident as electronic media on the NCW.

The IMS MEDACOM/(R)/ Networks connect participants using modems and basic phone lines, and because the highest volume message is usually clinical results from a local source, the majority of communication occurs within the telephone company's local area, eliminating most long distance charges for network participants. Where higher-speed bandwidth (such as fiber optic cable) is available and desired by network participants, the entire suite of IMS MEDACOM/(R)/ Network software is compatible with other transmission media.

Using an IMS Network

A key design consideration for the IMS MEDACOM(R) Network is simplicity of use. The use of menus, help facilities, graphic highlights and consistent colors contributes to a high level of acceptance and utilization by physicians, office staff and other participants.

Using the Company's updated operating software, information sent on a network is routed over dial-up telephone lines through a network ComCenter computer which utilizes Microsoft Windows NT(C) client-server technology and hosts IMS message switching software. The updated network ComCenter allows for a wide variety of connection and integration with the many information systems currently being used in the health care industry and lends itself well to the open architecture networks of IMS.

Each Network participant requires a computer workstation, which is an IBM-PC or fully compatible DOS personal computer (or other computer and operating system), running PC-Com/TM/, the IMS MEDACOM(R) communications software. The network's multi-platform functionality allows Network participants to use existing computer equipment as Network workstations. These workstations communicate with the network ComCenter through modems and phone lines.

To communicate using an IMS MEDACOM(R) Network, a sender creates a message and sends it from his personal computer. Using IMS's proprietary software, his computer then automatically dials the phone number of the network ComCenter and sends the message. Once the ComCenter has received a message, it checks its directory to ensure that the message is being sent to the appropriate computer and then dials the phone number of the recipient. When that computer answers, the ComCenter automatically forwards the message to the recipient's computer. Unless using one of the on-line options, the sender is not directly linked to the recipient computer. This solves most of the security issues associated with interactive electronic communications.

Messages are automatically delivered to the recipient's computer hard disk drive 24 hours per day, without operator intervention. The network ComCenter maintains a directory of all of the Network sponsors and subscribers which can be easily updated. In addition to the name, address and office telephone number of the physician, directory space is provided to list the physician's practice specialties and other profile information. Directory updates are automatically distributed to all IMS MEDACOM(R) Network members.

Participants' workstation computers are not restricted to Network functions. The network software operates "in the background" while the computer may be used for other clinical, financial and administrative applications. If an IMS MEDACOM(R) message is received while the computer is in use, a waiting messages display appears in the upper right-hand corner of the computer screen. The operator can quickly read the new message without leaving the application he or she is in at that time. In a similar fashion, after a message has been created, the operator can continue with other work while the transmission to the network ComCenter takes place in the background.

If the operator chooses to process waiting messages, a screen is displayed that shows all of the new messages, who sent them, to whom they are addressed and the date and time at which they were sent. The subject of the message is also displayed.

Customizing the Network

One of the powerful features of the IMS MEDACOM(R) Network is that it allows for network messages to contain attached data files, such as voice messages, medical images or text from a word processor. This permits the recipient to handle the appropriate disposition of the transmitted material. Text files, such as those that might come from a word processor, can be printed or copied to a disk for processing. After the operator has printed the message and processed any attached files, the system can

automatically send an acknowledgment to the message originator, indicating that the message was received and processed. Message forward and reply functions are also available.

Customized screens can be created for different types of messages, such as hospital pre-admissions, patient referrals and eligibility. In addition, a network sponsor can elect to broadcast a message to all its participants on the network or to create a list of people to whom a single message is to be sent. This latter facility might be used, for example, by a hospital to send the next day's surgery schedule to all surgeons.

Sources of Network Revenue

There are generally three levels of participation on IMS MEDACOM(R) Networks: national sponsors, local sponsors and physician subscribers. Sponsors pay various fixed and message related fees to "communicate" with selected physician Subscribers or other network users.

Local Sponsors. Local sponsors include local organizations that desire to use a network to improve the quality of their services to physicians, improve the efficiency of their operations and strengthen relationships with physicians or other users. Such organizations include hospitals, clinics, specialists, imaging centers, home care agencies, independent pharmacies, transcription services, etc. These entities enter into one to five year network services agreements and pay annual fees and other charges for network use.

National Sponsors. National sponsors include healthcare organizations or providers that desire to communicate with a wide range of physicians or other network users in multiple markets. Such organizations include pharmaceutical companies, clinical laboratories, pharmacy chains, managed care/insurance companies, medical publishers, etc., and usually are also sponsors of more than one, and generally all, other IMS medical information networks located throughout the United States.

Physician Subscribers. Each physician or medical practice is a key influence or client for a wide range of local and national sponsors. Physician subscribers create revenue by attracting local and national sponsors which pay to use the network to communicate with subscribers. Although some sponsors' fees are dependent upon the number of physicians with which communication is sought, no network revenue is provided by physicians.

Network Support

The Company provides extensive centralized network monitoring, field and sponsor staff training, technical implementation resources and real time support from its Golden, Colorado offices. The network services division delivers: (a) network design services including on-site sponsor requirement evaluations and RELAY/TM/ specification development; (b) RELAY/TM/ and other interface programming, testing and installation; (c) call-in support with direct technician interfaces who operate an automated problem logging, tracking, resolution and follow-up system; and (d) a national training center, housed in a separate, purpose-built facility with a curriculum that covers a Company orientation, the industry, the Company's technology and products, policies and procedures and a variety of application and programming credentialing.

IMS MEDACOM Network Locations

IMS MEDACOM/(R)/ Networks are currently serving the following market areas:

- Albany, New York(2)
- Birmingham, Alabama(3)
- Boca Raton, Florida(2)
- Boise, Idaho(2)
- Capitol Region, Washington D.C. area(1)
- Boynton Beach, Florida(1)
- Chicago, Illinois(1)(3)
- Cincinnati, Ohio(1)
- Columbus, Ohio(1)
- Colorado Springs, Colorado(1)
- Dallas-Ft. Worth, Texas(1)
- Davenport, Iowa(2)
- Denver, Colorado(1)
- Flint, Michigan(2)
- Great Falls, Montana(2)
- Honolulu, Hawaii(2)
- Houston, Texas(1)
- Indianapolis, Indiana(1)(3)
- Jackson, Mississippi(2)
- Jacksonville, Florida(2)
- Kansas City, Missouri(1)
- Knoxville, Tennessee(2)
- Lexington, Kentucky(1)
- Lincoln, Nebraska(2)
- Little Rock, Arkansas(3)
- Los Angeles, California(1)(3)
- Louisville, Kentucky(1)
- Memphis, Tennessee(1)
- Miami/Fort Lauderdale, Florida(1)
- Minneapolis Minnesota(1)(3)
- Monroe, Louisiana(2)
- Orlando, Florida(1)(3)
- Pensacola, Florida(2)
- Philadelphia, Pennsylvania(1)
- Phoenix, Arizona(1)(3)
- Richmond, Virginia(1)
- Rockford, Illinois(3)
- Sacramento, California(1)
- San Antonio, Texas(1)
- San Diego, California(1)
- San Jose, California(1)
- Savannah, Georgia(2)
- St. Louis, Missouri(1)
- Tampa, Florida(1)
- Tulsa, Oklahoma(2)
- Wichita, Kansas(2)

(1) Network in one of the 50 largest markets.
(2) Network operated by licensee.
(3) Operated under a joint venture or similar arrangement. See "Co-Ventures" below.

In markets where IMS MEDACOM/(R)/ Networks are in place, the Company estimates that there are around 150,000 physicians in practice, of which 18% are subscribers to an IMS network. Physician subscribers connected to IMS MEDACOM/(R)/ Networks have grown from 845 at December 31, 1991 to 14,713 at December 31, 1994 and 27,433 at July 31, 1995.

At July 31, 1995, IMS and networks operated by IMS or affiliates had sponsorship agreements with 102 sponsors, with remaining terms of two to five years. Eighty-three of the sponsors were hospitals or hospital systems, managed care providers or payers, six were laboratories, and five other sponsors. In addition, IMS has network license agreements with 20 licensee hospitals or healthcare organizations, which authorize the licensee to use IMS network software to set up and operate a proprietary network in smaller markets. IMS and national sponsors are usually authorized to communicate with users of the licensee's network. The licensee frequently retains IMS to manage its network or to provide various ancillary services. Sponsors and licensees each pay initial implementation fees, annual fees and other charges for specialized or additional services for fixed contract terms, generally five years, renewable thereafter for negotiated fees.

CO-VENTURES

In selected largest 50 markets, IMS has entered into various joint venture or similar relationships with others to develop an IMS MEDACOM/(R)/ Network. The joint venture participants' areas of interest and ownership are summarized as follows:

| NAME OF VENTURE (CORPORATE NAME, IF APPLICABLE) | PERCENT OF INTEREST | CO-OWNER OR VENTURER (MANAGER OF VENTURE) | TYPE OF ENTITY (STATE OF ORGANIZATION) | NETWORK AREA |
|---|---|---|---|---|
| Medical Communication Network, Inc..... | 49% | UniHealth America Corporation (UAV) | JV Corporation (California) | Los Angeles, San Bernardino, Riverside, Orange and Ventura Counties |
| Illinois Medical Information Network, Inc... | 68% | HFN, Inc. (26%); Swedish American Hospital (5%); Alexian Brothers Medical Ctr (1%) (HFN) | JV Corporation (Illinois) | Illinois, 2 Indiana counties, and portion of Eastern Iowa |
| IMS-NET of Alabama Joint Venture..... | 51% | Bretz Corporation (Bretz) | JV Partnership (Colorado) | Alabama and Western Florida |
| Arkansas Medical Information Network (IMS-NET of Arkansas, Inc.)..... | 51% | Baptist Medical System (Baptist) | JV Corporation (Arkansas) | Arkansas |
| IMS-NET of Arizona Joint Venture, Ltd..... | 50% | BC-BS of Arizona, Inc. (IMS-NET of Arizona, Inc.) | JV Ltd. Partnership (Arizona) | Arizona |
| IMS-NET of Central Florida, Inc..... | 51% | Adventist Health System/Sunbelt | JV Corporation (Colorado) | Orlando and central Florida |
| Indiana Medical Communication Network LLC..... | 51% | Methodist Hospital of Indiana, Inc. (IMS) | JV Limited Liability Company (Colorado) | Indiana (except 2 counties) |
| Minnesota Medical Communication Network LLC..... | 90% | Blue Cross and Blue Shield of Minnesota (IMS) | JV Limited Liability Company (Colorado) | Minnesota |

Pursuant to each venture arrangement, an open network is established and operated as a separate business consistent with the operation of other networks by IMS in other areas. Local sponsors contract with the venture for network participation. IMS and the venturer are generally reimbursed for services provided to the venture and operating profits are shared according to ownership interest. Revenue from national sponsors who contract with IMS is shared between IMS and the venture entity. Financial information from these entities is included with the consolidated financial information for IMS and its subsidiaries.

PRODUCT DEVELOPMENT

The healthcare information systems industry, particularly communications networking, is characterized by rapid change and a continuing need for high level of development and improvement of software and services. In order to maintain and improve new sponsor participation on networks, increase physician participation and accelerate the revenue per sponsor, the Company believes that its networks must continue to be viewed as technologically competent, functionally flexible and expandable, ubiquitous in

systems integration capability and powerful in terms both of encompassing the full range of sponsor automation requirements and adding increasing value at the physician's desktop.

The implementation of the ComCenter NT technology has opened up a broad range of product development opportunities for the Company. Most of these development activities are responses to requests or suggestions from current network participants. These include data file level host system integration; a Windows/TM/ version of the PC-Com (NCW) software; enhanced UNIX functionality; broader LAN integration; bridges to the most popular institutional E-Mail systems; real-time remote display of clinical monitor activity (ICU, CPU, fetal, etc.); enterprise wide master indexing of patient activity integrated from outside the institution into the physician's office; a full set of financial/claim EDI activities as well as practice management system interfaces; and enhanced network access using single point connection into multiple ComCenters of more than one network.

The Company also recognizes that technology and service venture alliances with major corporations in the healthcare, technology and communications fields can bring a valuable level of product development expertise and opportunity to its networks. The Company has been approached by national healthcare support service vendors which desire to create enhanced value applications of their core activities by adding a network communications capability. Arrangements have been consummated for a technology and service relationship in claims processing; for point-of-service material management; and for automated physician/pharmacy communications.

As of August 31, 1995, approximately 215 computer programmers and technical personnel of the Company and ventures with which the Company is affiliated are involved at different times and in varying degrees, in product development and enhancement and software support. IMS MEDACOM/(R)/ is committed to identifying existing software systems/programs and/or developing new programs that bring added value to IMS MEDACOM/(R)/ Network participants. Many of IMS's network applications were developed in cooperation with health care providers and payers. The Company intends to continue this strategy of developing services in cooperation with key customers in targeted sectors. No assurance can be given that the Company will be able to develop such services or products nor that they will have general acceptance in the marketplace.

SALES AND MARKETING

The Company markets its services and software licenses through a direct sales force consisting, as of July 31, 1995, of 15 direct field sales executives located throughout the United States, regional sales vice presidents for both the eastern and western United States, and a Vice President of Technical Sales Support. The Company's sales offices are located in Arizona, California, Georgia, Illinois, Massachusetts, Ohio, Pennsylvania, South Carolina and Texas. The sales force is managed by a Senior Vice President who is also a member of the Company's Management Committee. The sales executives are supported by the field operations General Managers and the Director of Operations resident at each IMS MEDACOM/(R)/ Network. Also, the sales staff receives marketing and administrative support from the Company's strategic development division which includes a director of marketing, media relations manager and industry marketing specialists.

The Company generates sales through referrals from sponsors and physicians, healthcare information systems consultants, industry seminars and trade shows, news articles in the trade and general business press, direct mail campaigns and advertisements in trade journals. In addition, the Company's relatively large installed physician base attracts direct inquiries from national or regional healthcare service organizations that desire an automated communications link with their affiliated physicians or other providers. Also, as a result of consolidations and the restructuring of local/regional healthcare delivery into integrated systems, the Company's base of installed institutions provides leveraged introductions to a number of new sales prospects.

The principal potential sponsors for the Company's services include the largest health care providers and payers. The Company has identified six target sponsor groups within the health care sector: hospitals, clinical laboratories, pharmaceutical companies, pharmacies, managed care providers, and other provider/payers.

No single customer accounted for more than 10% of the Company's total revenues for the year ended December 31, 1993. One customer, a hospital system licensee under an NLA, accounted for approximately 19% of the Company's total revenue in its fiscal year ending December 31, 1994.

## COMPETITION

The health care communications industry is competitive. Many hospitals, third party administrators, claims processing organizations, hospital systems vendors, systems integrators, insurers, managed care organizations, and a few small companies provide physicians with some form of communications link to one or more specific organizations. Major companies which have provided network systems to the health care industry include Baxter International (through its IBAX subsidiary), McDonnell Douglas, IBM through the IBM Information Network, Physicians Computer Network, Healthworks Alliance, Inc. and AmeriTech's Health Network Ventures. In addition, certain companies have expressed an intention to provide communications solutions to the health care industry, many of which have substantially greater resources than the Company.

## EMPLOYEES

As of August 31, 1995, the Company had 261 full-time employees, of which 175 are technical and engaged in maintaining or developing IMS products or services, 19 are marketing and sales, and 36 are involved in administration and finance and 31 provide non-technical operation support in IMS business units which operate various networks. In addition, the Company's network ventures employ an additional 51 people. None of the Company's employees is represented by a union. The Company believes that its relationship with its employees is good.

## PROPERTIES

The Company's corporate offices are located at 15000 West Sixth Avenue, Golden, Colorado. These premises are leased pursuant to a lease agreement which expires on January 31, 1998 and has a renewal term of five years. The lease covers approximately 23,500 square feet of office space for which the Company pays annual rent of $142,400. The Company also leases approximately 42,500 square feet of additional office space in 21 offices throughout the country where the network provides service. These offices range in size from approximately 700 square feet to 3,000 square feet. The Company pays annual rent in the aggregate amount of approximately $605,300 for this space.

The Company plans to lease space from time to time as it establishes new networks. Other than such anticipated space, the Company believes that its facilities are adequate for its present operations.

## OWNERSHIP OF IMS

The following table sets forth certain information regarding beneficial stock ownership as of August 31, 1995 by: (i) each director and certain executive officers of the Company, (ii) all directors and executive officers as a group, and (iii) each shareholder known by the Company to be the beneficial owner of more than 5% of each class of voting securities. Except as otherwise indicated, each person or entity listed below has sole voting and investment power with respect to all shares shown to be beneficially owned by him or it except to the extent such power is shared by a spouse under applicable law. The address of each executive officer and director is listed in care of the Company. As of August 31, 1995, the following securities were outstanding: 6,584,002 shares of Company Common Stock; 2,000,000 shares of Series B Preferred Stock; 3,000,000 shares of Series C Preferred Stock; options to purchase 2,380,457 shares of Company Common Stock; and warrants to purchase 655,103 shares of Company Common Stock and 500,000 shares of Series C Preferred Stock.

| NAME OF BENEFICIAL OWNER | COMPANY COMMON STOCK BENEFICIALLY OWNED** | PERCENT OF COMPANY COMMON STOCK BENEFICIALLY OWNED | SERIES B PREFERRED STOCK*** | PERCENT OF SERIES B PREFERRED STOCK |
|---|---|---|---|---|
| Kevin R. Green..... | 284,300(1) | 4.2 | 9,375(2) | * |
| Charles I. Brown..... | 670,750(3) | 9.6 | 150,000 | 7.5 |
| James T. Murphy..... | 212,200(4) | 3.1 | 9,375 | * |
| George R. Beauchamp..... | 244,000(5) | 3.6 | 0 | 0 |
| William B. Hein, Sr..... | 216,800(6) | 3.2 | 0 | 0 |
| Richard J. Smeltz..... | 83,785(7) | 1.3 | 0 | 0 |
| James A. Larson..... | 674,296(8) | 10.2 | 0 | 0 |
| Alan S. Danson..... | 521,917(9) | 7.6 | 100,000 | 5.0 |
| John W. Hanes, Jr..... | 321,333(10) | 4.8 | 135,000(11) | * |
| David R. Holbrooke..... | 1,347,750(12) | 18.4 | 1,072,500(13) | 53.6 |
| John A. McChesney..... | 1,694,301(14) | 24.4 | 110,000(15) | 5.5 |
| Donald S. Chenoweth..... | 161,900(16) | 2.4 | 0 | 0 |
| Joseph G. Ferguson, Sr..... | 30,000(17) | * | 0 | 0 |
| Edward B. Daniels..... | 70,000(18) | 1.1 | 0 | 0 |
| Charles S. Iobe, Sr..... | 60,000(19) | * | 0 | 0 |
| Michael S. Hunt(20)..... | 0 | 0 | 0 | 0 |
| Kevin E. Moley(20)..... | 0 | 0 | 0 | 0 |
| All Executive Officers and Directors as a Group.. | 6,506,397(21) | 69.4 | 1,455,937 | 72.8 |
| Eli Lilly and Company..... | 3,660,200(22) | 36.3 | 0 | 0 |

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* Less than one percent.

** Assumes exercise of all options (vested or unvested) and warrants, and conversion of all preferred stock. All warrants are immediately exercisable. Certain options have not yet vested and all options will vest upon the Effective Date of the Merger. All options (vested or unvested) have been disclosed above.

*** Every three shares of Series B Preferred Stock are convertible into two shares of Common Stock.

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(1) Includes 1,250 shares of Company Common Stock held by the Kevin Green IRA and 1,250 shares held by his minor children. Also includes 1,250 shares underlying warrants, 226,800 shares underlying options and 6,250 shares issuable upon conversion of Series B Preferred Stock.

(2) 4,687 shares are held by the Kevin Green IRA and 4,688 shares are held by his minor children.

(3) Includes 200,000 shares held by Charles I. Brown Family Partnership, Ltd., 50,000 shares held by the Charles I. Brown IRA, and 10,500 shares held by the Charles I. Brown Profit Sharing Plan. Also includes 159,050 shares underlying warrants, 96,250 of which are held by Charles I. Brown Family Partnership Ltd. and 2,000 of which are held by the Charles I. Brown Profit Sharing Plan. Also includes 151,200 shares of Common Stock underlying options and 100,000 shares issuable upon conversion of Series B Preferred Stock.

(4) Includes 201,200 shares underlying options, 1,250 shares underlying warrants and 6,250 shares issuable upon conversion of Series B Preferred Stock.

(5) Includes 134,000 shares underlying options and 20,000 shares underlying warrants held in an IRA account by Providence Trust, of which Dr. Beauchamp is deemed a beneficial owner. Also includes 20,000 shares held by George Beauchamp, M.D., IRA and 40,000 shares held by Providence Trust.

(6) Includes 191,800 shares underlying options.

(7) Includes 79,785 shares underlying options and warrants.

(8) Includes 40,750 shares underlying warrants. Also includes 19,780 shares held by JALCO Pension Fund and 24,606 shares held by JALCO Profit Sharing Plan, of which Mr. Larson is deemed a beneficial owner. Also includes 280,000 shares held by the James A. Larson Family Partnership, Ltd., of which Mr. Larson is deemed a beneficial owner.

(9) Includes 38,750 shares underlying warrants, 200,000 shares underlying options and 66,667 shares issuable upon conversion of Series B Preferred Stock.

(10) Includes 2,000 shares underlying warrants and 229,333 shares held by the Hanes Investors Limited Partnership, of which Mr. Hanes is the general partner. Does not include 270,833 shares and 23,250 shares underlying warrants held by the Hanes Trust u/a/d 8/5/88, 41,667 shares held by the Estate of Hope Y. Hanes, 41,667 shares held by the Hope Y. Hanes Revocable Trust, and 28,667 shares and 6,000 shares underlying warrants held by the Elizabeth Hanes Trust, the beneficial ownership of which Mr. Hanes disclaims. Includes 90,000 shares issuable upon conversion of Series B Preferred Stock.

(11) Represents 67,500 shares held by the Lucy H. Masemer Trust u/a dated 10/23/86 and 67,500 held by the Lucy H. Masemer Trust No. 2 u/a dated 12/3/86, of which Mr. Hanes is trustee. Does not include 9,375 shares held by the Hanes Trust u/a/d 8/5/88, the beneficial ownership of which is disclaimed by Mr. Hanes.

(12) Includes 13,750 shares underlying warrants and 715,000 shares issuable upon conversion of Series B Preferred Stock. Also includes 10,000 shares held by the David Holbrooke IRA.

(13) Includes 37,500 shares held by the David Holbrooke IRA.

(14) Includes 760,166 shares and 25,000 shares underlying options held in joint tenancy with Mr. McChesney's wife. Also includes 37,500 shares held by Mr. McChesney's minor son. Also includes 169,302 shares underlying warrants, 100,000 shares underlying options and 73,333 shares issuable upon conversion of Series B Preferred Stock.

(15) Held jointly with Mr. McChesney's wife.

(16) Includes 2,000 shares underlying warrants and 155,900 share underlying options.

(17) Represents 30,000 shares underlying options.

(18) Represents 70,000 shares underlying options.

(19) Represents 60,000 shares underlying options.

(20) Dr. Hunt and Mr. Moley are each executive officers with Lilly or its wholly owned subsidiary, PCS Holding Corporation, which beneficially owns 3,660,200 shares of Common Stock. See footnote (22) and "SPECIAL FACTORS TO BE CONSIDERED-Background to the Merger." Both Dr. Hunt and Mr. Moley disclaim beneficial ownership of all shares beneficially owned by Lilly.

(21) Assumes that all Series B Preferred Stock is converted into shares of Common Stock and all options and warrants are exercised into shares of Common Stock.

(22) Includes 3,000,000 shares of common stock underlying Series C Preferred Stock and 500,000 shares into which shares of Series C Preferred Stock underlying warrants are convertible. See footnote (20) and "SPECIAL FACTORS TO BE CONSIDERED-Background to the Merger." Dr. Hunt and Mr. Moley disclaim beneficial ownership of all shares beneficially owned by Lilly.

## MANAGEMENT OF IMS

### EXECUTIVE OFFICERS AND DIRECTORS

The following table sets forth as of the date hereof certain information with respect to the persons who are expected to serve as executive officers and directors of IMS following the Merger.

| NAME | AGE | POSITION |
|---|---|---|
| Kevin R. Green..... | 40 | President, Chief Executive Officer and Director |
| Charles I. Brown..... | 63 | Executive Vice President, Chief Financial Officer and Director |
| James T. Murphy..... | 51 | Executive Vice President-Corporate Business Development and Director |
| George R. Beauchamp, M.D... | 52 | Senior Vice President-Strategic Development |
| Donald S. Chenoweth..... | 48 | Senior Vice President-Corporate Services and Assistant Secretary |
| Joseph G. Ferguson, Sr..... | 44 | Senior Vice President-Development and Engineering |
| William B. Hein, Sr..... | 45 | Senior Vice President-Sales |
| Edward B. Daniels..... | 44 | Senior Vice National Network Services |
| Charles S. Iobe, Sr..... | 53 | Senior Vice President-Field Operations |
| Richard J. Smeltz..... | 53 | Vice President-Finance |
| Michael S. Hunt, Ph.D..... | 49 | Director |
| Kevin E. Moley..... | 48 | Director |

All members of the Board of Directors hold office until the next annual meeting of shareholders or until their successors are duly elected and qualified. Executive officers serve at the discretion of the Board of Directors.

KEVIN R. GREEN has served as the President and CEO of the Company since March 1995 and as a director of the Company since March 1995. From 1992 to 1995, Mr. Green served as the Executive Vice President, Senior Vice President of Operations and President of Western Region. From 1982 to 1992, Mr. Green was with CyCare Systems, a New York Stock Exchange company serving in a number of capacities including Senior Vice President in charge of one of three operating divisions; Vice President of Acquisitions and Mergers, and Vice President of Field Operations. Mr. Green began his career with Westinghouse Information Services in 1979. Mr. Green received both his MBA and his BA from the University of San Diego in 1979, where he was the recipient of the Franklin Award as the Outstanding Graduating Student.

CHARLES I. BROWN has served as the Executive Vice President and Chief Financial Officer of the Company since March 1995 and as a director of the Company since 1992. From 1992 to March 1995, Mr. Brown was a Senior Vice President and the Chief Financial Officer of the Company. From 1983 to 1992, Mr. Brown was active as a financial consultant to, and a director of, several banks and corporations. He was formerly Chairman of the Board of American National Bank-Laramie, Laramie, Wyoming, from 1986 to 1992, the Chairman of the Board of the Rawlins National Bank, Rawlins,

Wyoming, from 1983 to 1991, and the Chairman of the Board of Prudential Bank of Denver, Colorado from 1984 to 1986. He has served as a director of The Original Sixteen to One Mine, Inc., Allegheny, California, a publicly held gold mining company, since 1986 and as a director of Izzo Systems, Inc., Denver, Colorado, a private manufacturer of golf bags and related products since 1992. From 1974 to 1982, he served as Senior Vice President and Director of Energy Fuels Corporation, a Denver based, privately owned mining company. From 1959 to 1974, he served as Vice President/Finance and Director of Western Nuclear, Inc., a publicly-owned mining company listed on the American Stock Exchange prior to its acquisition by Phelps Dodge Corporation in 1970. Since 1978, he has served as a Trustee of the Colorado State University Research Foundation, Fort Collins, Colorado and since 1974, he has served as a Trustee of the Colorado Outward Bound School. Mr. Brown received a master of business administration degree with distinction from Harvard Graduate School of Business Administration in 1959 and a bachelor of arts from Williams College in 1954.

JAMES T. MURPHY has served as the Executive Vice President for Corporate Business Development of the Company since March 1995 and as a director of the Company since April 1995. From January 1994 to April 1995, Mr Murphy was President or Executive Vice President and Chief Operating Officer of the Company. From 1991 to 1993, Mr. Murphy was President/Eastern Region for the Company. From 1989 to 1992, Mr. Murphy was an independent consultant involved in the capital financing of several emerging healthcare ventures. From 1984 to 1988, Mr. Murphy served as the President for Medaphis Corporation, a company that provides billing services for the medical community and that became a public company in 1991. From 1973 to 1982, Mr. Murphy was the Director of Corporate Marketing for Humana, Inc., which was then an owner and operator of hospitals. Mr. Murphy is also a director of AmHealth, Inc., a small public company. Mr. Murphy obtained a bachelor's degree from the University of Delaware in 1968.

GEORGE R. BEAUCHAMP, M.D. has served as the Senior Vice President for Strategic Development for the Company since December 1994 and was Vice President-Medical Affairs for the Company from 1991 to 1994. From 1975 to present, Dr. Beauchamp has practiced medicine as a Pediatric Ophthalmologist. From 1987 to 1990, Dr. Beauchamp served as Medical Director of the Office of Regional Health Affairs Foundation and held numerous positions of authority and responsibility in American ophthalmology, including the American Board of Ophthalmology where he has served as a director since 1990. Dr. Beauchamp received his undergraduate degree (bachelor of arts, physiology) from the University of California, Berkeley in 1965 and his doctor of medicine degree from Northwestern University in Chicago in 1968. After internship and residency training in ophthalmology at Walter Reed Army Medical Center in Washington, D.C., and completing his military service obligation, Dr. Beauchamp undertook additional specialized training in corneal surgery and pediatric ophthalmology.

DONALD S. CHENOWETH has served as the Senior Vice President and Assistant Secretary of the Company since 1991. From 1985 to 1991, Mr. Chenoweth held various hospital senior management positions, including Senior Vice President Corporate Services, St. Joseph's Health Network and President, St. Joseph's Preferred Provider Corporation from 1990 to 1991; Vice President Corporate Services, Good Samaritan Hospital and Health Center from 1980 to 1985; and Assistant Vice President for Management Services, Methodist Hospitals of Dallas from 1975 to 1978. From 1978 to 1980 Mr. Chenoweth was a manager with CSF, Ltd., a healthcare management consulting firm and from 1971 to 1975 Mr. Chenoweth was regional manager, senior consultant, project manager and systems analyst of Medicus Systems Corporation, a healthcare management consulting firm. Mr. Chenoweth obtained bachelor's degrees in industrial engineering in 1970 and a master's degree in systems engineering (computer science) in 1971 from Southern Methodist University and an A.M.P. (advanced management program) degree from the Wharton Business School in 1988.

JOSEPH G. FERGUSON, SR. has served as the Senior Vice President for Engineering and Development of the Company since March 1995. Mr. Ferguson has 20 years of experience in the development of commercial software application products in various industries. From 1990 to 1994

Mr. Ferguson was Vice President for Product Engineering at Community Health Computing, in Houston, Texas, a hospital information systems company, where he was responsible for the development of Community Health Computing's new generation of clinical application products. From 1982 to 1989 Mr. Ferguson was Vice President for Engineering and co-founder of Covalent Systems, a provider of turnkey manufacturing systems, which provides application software solutions to the graphic arts industry. From 1973 to 1982 Mr. Ferguson was with Hewlett-Packard in various capacities related to the development and marketing of Hewlett-Packard's internal and commercial manufacturing application products. Mr. Ferguson holds a master of business administration degree from the Wharton School of Business and bachelor's degree from the University of California at Santa Cruz.

WILLIAM B. HEIN has served as the Senior Vice President of Sales of the Company since 1994. Mr. Hein was previously the President/Central Region for the Company and was Vice President of the Company from 1988 to 1993. From 1979 to 1987, Mr. Hein was with Control Data Corporation, a computer systems and service company, where he managed field sales and support organizations and developed strategic plans for domestic and international computer sales programs. From 1972 to 1979, Mr. Hein was Vice President and a principal of Computing Associates, Inc., a software development and consulting organization. Mr. Hein received a bachelor of science degree in engineering from the University of Arizona in 1973, where he also took post graduate courses in business administration.

EDWARD B. DANIELS has served as the Senior Vice President for National Network Services of the Company since 1994. From 1993 to 1994 Mr. Daniels was Vice President of Cornerstone Health Management, a geriatric services company, in Dallas, Texas. From 1984 to 1993, Mr. Daniels served as Vice President and then President of GeriMed of America, Inc., a geriatric services company. In 1984, Mr. Daniels was Vice President of Envisioneering, a laboratory information software development company. From 1981 to 1984, Mr. Daniels served as Regional Director of Health Care Systems at Arthur Young & Company, an accounting firm. From 1976 to 1980, Mr. Daniels held both technical and management positions in computer services and operations analysis at Henry Ford Hospital in Detroit, Michigan. Mr. Daniels obtained a bachelor's degree in psychology from Southern Illinois University in 1972 and a master's degree in industrial engineering from the State University of New York at Buffalo in 1976.

CHARLES S. IOBE, SR. has served as the Senior Vice President of Field Operations of the Company since 1994. From 1990 to 1993, Mr. Iobe was Executive Vice President of TME, Inc., a medical imaging company. From 1981 to 1983, Mr. Iobe was Chief Operating Officer of Humana, Inc.'s Health Services Division. Mr. Iobe received his bachelor's degree in business administration from Texas Christian University in 1964 and a master of business administration degree from the George Washington University in 1967.

RICHARD J. SMELTZ has served as the Vice President of Finance of the Company since 1991. From 1988 to 1990, Mr. Smeltz was the Vice President/Chief Financial Officer for Medical Warehouse, Inc., a membership warehouse specializing in medical supplies for doctor's offices and home healthcare and pharmacies. From 1982 to 1988, Mr. Smeltz was Vice President and Treasurer of Pace Membership Warehouse, Inc. a membership warehouse. From 1974 to 1982, Mr. Smeltz was Vice President/Controller of Handyman Home Improvement Centers, which has retail hardware outlets. Mr. Smeltz received a bachelor of science in accounting from California State University of Los Angeles in 1965 and a juris doctor degree from Loyola University School of Law in 1973. Mr. Smeltz also has instructed college courses in accounting, business law and federal income tax.

MICHAEL S. HUNT has served as a director of the Company since 1994. Since 1994, Mr. Hunt has been the Vice President, North American Business Development for Lilly. From 1993 to 1994, Mr. Hunt served as Vice President of Pharmaceutical Strategic Planning and Japan Business Planning for Lilly. Mr. Hunt joined Lilly in 1974 and had increasing responsibilities until he was appointed Vice President of Finance and Treasurer in 1985. Mr. Hunt is a member of the Board of Directors for Circle Income Shares, and the Indianapolis Symphony Orchestra Financing. Mr. Hunt received a bachelor of arts

degree in economics from Carlton College in 1968 and a doctorate of philosophy degree in business and economics from Harvard University.

KEVIN E. MOLEY has served as a director of the Company since 1994 and was interim Chief Executive Officer of the Company from July 1994 to December 1994. Mr. Moley is Senior Vice President, Health Systems Management of PCS Health Systems, Inc., a subsidiary of Lilly. Mr. Moley served as Deputy Secretary of the U.S. Department of Health and Human Services ("HHS") from February 1992 until January 1993. His career at HHS included tenures as Assistant Secretary for Management and Budget, from 1989 to 1992, Chief Financial Officer from 1989 to 1992, and director of the office of Prepaid Health Care from 1986 to 1988. He served as Vice Chairman of the President's Council on Management Improvement from 1989 to 1992 and on the steering committee of the National Health Policy Forum from 1989 to 1993. Prior to serving at HHS, Mr. Moley held several positions with CNA from 1969 to 1974 and New England Life Insurance in marketing and underwriting management from 1974 to 1983. He attended Georgetown University in Washington, D.C., served in the United States Marines in Vietnam and was awarded the Navy Commendation medal with Combat V and the Purple Heart.

EXECUTIVE COMPENSATION

The following table sets forth the total compensation paid by the Company to, or accrued by the Company on behalf of, the Chief Executive Officer and the four most highly compensated executive officers other than the Chief Executive Officer (hereafter collectively referred to as the "Named Executive Officers") for the fiscal years ended December 31, 1994, 1993 and 1992.

SUMMARY COMPENSATION TABLE

| | | ANNUAL COMPENSATION | | |
|---|---|---|---|---|
| NAME AND PRINCIPAL POSITION | YEAR | SALARY ($) | BONUS($) | OTHER ANNUAL COMPEN-SATION($) |
| Kevin R. Green(1)..... | 1994 | 124,999.92 | 25,000(2) | - |
| President, Chief Executive | 1993 | 123,333.16 | 168,750(3) | - |
| Officer | 1992 | 92,907.87 | | - |
| Charles I. Brown..... | 1994 | 124,999.92 | 25,000(2) | - |
| Executive Vice President and | 1993 | 108,333.39 | - | - |
| Chief Financial Officer | 1992 | 91,666.73 | - | - |
| James T. Murphy..... | 1994 | 141,666.64 | 25,000(2) | - |
| Executive Vice President- | 1993 | 108,333.19 | - | - |
| Corporate Business Development | 1992 | 72,475.83 | 25,000 | - |
| Donald S. Chenoweth..... | 1994 | 124,999.92 | 25,000 | - |
| Senior Vice President | 1993 | 108,333.18 | - | - |
| -Corporate Services and Assistant Secretary | 1992 | 99,230.71 | 10,000 | - |
| William B. Hein, Sr..... | 1994 | 124,999.92 | 25,000(2) | - |
| Senior Vice President-Sales | 1993 | 133,333.39 | 104,500(4) | - |
| | 1992 | 74,759.70 | - | - |
| Kevin E. Moley(1)..... | 1994 | - | - | - |
| Director | 1993 | - | - | - |
| | 1992 | - | - | - |

| | | | | |
|---|---|---|---|---|
| John A. McChesney(1)..... | 1994 | 199,999.02 | 166,478(5) | - |
| Director | 1993 | 99,999.84 | - | - |
| | 1992 | 100,640.88 | - | - |

(1) John A. McChesney was the Company's President and Chief Executive Officer until April, 1994. Mr. Moley was the Company's Vice Chairman and Chief Executive Officer from July 1994 to December, 1994. Kevin R. Green became the President and Chief Executive Officer of the Company in March, 1995.
(2) Paid in 1995 for 1994.
(3) Paid in 1994 and 1993 for 1993 and prior years and includes $25,000 in cash and 47,500 shares of Common Stock valued at $143,750.
(4) Paid in 1994 and 1993 for 1993 and includes $17,000 in cash and 25,000 shares of Common Stock valued at $87,500.
(5) Paid in 1994 for services in prior years.

OPTION GRANTS TABLE

The following table provides information as to options granted to the Named Executive Officers during the fiscal year ended December 31, 1994. No stock appreciation rights have ever been granted by the Company.

OPTION GRANTS IN LAST FISCAL YEAR
INDIVIDUAL GRANTS

| NAME | NUMBER OF SECURITIES UNDERLYING OPTIONS /WARRANTS GRANTED | % OF TOTAL OPTIONS GRANTED TO EMPLOYEES IN FISCAL YEAR 1994 | EXERCISE PRICE ($/SH) | EXPIRATION DATE |
|---|---|---|---|---|
| Kevin R. Green..... | 100,000 | 19.0 | $4.00 | 8/31/04 |
| Charles I. Brown..... | 100,000 | 19.0 | $4.00 | 8/31/04 |
| James T. Murphy..... | 100,000 | 19.0 | $4.00 | 8/31/04 |
| Donald S. Chenoweth... | 100,000 | 19.0 | $4.00 | 8/31/04 |
| William B. Hein, Sr... | 100,000 | 19.0 | $4.00 | 8/31/04 |
| Kevin E. Moley..... | - 0 - | - | - | - |
| John A. McChesney..... | 79,302(1) | 25.6(2) | $4.00 | 1/21/97 |

(1) Represents warrants issued at an exercise price of $4.00 per share.
(2) Percentage based on numbers of warrants granted to all employees in 1994.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR
AND YEAR-END OPTION VALUES

The following table provides information as to options held by the Named Executive Officers as of December 31, 1994.

| NAME | SHARES ACQUIRED ON EXERCISE (#) | VALUE REALIZED | NUMBER OF UNEXERCISED OPTIONS/WARRANTS AT DECEMBER 31, 1994 EXERCISABLE/UNEXERCISABLE | VALUE OF UNEXERCISED IN-THE-MONEY OPTIONS/WARRANTS AT DECEMBER 31, 1994 EXERCISABLE/UNEXERCISABLE* |
|---|---|---|---|---|
| Kevin R. Green..... | - 0 - | - 0 - | 78,131/73,669 | $116,156/$74,044 |
| Charles I. Brown..... | - 0 - | - 0 - | 234,886/74,114 | $303,914/$74,114 |
| James T. Murphy..... | 10,000(1) | $25,000 | 77,781/73,419 | $ 90,631/$73,669 |
| Donald S. Chenoweth..... | - 0 - | - 0 - | 79,606/73,294 | $115,369/$73,481 |
| William B. Hein, Sr..... | - 0 - | - 0 - | 83,131/73,669 | $198,656/$74,044 |
| Kevin E. Moley..... | - 0 - | - 0 - | - 0 - / - 0 - | - 0 - / - 0 - |
| John A. McChesney..... | 27,000(2) | $67,500 | 293,052/-0- | $ 496,552/ - 0 - |

* Share value based on fair market value of the Company's common stock of $5.00 as determined by the board of directors in 1994.
(1) Exercised warrants to purchase 10,000 shares at $2.50 per share.
(2) Exercised warrants to purchase 27,000 shares at $2.50 per share.

## COMPENSATION OF DIRECTORS

All directors are reimbursement for actual out-of-pocket expenses incurred in connection with attending meetings.

## LIMITATIONS ON LIABILITY OF OFFICERS AND DIRECTORS

The Company's Amended Articles of Incorporation prior to the Merger and the New By-Laws following the Merger, each contain a provision eliminating or limiting director liability to the Company and its shareholders for monetary damages arising from acts or omissions in the director's capacity as a director. The provisions do not, however, eliminate or limit the personal liability of a director (i) for any breach of such director's duty of loyalty to the Company or its shareholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under the Colorado statutory provision making directors personally liable, under a negligence standard, for unlawful dividends or unlawful stock purchases or redemptions, or (iv) for any transaction from which the director derived an improper personal benefit. This provision offers persons who serve on the Board of Directors of the Company protection against awards of monetary damages resulting from breaches of their duty of care (except as indicated above). As a result of these provisions, the ability of the Company or a shareholder thereof to successfully prosecute an action against a director for a breach of his duty of care is limited. However, the provisions do not affect the availability of equitable remedies such as an injunction or rescission based upon a director's breach of his duty of care. The Commission has taken the position that these provisions will have no effect on claims arising under the federal securities laws.

## CERTAIN TRANSACTIONS

The Company has issued warrants to purchase 10,000 shares (aggregate) of its common stock to eight directors of the Company as consideration for their guarantee of the Company's revolving line of credit.

During 1993 and 1994, the Company paid $61,000 and $125,000, respectively, to David R. Holbrooke, a director, as reimbursement for costs and expenses incurred by him directly or indirectly in connection with certain litigation or claims related to IMS-NET of Northern California, Inc. and related matters, concluded in early 1995, in accordance with obligations of the Company to provide indemnification for such expenses.

The Company's founder and former Chairman, President and Chief Executive Officer, John A. McChesney, was an employee and maintained an office for the Company near San Diego, California through 1994. In early 1995, Mr. McChesney resigned as an officer and employee of the Company, but remained as a director. In connection with the change, the Company agreed to continue Mr. McChesney's compensation through 1995, to pay certain office expenses incurred in closing the San Diego office and to pay office rent through June 1995. As a result, the Company charged $479,439 to expenses of reorganization in the fourth quarter of 1994, including amounts to be paid to Mr. McChesney in 1995. In connection with the resignation, Mr. McChesney has entered into a noncompetition and confidentiality agreement with the Company.

The Company advanced Kevin Green, the Company's President and Chief Executive Officer, approximately $90,000 in connection with his relocation from Phoenix, Arizona to Golden, Colorado in June 1995. Mr. Green repaid the Company $60,000 of the advance and the balance was

deemed by the Compensation Committee of the Board of Directors to be relocation expense payable by the Company.

Kevin Green has an employment arrangement with the Company's Board of Directors, completed in connection with his relocation to Denver in June 1995, which includes the obligation of the Company to pay him a severance payment equal to 24 months compensation at the rate of compensation then paid to him, in the event, upon a change of control of the Company (such as the Merger), Mr. Green reasonably determines that due to circumstances which have changed as a result of the change of control he is unable to perform his services as the Chief Executive Officer and President of the Company in the manner in which he was expected to perform such services prior to the change of control.

In 1994, the Company sold software and equipment valued at $177,500 to RMBA Associates, a company owned by Robert M. Bryce, a director of the Company at that time. RMBA resold these assets and other services of RMBA to a client which operates an IMS MEDACOM/(R)/ Network to which the Company provides services.

In 1993, David Holbrooke, a director of the Company advanced the Company $250,000. In addition, three directors (Robert Bryce, David Holbrooke and Charles Brown) each advanced $75,000 to the Company in 1993. These advances bore interest at prime plus 3% annually, were secured by assignments of cash flows, and were repaid in 1993.

In January 1994, the Company issued warrants to purchase 79,302 shares of Company Common Stock at $4.00 per share to John McChesney as compensation for guarantees of certain company obligations in prior years and repaid $166,938 to Mr. McChesney for advances made to the Company in prior years.

In December 1994, the Company exchanged 4,000 shares of Company Common Stock and 2,000 warrants to purchase Company Common Stock for each of the 81 outstanding limited partnership interests in a limited partnership of which a subsidiary corporation was the general partner. The partnership held an exclusive license to operate an IMS network in Colorado. Seven of the Company's directors and three other officers of the Company were also limited partners in the partnership and held a total of 32 partnership interests, in exchange for which the Company issued 128,000 shares Company Common Stock and warrants to purchase 64,000 shares at $5.00 per share. The exchanges with each of the Company offices and directors were on the same terms as the exchanges with each of the other 37 nonaffiliated limited partners.

## AMENDMENT TO THE IMS 1994 EMPLOYEE STOCK OPTION PLAN

On April 22, 1995, subject to shareholder approval, the Board of Directors of IMS approved an amendment to the 1994 Plan increasing the number of shares of common stock issuable under the 1994 Plan from 400,000 shares to 838,600 shares which equals the total number of options previously granted under the 1994 Plan. Under the proposed amendment the first sentence of Section 2 of the 1994 Plan would be amended to read as follows:

> "The number of shares of the Company's No Par Value Common Stock ("Common Stock") which may be optioned under this Plan is 838,600 shares."

The other terms of the 1994 Plan would remain unchanged. Approval of the Merger by IMS shareholders will be deemed to include approval of the proposed amendment. Following the Merger,

no additional options will be granted under the 1994 Plan. The description of the proposed amendment to the 1994 Plan is a summary and does not purport to be fully descriptive.

## EXPERTS

The consolidated financial statements of IMS included in this Proxy Statement-Prospectus and elsewhere in the Registration Statement have been audited by Arthur Andersen LLP, independent public accountants, as indicated in their report with respect thereto, and are included herein in reliance upon the authority of said firm as experts in giving said report.

The consolidated financial statements of Lilly incorporated by reference in Lilly's Annual Report (Form 10-K) for the year ended December 31, 1994, have been audited by Ernst & Young LLP, independent auditors, as set forth in their report thereon included therein and incorporated herein by reference. Such consolidated financial statements are incorporated herein by reference in reliance upon such report given upon the authority of such firm as experts in accounting and auditing.

Representatives of both Arthur Andersen LLP and Ernst & Young LLP will be present at the Special Meeting with the opportunity to make a statement if they desire to do so and to respond to appropriate questions.

## LEGAL OPINIONS

The validity of the securities to be issued by Lilly in connection with the Merger will be passed upon by Dewey Ballantine, New York, New York. In rendering such opinion, such firm will rely, as to matters governed by the laws of the State of Colorado, upon the opinion of Holme Roberts & Owen LLC, Denver, Colorado, and as to matters governed by the laws of the State of Indiana, upon the opinion of Baker and Daniels, Indianapolis, Indiana. The validity of the securities to be issued by IMS in connection with the Merger will be passed upon by Hopper and Kanouff, P.C., Denver, Colorado.

## INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents previously filed by Lilly with the Commission pursuant to the Exchange Act are hereby incorporated by reference in this Proxy Statement-Prospectus:

1. Lilly's Annual Report on Form 10-K for the year ended December 31, 1994.

2. Lilly's Quarterly Reports on Form 10-Q for the quarters ended March 31, 1995 and June 30, 1995.

3. Lilly's Current Reports on Form 8-K dated June 12, 1995.

4. Lilly's Proxy Statement dated March 6, 1995, in connection with its Annual Meeting of Stockholders held on April 17, 1995.

All documents subsequently filed by Lilly pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the Special Meeting shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing thereof. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Proxy Statement-Prospectus to the extent that a statement contained herein, or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein, modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Proxy Statement-Prospectus.

INDEX TO FINANCIAL STATEMENTS

CONSOLIDATED FINANCIAL STATEMENTS OF
INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES
AS OF DECEMBER 31, 1994 AND JUNE 30, 1995 (UNAUDITED)
AND FOR EACH OF THE TWO YEARS ENDED DECEMBER 31, 1994
AND FOR THE SIX MONTH PERIODS ENDED JUNE 30, 1994 AND 1995 (UNAUDITED)


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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To Integrated Medical Systems, Inc.:

We have audited the accompanying consolidated balance sheet of INTEGRATED MEDICAL SYSTEMS, INC. (a Colorado corporation) and subsidiaries as of December 31, 1994, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the two years in the period ended December 31, 1994. 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 generally accepted auditing standards. 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 consolidated financial statements referred to above present fairly, in all material respects, the financial position of Integrated Medical Systems, Inc. and subsidiaries as of December 31, 1994, and the results of their operations and their cash flows for each of the two years in the period ended December 31, 1994, in conformity with generally accepted accounting principles.

As explained in Notes 2 and 4 to the consolidated financial statements, effective January 1, 1993, the Company changed its method of accounting for income taxes.

/s/ ARTHUR ANDERSEN LLP

Denver, Colorado,
March 1, 1995.

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

| ASSETS | December 31, 1994 | June 30, 1995 (Unaudited) |
|---|---|---|
| CURRENT ASSETS: | | |
| Cash and cash equivalents | $ 1,357,847 | $ 1,317,791 |
| Contracts receivable and other (Note 2) | 6,802,209 | 3,102,600 |
| Affiliate receivables | - | 223,940 |
| Stock subscriptions and joint venturers' contributions receivable (Note 8) | 275,000 | - |
| Prepaid expenses | 333,556 | 994,224 |
| Total current assets | 8,768,612 | 5,638,575 |
| CONTRACTS RECEIVABLE, long-term portion (Note 2) | 2,166,468 | 1,005,956 |
| EQUIPMENT AND FURNITURE (Notes 2 and 5) | | |
| Computer equipment | 4,058,897 | 4,751,696 |
| Computer software | 387,313 | 393,463 |
| Furniture and fixtures | 524,764 | 804,259 |
| Leasehold improvements | 228,930 | 275,938 |
| Equipment held under capital leases | 239,428 | 239,428 |
| | 5,439,332 | 6,464,784 |
| Less- Accumulated depreciation and amortization | (1,250,770) | (1,819,296) |
| | 4,188,562 | 4,645,488 |
| OTHER | 435,662 | 814,211 |
| | $15,559,304 | $12,104,230 |

The accompanying notes to consolidated financial statements are an integral part of these balance sheets.

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

| LIABILITIES AND STOCKHOLDERS' EQUITY | December 31, 1994 | June 30, 1995 (Unaudited) |
|---|---|---|
| CURRENT LIABILITIES: | | |
| Accounts payable | $ 2,202,652 | $ 1,377,495 |
| Accrued expenses | 1,961,779 | 966,647 |
| Payables to related parties (Note 3) | 1,085,834 | 1,095,789 |
| Deferred contract revenue (Note 2) | 2,720,037 | 2,686,837 |
| Current maturities of long-term debt (Note 5) | 181,182 | 123,777 |
| Total current liabilities | 8,151,484 | 6,250,545 |
| LONG-TERM DEFERRED CONTRACT REVENUE (Note 2) | 840,751 | 712,414 |
| LONG-TERM DEBT (Note 5) | 183,998 | 3,121,378 |
| COMMITMENTS AND CONTINGENCIES (Notes 6 and 7) | | |
| OTHER DEFERRED CREDITS (Note 8) | 600,000 | 600,000 |
| MINORITY INTERESTS IN CONSOLIDATED SUBSIDIARIES | 84,521 | 169,389 |
| STOCKHOLDERS' EQUITY (Notes 8 and 11): | | |
| Series B voting preferred stock, $1 par value, 2,000,000 shares authorized, issued and outstanding, liquidation preference of $3,400,000, convertible on a 3 for 2 basis into common stock | 2,000,000 | 2,000,000 |
| Series C preferred stock, $1 par value, 5,000,000 shares authorized, 2,625,000 and 3,000,000 shares issued and outstanding, respectively, liquidation preference of $13,750,000, convertible on a 1 for 1 basis into common stock | 11,875,000 | 13,750,000 |
| Common stock, no par value, 25,000,000 shares authorized, 6,554,730 and 6,577,162 shares issued and outstanding, respectively | 8,836,973 | 8,947,591 |
| Capital contributions from joint venturers | 6,508,230 | 6,508,230 |
| Accumulated deficit | (23,441,653) | (29,905,317) |
| Less- Stock subscriptions and joint venturers' contributions receivable | (80,000) | (50,000) |
| Total stockholders' equity | 5,698,550 | 1,250,504 |
| | $ 15,559,304 | $ 12,104,230 |

The accompanying notes to consolidated financial statements are an integral part of these balance sheets.

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

| | For the Years Ended December 31 | | For the Six Months Ended June 30 | |
|---|---|---|---|---|
| | 1993 | 1994 | 1994 | 1995 |
| | | | (Unaudited) | |
| REVENUES: | | | | |
| Network service agreement revenue | $ 5,130,779 | $ 7,456,654 | $ 3,260,641 | $ 5,436,113 |
| Network license agreement revenue | 2,550,000 | 10,057,983 | 2,893,083 | 1,371,400 |
| Network license service revenue | 112,812 | 365,726 | 69,058 | 1,122,503 |
| | 7,793,591 | 17,880,363 | 6,222,782 | 7,930,016 |
| COSTS AND EXPENSES: | | | | |
| Salaries, payroll taxes and benefits | 7,204,422 | 11,838,793 | 4,689,073 | 8,477,812 |
| Facilities | 1,679,328 | 3,187,007 | 1,364,114 | 2,377,176 |
| Selling, general and administrative | 2,608,918 | 5,848,436 | 2,246,355 | 3,418,612 |
| Costs of subsidiary litigation (Note 6) | 1,658,483 | 784,787 | 713,576 | 53,014 |
| Reorganization costs | - | 479,439 | - | - |
| | 13,151,151 | 22,138,462 | 9,013,118 | 14,326,614 |
| LOSS FROM OPERATIONS | (5,357,560) | (4,258,099) | (2,790,336) | (6,396,598) |
| OTHER INCOME (EXPENSE): | | | | |
| Interest income | 23,795 | 343,221 | 119,927 | 103,069 |
| Interest expense | (171,335) | (118,850) | (32,507) | (85,267) |
| Loss on dissolution of partnership | (213,823) | - | - | - |
| Other, net | (32,534) | (64,772) | (30,643) | - |
| | (393,897) | 159,599 | 56,777 | 17,802 |
| LOSS BEFORE MINORITY INTEREST IN OPERATIONS OF SUBSIDIARIES | (5,751,457) | (4,098,500) | (2,733,559) | (6,378,796) |
| PROVISION FOR INCOME TAXES | - | - | - | - |
| MINORITY INTEREST IN INCOME FROM OPERATIONS OF SUBSIDIARIES | (184,263) | (153,281) | (57,161) | (84,868) |
| NET LOSS | $(5,935,720) | $ 4,251,781) | $(2,790,720) | $(6,463,664) |
| NET LOSS PER COMMON SHARE | $(1.01) | $(0.70) | $(0.46) | $(0.99) |
| WEIGHTED AVERAGE COMMON SHARES OUTSTANDING | 5,868,577 | 6,099,120 | 6,008,509 | 6,563,019 |

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

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

FOR THE YEARS ENDED DECEMBER 31, 1993 AND 1994

AND FOR THE SIX MONTHS ENDED JUNE 30, 1995 (Unaudited)

(See Note 8)

| | Series B Preferred Stock | | Series C Preferred Stock | | Common Stock | |
|---|---|---|---|---|---|---|
| | Shares | Amount | Shares | Amount | Shares | Amount |
| BALANCES, December 31, 1992 | 2,000,000 | $2,000,000 | - | $ - | 5,783,368 | $5,612,143 |
| Issuance of common stock at $5.00 per share including accretion to put price of $6.00 per share | - | - | - | - | 40,000 | 240,000 |
| Issuance of common stock at $5.00 per share | - | - | - | - | 50,000 | 250,000 |
| Issuance of common stock at $3.50 per share | - | - | - | - | 18,500 | 64,750 |
| Exercise of common stock purchase warrants at $1.50 per share | - | - | - | - | 62,500 | 93,750 |
| Exercise of employee common stock purchase options at $2.50 per share | - | - | - | - | 16,500 | 41,250 |
| Issuance of Series C preferred stock at $4.00 per share | - | - | 1,250,000 | 5,000,000 | - | - |
| Stock subscriptions receivable subsequently collected | - | - | - | - | - | - |
| Joint venturers contributions receivable subsequently collected | - | - | - | - | - | - |
| Joint venturers contributions | - | - | - | - | - | - |
| Issuance of common stock at $5.00 per share | - | - | - | - | 45,000 | 225,000 |
| Repurchase and retirement of common stock at put price of $6.00 per share | - | - | - | - | (45,000) | (225,000) |
| Net loss | - | - | - | - | - | - |
| BALANCES, December 31, 1993 | 2,000,000 | $2,000,000 | 1,250,000 | $5,000,000 | $5,970,868 | $6,301,893 |

| | Accumulated Deficit | Capital Contributions from Joint Ventures | Stock Subscriptions and Joint Ventures Contributions Receivable | Total |
|---|---|---|---|---|
| BALANCES, December 31, 1992 | $(13,169,152) | $2,285,100 | $(208,875) | $(3,480,784) |
| Issuance of common stock at $5.00 per share including accretion to put price of $6.00 per share | (40,000) | - | - | 200,000 |
| Issuance of common stock at $5.00 per share | - | - | - | 250,000 |
| Issuance of common stock at $3.50 per share | - | - | - | 64,750 |
| Exercise of common stock purchase warrants at $1.50 per share | - | - | - | 93,750 |
| Exercise of employee common stock purchase options at $2.50 per share | - | - | - | 41,250 |
| Issuance of Series C preferred stock at $4.00 per share | - | - | - | 5,000,000 |
| Stock subscriptions receivable subsequently collected | - | - | 28,875 | 28,875 |
| Joint venturers contributions receivable subsequently collected | - | - | 50,000 | 50,000 |
| Joint venturers | - | 4,073,130 | - | 4,073,130 |

| | | | | |
|---|---|---|---|---|
| contributions | | | | |
| Issuance of common stock at $5.00 per share | - | - | - | 225,000 |
| Repurchase and retirement of common stock at put price of $6.00 per share | (45,000) | - | - | (270,000) |
| Net loss | (5,935,720) | - | - | (5,935,720) |
| BALANCES, December 31, 1993 | $(19,189,872) | $6,358,230 | $(130,000) | $ 340,251 |

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

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY

FOR THE YEARS ENDED DECEMBER 31, 1993 AND 1994

AND FOR THE SIX MONTHS ENDED JUNE 30, 1995 (Unaudited)

(See Note 8)

| | Series B Preferred Stock | | Series C Preferred Stock | | Common Stock | |
|---|---|---|---|---|---|---|
| | Shares | Amount | Shares | Amount | Shares | Amount |
| BALANCES, December 31, 1993 | 2,000,000 | $2,000,000 | 1,250,000 | $ 5,000,000 | 5,970,868 | $6,301,893 |
| Issuance of Series C preferred stock at $5.00 per share | - | - | 1,000,000 | 5,000,000 | - | - |
| Exercise of Series C preferred stock purchase warrants at $5.00 per share | - | - | 375,000 | 1,875,000 | - | - |
| Exercise of common stock purchase warrants at $2.50 per share | - | - | - | - | 122,000 | 305,000 |
| Issuance of common stock at $3.50 per share | - | - | - | - | 37,500 | 131,250 |
| Issuance of common stock at $5.00 per share | - | - | - | - | 409,000 | 2,045,000 |
| Joint venturers contributions | - | - | - | - | - | - |
| Exercise of common stock purchase warrants at $3.50 per share | - | - | - | - | 15,000 | 52,500 |
| Exercise of employee common stock purchase options at $3.50 per share | - | - | - | - | 236 | 826 |
| Exercise of employee common stock purchase options at $4.00 per share | - | - | - | - | 126 | 504 |
| Joint venturers contributions receivable subsequently collected | - | - | - | - | - | - |
| Net loss | - | - | - | - | - | - |
| BALANCES, December 31, 1994 | 2,000,000 | 2,000,000 | 2,625,000 | 11,875,000 | 6,554,730 | 8,836,973 |
| UNAUDITED: | | | | | | |
| Issuance of Series C preferred stock at $5.00 per share | - | - | 375,000 | 1,875,000 | - | - |
| Exercise of common stock purchase warrants at $5.00 per share | - | - | - | - | 1,000 | 5,000 |
| Exercise of employee common stock purchase options at $4.00 per share | - | - | - | - | 1,213 | 4,852 |
| Exercise of employee common stock purchase options at $3.50 per share | - | - | - | - | 219 | 766 |
| Issuance of common stock to purchase minority interest in IMS-Net of Kansas City, Inc. | - | - | - | - | 20,000 | 100,000 |
| Joint venturers contributions receivable subsequently collected | - | - | - | - | - | - |
| Net loss | - | - | - | - | - | - |
| BALANCES, June 30, 1995 (Unaudited) | 2,000,000 | $2,000,000 | 3,000,000 | $13,750,000 | 6,577,162 | $8,947,591 |

| | Accumulated Deficit | Capital Contributions from Joint Ventures | Stock Subscriptions and Joint Ventures Contributions Receivable | Total |
|---|---|---|---|---|
| BALANCES, December 31, 1993 | $(19,189,872) | $6,358,230 | $(130,000) | $ 340,251 |
| Issuance of Series C preferred stock at $5.00 per share | - | - | - | 5,000,000 |
| Exercise of Series C preferred stock purchase warrants at $5.00 per | - | - | - | 1,875,000 |

| | | | | |
|---|---|---|---|---|
| share | | | | |
| Exercise of common stock purchase warrants at $2.50 per share | - | - | - | 305,000 |
| Issuance of common stock at $3.50 per share | - | - | - | 131,250 |
| Issuance of common stock at $5.00 per share | - | - | - | 2,045,000 |
| Joint venturers contributions | - | 150,000 | - | 150,000 |
| Exercise of common stock purchase warrants at $3.50 per share | - | - | - | 52,500 |
| Exercise of employee common stock purchase options at $3.50 per share | - | - | - | 826 |
| Exercise of employee common stock purchase options at $4.00 per share | - | - | - | 504 |
| Joint venturers contributions receivable subsequently collected | - | - | 50,000 | 50,000 |
| Net loss | (4,251,781) | - | - | (4,251,781) |
| BALANCES, December 31, 1994 | (23,441,653) | 6,508,230 | (80,000) | 5,698,550 |
| UNAUDITED: | | | | |
| Issuance of Series C preferred stock at $5.00 per share | - | - | - | 1,875,000 |
| Exercise of common stock purchase warrants at $5.00 per share | - | - | - | 5,000 |
| Exercise of employee common stock purchase options at $4.00 per share | - | - | - | 4,852 |
| Exercise of employee common stock purchase options at $3.50 per share | - | - | - | 766 |
| Issuance of common stock to purchase minority interest in IMS-Net of Kansas City, Inc. | - | - | - | 100,000 |
| Joint venturers contributions receivable subsequently collected | - | - | 30,000 | 30,000 |
| Net loss | (6,463,664) | - | - | (6,463,664) |
| BALANCES, June 30, 1995 (Unaudited) | $(29,905,317) | $6,508,230 | $ (50,000) | $ 1,250,504 |

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

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

| | For the Years Ended December 31 | | For the Six Months Ended June 30 | |
|---|---|---|---|---|
| | 1993 | 1994 | 1994 | 1995 |
| | | | (Unaudited) | |
| CASH FLOWS USED IN OPERATING ACTIVITIES: | | | | |
| Net loss | $(5,935,720) | $(4,251,781) | $(2,790,720) | $(6,463,664) |
| Adjustments to reconcile net loss to net cash used in operating activities- | | | | |
| Depreciation and amortization | 407,207 | 743,313 | 297,923 | 572,110 |
| Minority interest in income of subsidiaries | 184,263 | 153,281 | 57,161 | 84,868 |
| Loss on dissolution of partnership | 213,823 | - | - | - |
| Changes in operating assets and liabilities- | | | | |
| Contracts receivable and other | (1,781,418) | (6,120,108) | (775,888) | 3,621,192 |
| Long-term contract receivable | - | - | - | 1,160,512 |
| Prepaid expenses | (54,371) | (211,402) | 50,858 | (570,000) |
| Other long-term assets | - | (207,142) | (101,032) | (372,822) |
| Accounts payable | (6,471) | 1,151,965 | 48,088 | (825,157) |
| Accrued expenses | 571,852 | 1,292,325 | (125,609) | (995,131) |
| Deferred contract revenue | 915,052 | 782,210 | 125,556 | (161,538) |
| Net cash used in operating activities | (5,485,783) | (6,667,339) | (3,213,663) | (3,949,630) |
| CASH FLOWS USED IN INVESTING ACTIVITIES: | | | | |
| Purchases of equipment and furniture | (568,761) | (3,396,099) | (1,279,840) | (1,025,451) |
| Net cash used in investing activities | (568,761) | (3,396,099) | (1,279,840) | (1,025,451) |
| CASH FLOWS PROVIDED BY FINANCING ACTIVITIES: | | | | |
| Proceeds from issuance of common stock | 874,750 | 490,080 | 137,580 | 10,618 |
| Proceeds from issuance of Series C preferred stock | - | 5,875,000 | - | 1,875,000 |
| Proceeds from lines of credit | 2,200,000 | - | - | - |
| Principal payments on lines of credit | (2,650,000) | - | - | - |
| Proceeds from issuance of long-term debt | 1,250,087 | 935,000 | - | 3,000,000 |
| Principal payments on long-term debt | (1,097,799) | (1,536,555) | (384,807) | (120,025) |
| Related party borrowings, net | 92,159 | 474,382 | (96,296) | (135,568) |
| Increase in other deferred credits | 1,600,000 | - | - | - |
| Joint venturers' contributions | 4,073,130 | 150,000 | 150,000 | 30,000 |
| Stock and partnership subscriptions receivable collected | 454,003 | 4,556,250 | 4,556,250 | 275,000 |
| Minority interest distributions | (133,076) | (244,276) | (109,551) | - |
| Repurchase of common stock | (270,000) | - | - | - |
| Net cash provided by financing activities | 6,393,254 | 10,699,881 | 4,253,176 | 4,935,025 |
| NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS | 338,710 | 636,443 | (240,327) | (40,056) |

INTEGRATED MEDICAL SYSTEMS, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

| | For the Years Ended December 31 | | For the Six Months Ended June 30 | |
|---|---|---|---|---|
| | 1993 | 1994 | 1994 | 1995 |
| | | | (Unaudited) | |
| CASH AND CASH EQUIVALENTS, beginning of period | $ 382,694 | $ 721,404 | $721,404 | $1,357,847 |
| CASH AND CASH EQUIVALENTS, end of period | $ 721,404 | $1,357,847 | $481,077 | $1,317,791 |
| SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION: | | | | |
| Cash paid for interest | $ 154,920 | $ 83,483 | $ 58,548 | $ - |
| SUPPLEMENTAL SCHEDULE OF NONCASH INVESTING AND FINANCING ACTIVITIES: | | | | |
| Capital lease obligation incurred through lease for new equipment | $ - | $ 107,055 | $ - | $ - |
| Exchange of partners' investment in limited partnership for common stock (Note 7) | $ - | $1,820,000 | $ - | $ - |
| Other deferred credits applied to issuance of Series C preferred stock (Note 8) | $ - | $1,000,000 | $ - | $ - |
| Subscription receivable for common stock | $ - | $ 225,000 | $ - | $ - |
| Conversion of note payable to Series C preferred stock | $ 500,000 | $ - | $ - | $ - |
| Subscription receivable for Series C preferred stock (Note 8) | $4,500,000 | $ - | $ - | $ - |
| Long-term debt assumed and issued to limited partners in exchange for profits interests | $ 423,201 | $ - | $ - | |
| Accretion of accumulated deficit for common stock issued subject to a put option | $ 40,000 | $ - | $ - | $ - |
| Issuance of stock to obtain minority interest in subsidiary | $ - | $ - | $ - | $ 100,000 |

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

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

DECEMBER 31, 1994

(Including Notes Applicable to Unaudited Periods for the Six Months Ended June 30, 1995 and 1994)

## (1) ORGANIZATION AND LIQUIDITY

### Organization

Integrated Medical Systems, Inc., ("IMS" or the "Company") develops and markets medical communication networks and related products and services to hospitals, managed care companies, clinical laboratories and other healthcare organizations throughout the United States.

### Merger

On August 2, 1995, the Company and Eli Lilly and Company ("Lilly") signed an Agreement and Plan of Merger through which Lilly will acquire 100% of the Company's common stock.

### Liquidity

Since its inception, the Company has incurred significant losses from operations, cash flow deficits and had an accumulated deficit at December 31, 1994 and June 30, 1995 of approximately $23.4 million and $29.9 million, respectively. Through December 31, 1994, the Company relied on the sale of preferred and common equity on capital contributions from joint venturers to fund operating losses. In the six months ended June 30, 1995, the Company raised approximately $4.7 million from the exercise of Series C preferred stock purchase warrants and from the sale of the rights to the remaining payments due under certain network license agreements (see Notes 8 and 10) and through August 28, 1995 Lilly has provided loans to IMS of $5 million (see Note 3). In addition to ongoing sales of network licenses and service agreements, funding through the sale of equity, the sale of network license contracts receivable or the issuance of debt instruments, which management believes will be available in 1995, will be required to fund planned 1995 operations and network expansion. As of December 31, 1994, the Company has working capital of approximately $617,000 and has cancelable and noncancelable network services agreements, joint venture agreements and agreements for the sale of licenses of approximately $44 million, net of receivables sold subsequent to year end. Of this amount, approximately $34 million will be collected over the next three years at the rate of approximately $14 million, $11 million and $9 million in each of these years, respectively.

In management's opinion, these events will provide sufficient cash resources to fund operations through fiscal 1995. To the extent these events do not provide sufficient cash flow, management believes Lilly will continue to provide the funding necessary for the Company to continue its development and expansion until it is self sufficient.

(2) SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Unaudited Financial Statements

The consolidated financial statements and related notes to consolidated financial statements as of June 30, 1995, and for the six months ended June 30, 1994 and 1995, are unaudited. In the opinion of management, the unaudited consolidated financial statements reflect all adjustments necessary for a fair presentation. All such adjustments were of a normal and recurring nature.

Principles of Consolidation

The accompanying consolidated financial statements include the accounts of IMS and the following subsidiaries:

| Subsidiary | IMS Ownership Interest as of December 31 1993 | 1994 (G) |
|---|---|---|
| IMS-Net of Alabama, Inc. | 100% | 100% |
| IMS-Net of Alabama Joint Venture | 51 (C) | 51 (C) |
| IMS-Net of Arizona, Inc. | 100 | 100 |
| IMS-Net of Arizona Joint Venture, Ltd. | 50 (C) | 50 (C) |
| IMS-Net of Arkansas, Inc. | 51 | 51 |
| IMS-Net of Central Florida, Inc. | 51 | 51 |
| IMS-Net of Colorado, Inc. | 100 | 100 |
| Colorado Healthcare Network, L.P. ("CHCN, L.P.") | (E) | (E) |
| IMS-Network of Colorado, Ltd. | (B) | (B) |
| IMS-Net of Illinois, Inc. | 100 | 100 |
| Illinois Medical Information Network, Inc. | 68 (C) | 68 (C) |
| IMS-Net of Kansas City, Inc. | 97 | 97 |
| IMS-Net of Northern California, Inc. | 51 | 100 (F) |
| IMS-Net of Sacramento, Inc. | (A) | (A) |
| IMS-Net of Pennsylvania, Inc. | 100 (D) | (D) |
| IMS-Net of San Diego, Inc. | 100 (D) | (D) |
| IMS-Net of Texas, Inc. | 100 (D) | (D) |
| Indiana Medical Communication Network, LLC | 51 | 51 |
| Medical Communication Networks, Inc. | 49 | 49 |
| Minnesota Medical Communication Network, LLC | 90 | 90 |

(A) 100% owned by IMS-Net of Northern California, Inc.
(B) IMS-Net of Colorado, Inc. was the 1% General Partner of this partnership which was dissolved as of December 31, 1994 (see Note 7).
(C) IMS's indirect ownership interest through its wholly owned subsidiary.
(D) The dissolution of these entities was in process at December 31, 1993 and completed in 1994.
(E) As of May 31, 1993, IMS purchased the remaining 35% limited partner profits interest in CHCN, L.P. for $300,000 and dissolved the partnership.
(F) As of December 31, 1994, the outstanding 49% minority stock interest in IMS-Net of Northern California, Inc. ("Norcal") was retired by Norcal, thereby increasing the Company's interest from 51% to 100% (see Note 6).
(G) IMS ownership interests as of June 30, 1995 are the same as December 31, 1994 with the exception of the purchase of the remaining 3% of IMS-Net of Kansas City, Inc., to bring the IMS ownership to 100%.

(H) Several of the entities listed above are governed by shareholders' or operating agreements which contain buy/sell provisions. These provisions give the Company and the joint owners of these entities the right to initiate

buy/sell elections relating to the entities' ownership. The price of the exchanges are at fair market value or as specifically defined in the agreements.

All majority owned and controlled subsidiaries are consolidated and all significant intercompany accounts and transactions have been eliminated in consolidation.

Cash Equivalents

For purposes of the statements of cash flows, the Company considers highly liquid debt instruments purchased with original maturities of three months or less to be cash equivalents.

Revenue Recognition

The Company follows the provisions of the American Institute of Certified Public Accountants Statement of Position 91-1, "Software Revenue Recognition".

The Company licenses software under long-term network license agreements. License fee revenue is recognized when the network is operational, customer acceptance has occurred and all significant obligations have been satisfied.

Post-contract support ("PCS") activities, including software updates and maintenance, are provided to customers either as part of a network license agreement or under a separate network license service agreement. When PCS is provided as part of a network license agreement, the Company allocates a portion of the network license agreement fee to PCS activities. The portion of the fee allocated to PCS activities is based on the pricing of separate network license service agreements. All PCS revenue is recognized ratably over the period such activities are provided.

The Company also generates revenue from network service agreements. Under these agreements customers are provided network access, network communication and installation. Fees are typically paid quarterly in advance and recognized as revenue ratably over the service period.

Third-party joint venture fees resulting from the formation of consolidated subsidiaries are recorded as capital contributions from joint venturers.

Contracts Receivable and Deferred Contract Revenue

Contracts receivable are comprised of amounts due the Company under network services and network license agreements for implementation and network access fees. Revenues associated with advance payments received under network services agreements are deferred and recognized ratably over the period services are performed.

Equipment and Furniture

Equipment and furniture are stated at cost. Depreciation and amortization is provided using the straight-line method over the estimated useful lives of the assets, ranging from 2 to 10 years.

Income Taxes

Effective January 1, 1993, the Company implemented the provisions of Statement of Financial Accounting Standards No. 109 ("SFAS 109"), "Accounting for Income Taxes". SFAS 109 utilizes the liability method and deferred taxes are determined based on the estimated future tax effects of differences between the financial statement and tax bases of assets and liabilities and net operating loss carryforwards given the provisions of enacted tax laws (see Note 4).

Net Loss Per Share

Net loss per share is computed on net loss less preferred stock dividends and the weighted average number of common and common equivalent shares outstanding during the year. All outstanding stock options and warrants were excluded from the computation because they were antidilutive.

Software Development Costs

Under the criteria set forth in Statement of Financial Accounting Standards No. 86, "Accounting for the Costs of Computer Software to be Sold, Leased or Otherwise Marketed", capitalization of software development costs begins upon the establishment of technological feasibility of the product and ends when the product is ready for general release. The establishment of technological feasibility and the ongoing assessment of the recoverability of these costs require considerable judgment by management with respect to certain external factors, including, but not limited to, anticipated future gross product revenues, estimated economic life and changes in software and hardware technology. Amounts that could have been capitalized under this statement after consideration of the above factors were immaterial and, therefore, no software development costs have been capitalized by the Company to date.

Reclassifications

Certain 1993 amounts have been reclassified to conform to the 1994 presentation.

(3) RELATED PARTY TRANSACTIONS

On June 12, 1995, the Company received $3,000,000 from Eli Lilly and Company (a stockholder) as a bridge loan. The note bears interest at a rate of 10% per annum and matures on July 1, 1996. An additional $1,000,000 was received from Eli Lilly on July 27, 1995 with maturity of July 1, 1996, bearing interest at 10% per annum and an additional $1,000,000 was received from Eli Lilly on August 28, 1995 with maturity of July 1, 1996, bearing interest at 10% per annum (see Note 5). The loans from Eli Lilly are subordinated to IMS's other indebtedness and are secured by a pledge of most of the assets of IMS. The loans become immediately due and payable if IMS breaches the Merger Agreement (see Note 11), subject to certain rights of IMS to cure such breach.

In January 1995, the Company's chairman transitioned from his role in day-to-day management to that of a board member only. The Company will continue his compensation at its present rate through December 31, 1995. These and other related costs are included in payables to related parties in the accompanying consolidated 1994 balance sheet.

The Company issued warrants to purchase 79,302 shares of common stock at $4 per share to its chairman in January of 1994. The Company owed amounts to its chairman at

December 31, 1993 totaling $166,938. This amount was paid in 1994. Such amount was noninterest bearing and due on demand.

During 1993, the Company's board of directors established a management committee comprised of five senior vice presidents in charge of the Company's five functional areas. As part of their 1993 compensation, the members of the management committee received fully vested options to purchase 25,000 shares of common stock each at $4.00 per share. As part of their 1994 compensation, the members of the management committee received options to purchase 100,000 shares of common stock each at $4.00 per share.

In the normal course of business, the Company's networks incur costs payable to the Company's joint venture partners. At December 31, 1994, such payables totaled approximately $707,000, and were included in payables to related parties in the accompanying consolidated balance sheets.

During 1994 and 1993, the Company reimbursed a director of the Company for approximately $61,000 and $125,000, respectively, of legal fees paid on behalf of the Company under an indemnification agreement.

During 1994, the Company sold $177,500 of software and equipment to a company owned by a director of the Company, who in turn sold these items to a hospital. The Company recorded this revenue upon the network becoming operational and all significant obligations of the Company being fulfilled.

During 1993, an affiliate of a shareholder loaned the Company $250,000 under the terms of a 9% promissory note. This amount was repaid in 1994.

In 1992, a limited partner in IMS-Network of Colorado, Ltd. loaned the Company $165,000 pursuant to two $82,500 promissory notes, secured by a collateral assignment of payments due under a network license agreement. During 1993, the Company repaid one of these promissory notes. The remaining note was repaid in 1994.

During 1993, a director of the Company advanced $250,000 to the Company to meet short-term cash requirements. Also, three directors advanced $75,000 each ($225,000 total) to the Company to meet short-term cash requirements. These advances were interest bearing (short-term bank rates) and were secured by assignments of cash flows. These advances were repaid prior to December 31, 1993.

During 1992, a senior vice president of the Company funded a $200,000 security bond for the Company related to the litigation described in Note 6. This same officer also sold certain of his common stock in the Company to an unrelated party and loaned the proceeds of $90,000 to the Company. These loans were repaid by the Company in 1993.

In consideration for certain loans and/or personal guarantees related to the Company's borrowings, as discussed above, from a bank and other obligations, the Company issued warrants to purchase 28,000 and 191,800 shares of common stock to directors and a shareholder during 1994 and 1993, respectively, at $3.50-$5.00 per share (see Note 8).

(4) INCOME TAXES

The Company adopted SFAS 109 as of January 1, 1993. This change in accounting principle had no cumulative effect on the Company's financial position or results of operations as of January 1, 1993.

The net deferred tax assets and liabilities as of December 31, 1994, are comprised of the following:

| | December 31, 1994 |
|---|---|
| Current: | |
| Accrued vacation | $ 93,600 |
| Current deferred tax assets | 93,600 |
| Noncurrent: | |
| Share in losses from joint ventures/partnerships | $ 207,700 |
| Reorganization costs | (177,400) |
| Deferred Revenue | 311,100 |
| Depreciation | (285,900) |
| Tax credits | 67,600 |
| Net Operating loss carryforwards | 4,186,700 |
| Other | 26,600 |
| Noncurrent net deferred tax assets | 4,330,400 |
| Total net deferred tax assets before valuation allowance | 4,430,000 |
| Valuation allowance | (4,430,000) |
| Net deferred tax assets | $ - |

The Company has determined that $4,430,000 of net deferred tax assets as of December 31, 1994 do not satisfy the realization criteria set forth in SFAS 109. Recognition of these assets requires future taxable income, the attainment of which is uncertain.

Accordingly, a valuation allowance has been recorded to offset the entire deferred tax asset.

At December 31, 1994, the Company has tax credit carryforwards available to offset future taxable income of approximately $67,600 which expire through 2006. In addition, the Company has net operating loss carryforwards of approximately $11,300,000 which expire through 2009.

The net operating loss and credit amounts are subject to examination by the tax authorities. The Internal Revenue Code contains provisions which may limit the net operating loss and tax credit carryforwards available to be used in any given year upon the occurrence of certain events, including significant changes in ownership.

At December 31, 1994, the Company had no current federal or state income taxes payable.

The difference between the 1993 and 1994 losses reported for financial reporting and the losses reported for income tax purposes was primarily the result of the treatment of contributions from joint venturers as capital contributions for financial reporting purposes and as taxable income for tax reporting purposes, accelerated depreciation for tax purposes, and certain accruals not currently deductible for tax reporting purposes.

The difference between the statutory federal income taxes and the Company's effective income taxes is summarized as follows:

| | For the Year Ended December 31 | |
|---|---|---|
| | 1993 | 1994 |
| Federal income tax benefit computed at the statutory rate | $(2,018,100) | $(1,445,600) |
| Increase (decrease) as a result of- | | |
| Joint venture capital contributions treated as income for tax reporting purposes | 1,384,800 | 51,000 |
| Other | (48,400) | 37,100 |
| Valuation allowance | 681,700 | 1,357,500 |
| Effective taxes | $ - | $ - |

(5) LONG-TERM DEBT

Long-term debt is comprised of the following at December 31, 1994 and June 30, 1995:

| | December 31, 1994 | June 30, 1995 (Unaudited) |
|---|---|---|
| Note payable to Lilly-secured by stock, equipment and inventory, interest at 10% per annum, due in full on July 1, 1996 | $ - | $3,000,000 |
| Note payable to a corporation-secured by certain contracts, interest at 9.5%, monthly principal and interest payments of $8,008, due September 24, 1996 | 154,376 | 112,845 |
| Notes payable to individuals-unsecured, interest at 8%, quarterly principal and interest payments of $30,714, due May 31, 1995 | 59,634 | - |
| Capital lease obligations-secured by equipment and letter of credit, interest ranging from 6% to 11.4%, due in varying monthly installments through 1999 | 151,170 | 132,310 |
| Total debt | 365,180 | 3,245,155 |
| Less-Current maturities | (181,182) | (123,777) |
| Long-term debt | 183,998 | $3,121,378 |

Long-term debt matures as follows:

| | Year Ended December 31 | | Year Ended June 30 |
|---|---|---|---|
| 1995 | $181,182 | 1996 | $ 123,777 |
| 1996 | 104,264 | 1997 | 3,060,199 |
| 1997 | 29,551 | 1998 | 22,370 |
| 1998 | 23,673 | 1999 | 25,053 |
| 1999 | 26,510 | 2000 | 13,756 |
| | $365,180 | | $3,245,155 |

(6) COMMITMENTS AND CONTINGENCIES

Litigation

The Company was involved, beginning in January 1992, in a dispute with NewHealth Group, Inc. ("NHG"), the former 49% owner of IMS-Net of Northern California, Inc. ("Norcal") and the former manager of Norcal and IMS-Net of Sacramento, Inc. ("Sacto"), its 100% owned subsidiary.

During 1994 and early 1995, all of the litigation surrounding this dispute was terminated in favor of the Company. Additionally, the Company won monetary and punitive judgments against NHG and its officers and Norcal has recovered and retired the outstanding 49% minority interest in Norcal, formerly owned by NHG, so that the Company owns 100% of Norcal as of December 31, 1994. As the Company is uncertain as to the ultimate collectibility of the judgments, the monetary and punitive judgments will be recognized for financial reporting purposes when and if the judgments are collected. No value was recorded for recovery and retirement of the 49% minority interest.

During 1993, 1994 and the first six months of 1995, the Company expensed approximately $1,658,000, $785,000 and 53,000, respectively, in legal costs relating to this litigation.

Conversion Obligation

Under the terms of a joint venture agreement between the Company and a corporation, the corporation, as limited partner in the joint venture, may elect to exchange all or increments of 20% of its rights to profits allocations in the joint venture for shares of the Company's common stock. The number of shares is to be determined by dividing $3.5 million by the market price of IMS common stock at the time of exchange. Such option is available to the corporation for three years and 120 days after commencement of a public offering of the common stock of the Company.

Obligation to Fund Joint Ventures

The Company has agreed to fund operating cash shortfalls of certain networks under the terms of certain joint venture and network services agreements.

Lease Obligations

The Company has entered into various noncancelable operating leases for office space. Total rental expense related to these lease agreements in 1993 and 1994 was $654,331 and $1,035,111, respectively.

Future minimum lease payments under noncancelable operating lease agreements as of December 31, 1994 are as follows:

| | |
|---|---|
| 1995 | $ 990,198 |
| 1996 | 880,812 |
| 1997 | 671,552 |
| 1998 | 275,835 |
| 1999 | 131,280 |
| Thereafter | 4,237 |
| Total | $2,953,914 |

Subsequent to December 31, 1994, the Company entered into various operating leases for office space. Future minimum lease payments related to these leases total approximately $704,000 and have been included in the above table.

Letters of Credit

At December 31, 1994, the Company had letters of credit outstanding totaling approximately $213,000 collateralizing certain capital lease and tenant finishings. The letters of credit expire at various dates through 1999.

(7) PARTNERS' INVESTMENT IN LIMITED PARTNERSHIP

During 1992, the Company, through its wholly-owned subsidiary IMS-Net of Colorado, Inc. ("IMS-Colorado"), obtained a 1% general partner interest in IMS-Network of Colorado, Ltd. (the "Partnership"), a Colorado limited partnership. The Partnership was formed for the purpose of obtaining business and technology licenses from the Company to operate a medical communication network (the "Network") in Colorado and to sublicense such rights to IMS-Colorado. IMS-Colorado operates the Network and paid license fees to the Partnership based on gross revenues received from the Network.

During 1993 and 1994, the Partnership distributed $143,559 and $209,219, respectively, to the limited partners representing 99% of the royalties earned by the Partnership. The accounts of the Partnership were consolidated in the accompanying 1993 financial statements as IMS-Colorado was the general partner. All intercompany transactions and accounts were eliminated in the accompanying consolidated 1993 financial statements. As of December 31, 1994, the Partnership was dissolved as discussed below.

Due to the Company's various obligations to the limited partners, amounts received from the limited partners ($1,820,000 at December 31, 1993) were excluded from stockholders' equity in 1993. Such amounts were converted and reclassified to common stock in 1994 as discussed below.

On December 9, 1994, the Company made an exchange offering (the "Exchange") to each limited partner of the Partnership and each holder of IMS-Colorado preferred stock.

Pursuant to the Exchange, each Partnership unit and each preferred share of IMS-Colorado was surrendered to the Company in exchange for 4,000 shares of common stock of the Company and also received one nontransferable common stock purchase warrant entitling the holder to purchase up to 2,000 and 4,000 additional shares of common stock at $5 per share, respectively. Each warrant is exercisable in accordance with its terms for a period of three years through December 1997.

Each limited partner and shareholder accepted the Exchange and 324,000 and 40,000 shares of common stock and warrants to purchase 162,000 and 40,000 shares of common stock were issued to the holders of the Partnership units and IMS-Colorado preferred stock, respectively, as set forth above, and the Partnership was dissolved as of December 31, 1994.

(8) STOCKHOLDERS' EQUITY

Series B Preferred Stock

Each share of Series B voting preferred stock ("Series B") is convertible at a price per share of $1.50, at the option of the holder into common stock. Such conversion is automatic at the consummation of an initial public offering by the Company. The Series B is entitled to receive cumulative dividends of 10% of the liquidation value ($.10 per share) on an annual basis. Accumulated undeclared and unpaid dividends were $1,300,000 and $1,400,000 at December 31, 1994 and June 30, 1995, respectively. Such cumulative dividends have not been accrued as the Company has an accumulated deficit and, therefore, is unable to declare or pay dividends. As dividends have not been declared as of June 30, 1995 no accrual has been made in the accompanying financial statements. In the event of liquidation, holders of Series B will be entitled to a liquidation preference of $1.00 per share plus accrued and unpaid dividends. The Company was not in compliance with certain reporting covenants of the Series B Preferred Stock Agreement at December 31, 1994.

Series C Preferred Stock

Under terms of a Subscription Agreement dated December 30, 1993, a Series C Preferred Stock Purchase Agreement dated January 6, 1994, and a Network Sponsorship and Participation Agreement dated November 17, 1993, a corporation purchased 1,250,000 shares of IMS's Series C convertible preferred stock ("Series C") at $4 per share for a total of $5 million on January 6, 1994. On July 12, 1994, this corporation also purchased an additional 1,000,000 shares of Series C at $5 per share by applying as partial payment the $1 million in national network sponsorship and access fees paid in 1993. The Series C has liquidation preferences over the Company's common stock but is subordinate to holders of Series B and is convertible on a 1-to-1 basis to the Company's common stock at the purchaser's option. Such conversion is automatic at the consummation of an initial public offering above certain thresholds. Upon the occurrence of certain circumstances, the Series C preferred stock has noncumulative voting rights equal to shares of the Company's common stock and is not redeemable.

The Company also issued warrants to the purchasing corporation in connection with its investment in the Company's Series C and in conjunction with the Network Sponsorship and Participation Agreement. In conjunction with the first and second tranches of Series C as discussed above, the Company issued warrants to purchase 750,000 and 500,000 shares, respectively, of Series C. In 1994, this corporation exercised warrants to purchase 375,000 shares of Series C for $1,875,000. Subsequent to yearend, this corporation exercised warrants to purchase an additional 375,000 shares of Series C for $1,875,000. The additional 500,000

warrants are exercisable during the two-year period after grant at $6 and $7 per share during the first and second years, respectively.

In connection with the investment in the Company, the Company granted the purchasing corporation a right of first offer on IMS shares under certain circumstances. If the Company receives an offer from a potential investor, it is obligated, except with respect to certain investors, to offer shares to the purchasing corporation under substantially the same terms as those negotiated with the potential investor. During November 1994, the purchasing corporation was acquired by Eli Lilly and Company who may or may not have succeeded to these rights.

Under terms of a Letter of Intent and Option Agreement dated November 10, 1993, another corporation has paid the Company $600,000 which is reflected as other deferred credits in the accompanying consolidated balance sheets. The option agreement was terminated in January 1995. If the corporation does not make such an investment, the $600,000 will be applied to payments due under the corporation's Communications Services Agreement with the Company.

Stock Warrants

Stock warrants have been issued to certain investors. Common stock warrant activity during 1993 and 1994, and the first six months in 1995 is as follows:

| | Shares | Exercise Price Per Share |
|---|---|---|
| Balance, December 31, 1992 | 387,000 | $1.50 - 3.50 |
| Granted | 191,800 | 3.50 - 5.00 |
| Canceled | (12,500) | 3.50 |
| Exercised | (62,500) | 1.50 |
| Balance, December 31, 1993 | 503,800 | 1.50 - 5.00 |
| Granted | 309,303 | 4.00 - 5.00 |
| Exercised | (137,000) | 1.50 |
| Expired | (25,000) | 2.50 - 3.50 |
| Balance, December 31, 1994 | 651,103 | 1.50 - 5.00 |
| Granted | 10,000 | 6.50 |
| Exercised | (1,000) | 5.00 |
| Balance, June 30, 1995 (unaudited) | 660,103 | $1.50 - 6.50 |

The warrants are fully vested at date of grant and are exercisable at varying times through July 1998.

Series C Warrants

In 1994, the Company also issued Series C warrants, as discussed above, of which warrants to purchase 1,250,000 shares of Series C at prices ranging from $5.00 - $7.00 were granted and 375,000 were exercised at $5.00 per share. Subsequent to yearend, holder of such warrants exercised warrants to purchase an additional 375,000 shares of Series C for $1,875,000.

Common Stock Option Plans

The Company has adopted its 1989 Stock Option Plan (the "1989 Plan") providing for the grant of options to purchase a maximum of 1,600,000 shares of common stock to key employees. Under the terms of the 1989 Plan, the option exercise price is to be no less than the fair market value of IMS' stock on the date of grant. Options are exercisable three months following the date of grant and up to 10 years from such date. If employment is terminated for any reason, the holder of the options has three months in which to exercise before cancellation unless written approval of the compensation committee extends such exercise to 12 months.

Stock option activity during 1993 and 1994, and the first six months in 1995 for the 1986 Plan is as follows:

| | Shares | Exercise Price Per Share |
|---|---|---|
| Balance, December 31, 1992 | 814,322 | $1.00 - 3.50 |
| Granted | 767,100 | 3.50 - 4.00 |
| Canceled | (17,500) | 2.50 - 3.50 |
| Exercised | (16,500) | 2.50 |
| Balance, December 31, 1993 | 1,547,422 | 1.00 - 4.00 |
| Granted | 38,000 | 4.00 |
| Canceled | (19,273) | 2.50 - 4.00 |
| Exercised | (362) | 3.50 - 4.00 |
| Balance, December 31, 1994 | 1,565,787 | 1.00 - 4.00 |
| Canceled | (7,563) | 3.50 - 4.00 |
| Exercised | (1,432) | 4.00 |
| Balance, June 30, 1995 (unaudited) | 1,556,792 | $1.00 - 4.00 |

Stock options from the 1989 Plan vest ratably at times ranging from one to three years and are exercisable at various times through 1999. As of December 31, 1994, 1,115,174 options were exercisable.

On April 22, 1994, the shareholders of IMS approved the 1994 Employee Stock Option Plan (the "1994 Plan"). The 1994 Plan may grant incentive and nonqualified stock options; however, in 1994, only nonqualified stock options were granted. Under the 1994 Plan, the Company is authorized to grant options to purchase a maximum of 400,000 shares of common stock to key employees. As of December 31, 1994, the Company had granted more options than authorized in the 1994 Plan. Subsequent to yearend, the Company's board of directors approved increasing the number of authorized shares by 438,600 and intends to seek shareholders' approval at the next Shareholders' meeting. In management's opinion, this increase will be approved. Such options are exercisable six months following the date of grant. All other terms are similar to the 1989 Plan.

Stock option activity since 1994 for the 1994 Plan is as follows:

| | Shares | Exercise Price Per Share |
|---|---|---|
| Outstanding at beginning of year | - | - |
| Granted | 492,730 | $3.50 - 5.00 |
| Balance, December 31, 1994 | 492,730 | $3.50 - 5.00 |
| Granted | 340,870 | 5.00 - 6.50 |
| Canceled | (3,755) | 5.00 |
| Balance, June 30, 1995 (audited) | 829,845 | $3.50 - 6.50 |

Stock options from the 1994 Plan vest ratably over three years and are exercisable at various times through 2004. As of December 31, 1994, 25,401 options were exercisable. Upon the Merger becoming effective, all options become fully vested.

Subscriptions Receivable

Stock subscriptions and joint venturers' contributions receivable consist of amounts to be received for sale of common stock and formation of joint ventures. The amounts shown as current assets were collected subsequent to yearend.

(9) 401(k) PLAN

In 1993, the Company adopted a 401(k) plan for its employees. Under this plan, the Company may contribute to the plan at its discretion. The total amount contributed by the Company to the plan during the years ended December 31, 1993 and 1994 was $50,067 and $79,353, respectively.

(10) ACCOUNTS RECEIVABLE SALES

Subsequent to December 31, 1994, the Company sold without recourse its rights to the remaining payments due under certain network license agreements for a price equal to the present value of the remaining noncancelable license fee payments. Proceeds from the sales were approximately $2.8 million.

(11) MERGER WITH ELI LILLY AND COMPANY (UNAUDITED)

As noted earlier, the Company signed an Agreement and Plan of Merger (the "Plan") with Lilly on August 2, 1995. The following discussion outlines the general terms and consideration of the Plan and the impact of the Plan on the Company's capital structure.

If the Merger is approved by the Company's shareholders, each share of common stock will be converted into the right to receive $8.00 in cash or one share of new Series D preferred stock ("Preferred D"). Each share of Series B preferred stock will be converted into the right to receive $5.33 in cash plus any accrued unpaid dividends as of the closing date or two-thirds of a Preferred D share plus any accrued unpaid dividends on the original Series B as of the closing date, or such Series B shareholders may elect to retain the Series B shares with the amended terms and conditions set forth in the Plan and exhibits thereto.

Each Series C preferred share will convert to one share of common stock.

Option and warrant holders have the right either to (i) receive $8.00 in cash per share into which each such option or warrant was exercisable as of the closing date net of the exercise price, or (ii) retain the right to purchase one share of Preferred D stock for each share of common stock into which such option or warrant was exercisable as of the closing date. Company option holders have the further option to receive fully vested options to acquire shares of common stock of Lilly under the 1994 Lilly Stock Plan.

All new Preferred D shareholders will have the option to enter into a Put/Call Agreement with Lilly whereby each holder of Preferred D shares would have the right to put their shares to Lilly during two put periods beginning one year after the closing date and 30 months after the closing date. Pursuant to the Put/Call Agreements, Lilly would have the right to call the Preferred D stock, which right could be exercised any time after three years from the closing date. The put and call purchase price is $8.00 per share plus any unpaid dividends accrued prior to the purchase date.

The Preferred D shares also carry mandatory redemption features. For the period of 30 days after the fifth anniversary of the effective date of the Merger, the holders may demand redemption of their shares for $8.00 per share plus all accrued and unpaid dividends. The Company has the option, beginning on the fifth anniversary of the Merger effective date, to redeem any or all shares of Preferred D at a redemption price of $8.00 per share plus all accrued and unpaid dividends.

APPENDIX A

ARTICLES OF MERGER
OF TRANS-IMS CORPORATION
WITH AND INTO
INTEGRATED MEDICAL SYSTEMS, INC.

The undersigned, organized and existing under and by virtue of the Colorado Business Corporation Act (the "Act"), DOES HEREBY CERTIFY THAT:

FIRST: The name and state of incorporation of each of the constituent corporations in the merger (the "Constituent Corporations") are as follows:

| Name | State of Incorporation |
|---|---|
| TRANS-IMS CORPORATION | Colorado |
| INTEGRATED MEDICAL SYSTEMS, INC. | Colorado |

SECOND: An Agreement and Plan of Merger, dated as of August 2, 1995 (the "Plan of Merger"), by and among Eli Lilly and Company, an Indiana corporation ("Lilly"), Trans-IMS Corporation, a Colorado corporation, and Integrated Medical Systems, Inc., a Colorado corporation, has been approved and adopted by each of the Constituent Corporations in accordance with the requirements of Section 7-111-103 of the Colorado Business Corporation Act.

THIRD: The name of the surviving corporation is "Integrated Medical Systems, Inc." (the "Surviving Corporation").

FOURTH: The Articles of Incorporation of the Surviving Corporation are hereby amended and restated to read as follows:

FIRST: The name of the corporation is Integrated Medical Systems, Inc.

SECOND: The street address of the registered office of the corporation is _____, _____ Colorado _____. The name of its registered agent at such address is _____. The address of the corporation's principal office is 15000 West 6th Avenue, Suite 400, Golden, Colorado.

THIRD: (a) Authorized Capital. The aggregate number of shares that the corporation shall have authority to issue is 20,000,000 shares of common stock without par value, and 14,000,000 shares of preferred stock, $0.01 par value.

(b) Relative Rights and Preferences and Voting of Shares

(i) Preferred Stock. Except with respect to the Series B Preferred Stock, par value $1.00 per share, and the Series D Preferred Stock, par value $0.01 per share, the preferences, limitations and relative rights of which are described in Articles FOURTH and FIFTH below, respectively, the board of directors shall determine preferences, limitations and relative rights of the preferred stock and any series of preferred stock prior to the issuance of any shares of preferred stock or series of preferred stock.

(ii) Common Stock. Each shareholder of record entitled to vote shall have one vote for each share of stock standing in his name on the books of the corporation, except that in the election of directors he shall have the right to vote such number of shares for as many persons as there are directors to be elected. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

(iii) Distributions. Notwithstanding the restrictions contained in Section 7-106-401(3)(b) of the Colorado Business Corporation Act (the "Act"), the corporation may make distributions to shareholders if, in making any such distribution, and after giving effect to such distribution, the corporation's total assets are not less than its total liabilities, and the distribution otherwise is permitted under the Act.

(iv) Extraordinary Matters. In each case where the Colorado Corporation Code as in effect immediately before July 1, 1994 required a two-thirds vote of all of the outstanding shares of the corporation entitled to vote, or of all of the outstanding shares of each class where class voting was required, such required vote is hereby reduced to a majority of all the votes entitled to be cast on the matter by each voting group entitled to vote separately on the matter.

FOURTH: The corporation is authorized and empowered to issue up to a maximum of 2,000,000 shares of Series B Preferred Stock, having the following preferences, limitations and relative rights:

1. Par Value and Liquidation Value. The Series B Preferred Stock shall have a par value of One Dollar ($1.00) per share and a value on liquidation of One Dollar ($1.00) per share plus accrued and unpaid dividends (the "Liquidation Value").

2. Dividends. The Series B Preferred Stock shall earn cumulative dividends at a rate of ten percent (10%) of the Liquidation Value (i.e., ten cents ($.10) per share annually) beginning July 1, 1988, which shall be payable quarterly each September 30, December 31, March 31 and June 30 thereafter until and unless converted as provided in paragraph 6 below. No interest shall be earned or paid on the Series B Preferred Stock prior to July 1, 1988. All payments of dividends on the Series B Preferred Stock and the outstanding Series D Preferred Stock (the "Series D Preferred Stock") shall be made in pari passu among the holders of the Series D Preferred Stock and the holders of the Series B Preferred Stock and no holder of Series D Preferred Stock or holder of Series B Preferred Stock shall be preferred over the other.

3. Voting Rights. Outstanding shares of Series B Preferred Stock shall have no voting rights other than such voting rights as shall be required by the Act.

4. Preemptive or Purchase Rights. No holder of a share or shares of Series B Preferred Stock shall, because of his or her ownership of such stock, have a preemptive right to purchase, subscribe for or take any part of any capital stock of the corporation nor shall any such holder have a preemptive right to purchase, subscribe for or take any part of notes, debentures, bonds or any other securities of the corporation, including, but not limited to, securities convertible into or carrying options or warrants to purchase capital stock of the corporation.

5. Rights on Liquidation, Dissolution and Winding-up of the Corporation. Upon any liquidation, dissolution or winding-up of the corporation, the holders of the Series B Preferred Stock will be entitled to be paid, before any distribution or payment is made to the holders of the corporation's outstanding common stock without par value (the "Common Stock"), an amount in cash equal to the aggregate Liquidation Value of all the Series B Preferred Stock then outstanding, and the holders of the Series B Preferred Stock will not be entitled to any further or additional payment. The Series B Preferred Stock and the Series D Preferred Stock shall be parity stock in respect of rights to payment upon liquidation, dissolution or winding-up.

6. Conversion of Series B Preferred Stock. The holders of the Series B Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

6.1 Right to Convert. Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time, at the office of the corporation or any transfer agent for the Series B Preferred Stock, into either (i) the Liquidation Value, payable in cash, of the Series B Preferred Stock on the date of conversion, without interest, or (ii) two-thirds of a share of the corporation's Series D Preferred Stock, par value $.O1 per share (the "Series D Preferred Stock").

6.2 Mechanics of Conversion. Before any holders of Series B Preferred Stock shall be entitled to convert the same into cash or shares of Series D Preferred Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the corporation or of any transfer agent for the Series B Preferred Stock, and shall give written notice to the corporation at such office that such holder elects to convert the same into cash or Series D Preferred Stock. The corporation shall, as soon as practicable thereafter, either pay the required cash to the holder of Series B Preferred Stock or issue and deliver at such office to such holder of Series B Preferred Stock a certificate or certificates for the number of shares of Series D Preferred Stock to which such holder shall be entitled as aforesaid. Such payment or conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series B Preferred Stock to be cashed out or converted, and, if the holder elects to acquire Series D Preferred Stock, the person or persons entitled to receive the shares of Series D Preferred Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Series D Preferred Stock on such date.

6.3 Fractional Shares. No fractional shares of Series D Preferred Stock shall be issued upon conversion of the Series B Preferred Stock. Fractional shares shall not be issued; and, in lieu of fractional shares to which the holder would otherwise be entitled, the corporation shall pay cash equal to said fraction multiplied by 150% of the Liquidation Value of a share of the Series B Preferred Stock.

6.4 Changes in Series D Preferred Stock.

6.4.1 The corporation shall not issue any shares of Series D Preferred Stock other than those shares issued in connection with the merger of Trans-IMS Corporation into the corporation or any shares subsequently issued upon conversion of Series B Preferred Stock as provided in this Article Fourth or upon exercise of the Company Options and the Company Warrants contemplated by the Articles of Merger for such merger.

6.4.2 The number of shares of Series D Preferred Stock outstanding at any time after the date hereof may not be increased by a stock dividend payable in shares of Series D Preferred Stock or by a subdivision or split-up of shares of Series D Preferred Stock.

6.4.3 The number of shares of Series D Preferred Stock outstanding at any time after the date hereof may not be decreased by a combination of the outstanding shares of Series D Preferred Stock.

6.4.4 If at any time after the date hereof there occurs any capital reorganization, or any reclassification of the capital stock of the corporation (other than a change in par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of the corporation with or into another person (other than a consolidation or merger in which the corporation is the continuing entity and which does not result in any change in the Series D Preferred Stock), or the sale or other disposition of all or substantially all of the properties and assets of the corporation as an entity to any other person, the shares of Series B Preferred Stock shall, after such reorganization, reclassification, consolidation, merger, sale or other disposition, be convertible into the kind and number of shares of stock or other securities or property of the corporation or of the entity resulting from such consolidation or surviving such merger or to which such properties and assets shall have been sold or otherwise disposed to which such holder would have been entitled if, immediately prior to such reorganization, reclassification, consolidation, merger, sale or other disposition, such holder had converted his shares of Series B Preferred Stock into Series D Preferred Stock. The provisions of this Section 6.4.4 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or other dispositions.

7. No Impairment. The corporation shall not, by amendment of its Articles of Incorporation or through any

reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the corporation, but shall at all times in good faith assist in the carrying out of all the provisions of this Section 7 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Series B Preferred Stock against impairment.

8. Notices of Record Date. In the event of any taking by the corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, the corporation shall mail to each holder of Series B Preferred Stock, at least twenty (20) days prior to the date specified herein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

9. Reservation of Stock Issuable Upon Conversion. The corporation shall at all times reserve and keep available out of its authorized but unissued shares of Series D Preferred Stock solely for the purpose of effecting the conversion of the shares of Series B Preferred Stock such number of its shares of Series D Preferred Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock; and, if at any time the number of authorized but unissued shares of Series D Preferred Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series B Preferred Stock, the corporation shall take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Series D Preferred Stock to such number of shares as shall be sufficient for such purpose.

10. Notices. Any notice required to be given to the holder of shares of Series B Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the corporation.

11. Protective Provisions. So long as any of the Series B Preferred Stock shall be outstanding, the corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least fifty-one percent (51%) of the outstanding shares of Series B Preferred Stock, alter or

change the rights, preferences or privileges of the Series B Preferred Stock.

12. No Reissuance of Preferred Stock. No share or shares of Series B Preferred Stock acquired by the corporation by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares that the corporation shall be authorized to issue.

13. Amendment and Waiver. Amendments, modifications or waivers of any of the terms hereof will be binding and effective if the prior written consent of holders of at least 51% of the Series B Preferred Stock outstanding at the time such action is taken is obtained; provided that no such action will change (a) the rate at which or the manner in which dividends on the Series B Preferred Stock accrue or the times at which such dividends become payable, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained, (b) the Conversion Rights of the Series B Preferred Stock or the number of shares or class of stock into which the Series B Preferred Stock is convertible, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained or (c) the percentage required to approve any change described in clauses (a) and (b) above, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained.

FIFTH: The corporation is authorized and empowered to issue shares of Series D Preferred Stock, having the following preferences, limitations and relative rights:

1. Designation and Amount. The shares of such series shall be designated as the Series D Preferred Stock (the "Series D Preferred Stock") and the number of shares initially constituting such series shall be 12,000,000, which number may be decreased (but not increased) by the Board of Directors without a vote of the shareholders; provided, however, that such number may not be decreased below the sum of the number of then currently outstanding shares of Series D Preferred Stock and the number of shares of Series D Preferred Stock reserved for issuance upon exercise of then currently outstanding options and warrants of the corporation. Shares of Series D Preferred Stock shall have a preference over shares of the corporation's common stock, without par value (the "Common Stock") upon liquidation, dissolution or winding up of the corporation.

2. Dividends. Holders of the outstanding shares of Series D Preferred Stock shall be entitled to receive, if, as and when declared by the Board of Directors out of funds legally available therefor, cumulative cash dividends at an annual rate of $0.62 per share, in preference to and in priority over any dividends with respect to the Common Stock. Dividends on the outstanding shares of Series D Preferred Stock shall begin to accrue and be cumulative (regardless of whether such dividends have been declared by the Board of Directors) beginning on the date of issuance, and shall be payable annually in arrears each December 31 until and unless redeemed by the corporation.

3. Voting Rights. (a) Outstanding shares of Series D Preferred Stock shall have no voting rights other than such voting rights as shall be required by the Colorado Business Corporation Act or as otherwise provided below in this Section 3.

(b) Whenever, at any time or times, dividends payable on any share or shares of Series D Preferred Stock shall be in arrears in an amount equal to at least two full annual dividends (whether or not declared and whether or not consecutive and whether or not funds are legally available for such dividends), the holders of record of the outstanding Series D Preferred Stock shall have the exclusive right, voting separately as a single class, to elect one director of the corporation at a special meeting of shareholders of the corporation or at the corporation's next annual meeting of shareholders, and at each subsequent annual meeting of shareholders, as provided below. At elections for such director, the holders of shares of Series D Preferred Stock shall be entitled to cast one vote for each share held.

(c) Upon a failure by the corporation to redeem any shares of Series D Preferred Stock pursuant to any demand duly made pursuant to Section 4(a) below (whether or not such failure results from the corporation's failure to have sufficient funds legally available for such redemption), then the holders of record of the Series D Preferred Stock shall have, as their sole remedy in respect of such failure, the exclusive right, voting separately as a single class, to elect the smallest number of directors of the corporation that shall constitute a majority of the authorized number of members of the Board of Directors (including new directorships created pursuant to Section 4(d) below) at a special meeting of shareholders of the corporation or at the corporation's next annual meeting of shareholders, and at each subsequent annual meeting of shareholders, as provided below. At elections for such directors, the

holders of shares of Series D Preferred Stock shall be entitled to cast one vote for each share held. If such holders exercise such right to elect a majority of the directors, then following the election of such directors and during the period in which a majority of the directors are persons elected by such holders (or the successors of such directors), the corporation shall be required to redeem all of the shares of Series D Preferred Stock for which redemption was duly demanded pursuant to Section 4(a) below as soon as practicable if and to the extent that funds are legally available therefor. Any such redemption shall be made in accordance with the procedures set forth in Section 4(c) below as if it were a redemption pursuant to Section 4(b) but subject to being given the priority set forth in the proviso to Section 4(c)(i) below. During any period while the right to elect directors pursuant to this Section 3(c) is vested, the director, if any, elected pursuant to Section 3(b) and then in office shall be deemed to be one of the directors elected pursuant to this Section 3(c).

(d) Upon the vesting of such right of the holders of the Series D Preferred Stock to elect any directors pursuant to Section 3(b) or (c) above, the maximum authorized number of members of the Board of Directors shall be automatically increased, (i) in case of a right pursuant to Section 3(b) above, by one and, (ii) in the case of a right pursuant to Section 3(c) above, by the maximum number of members of the Board of Directors immediately theretofore authorized (but excluding from such maximum number the member, if any, authorized pursuant to Section 3(b)), plus one, and the vacancy or vacancies so created shall be filled by vote of the holders of the outstanding Series D Preferred Stock as hereinafter set forth. A special meeting of the shareholders of the corporation then entitled to vote shall be called by the Chairman of the Board of Directors or the President or the Secretary of the corporation, if requested in writing by the holders of record of not less than 25% of the Series D Preferred Stock then outstanding. At such special meeting, or, if such special meeting shall not have been called, then at the next annual meeting of shareholders of the corporation, the holders of the Series D Preferred Stock shall elect, voting as above provided, a director or directors to fill the aforesaid vacancy or vacancies created by the automatic increase in the number of members of the Board of Directors. At any and all such meetings for such election, the holders of a majority of the outstanding shares of the Series D Preferred Stock shall be necessary to constitute a quorum for such election, whether present in person or by proxy, and such director or directors

shall be elected by the vote of at least a plurality of shares held by such shareholders present or represented at the meeting. Any director elected by holders of the Series D Preferred Stock pursuant to this Section may be removed at any annual or special meeting, by vote of a majority of the outstanding shares of the Series D Preferred Stock, with or without cause. In case a director so elected shall vacate such position, such vacancy may be filled by unanimous agreement of the remaining directors so elected, or their successors then in office, if any, or may be filled in the same manner as is provided above for the initial election of a director by the holders of the Series D Preferred Stock.

(e) The right of the holders of the Series D Preferred Stock, voting separately as a class, to elect one director of the Board of Directors pursuant to Section 3(b) above shall continue until, and only until, such time as all arrears in dividends (whether or not declared) on the Series D Preferred Stock shall have been paid or declared and set apart for payment, at which time such right shall terminate, except as expressly provided by law, subject to revesting in the event of each and every subsequent default of the character above-mentioned. The right of such holders, voting separately as a class, to elect directors pursuant to Section 3(c) above shall continue until, and only until, such time as the corporation has redeemed all of the shares of Series D Preferred Stock for which redemption was duly demanded pursuant to Section 3(c) above, at which time such right shall terminate, except as expressly provided by law. Upon any termination of the right of the holders of the Series D Preferred Stock as a class to vote for a director or directors as herein provided, the term of office of any such director or directors then in office shall terminate immediately. Whenever the term of office of any director elected by the holders of the Series D Preferred Stock pursuant to this Section shall terminate and the special voting powers vested in the holders of the Series D Preferred Stock pursuant to this Section shall have expired, the maximum number of members of the Board of Directors shall be such as may be provided for in the By-Laws of the corporation irrespective of any increase made pursuant to the provisions of this Section.

4. Redemption. (a) At the Option of Holders. During, and only
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during the period of 30 days beginning on the fifth anniversary of the effective date of the merger of Trans-IMS Corporation into the corporation, any one or more holders of shares of Series D Preferred Stock, at the option of such holders, may demand that the corporation redeem any or all of their shares of Series D Preferred Stock at a redemption price of $8.00 per

share, plus an amount equal to all accrued and unpaid dividends thereon (whether or not declared) to and including the date of redemption. Such demand shall be made by delivering to the corporation at its principal executive offices a written demand during the aforesaid 30-day period. Such demand shall specify the number of shares to be redeemed and shall be irrevocable, except with the consent of the corporation. Following receipt of any such demand, the corporation may, at its option, choose to redeem, or not to redeem, shares in accordance with such demand and the provisions of this Section 4. If shares are to be so redeemed, the corporation shall fix a redemption date that shall be not later than 90 days after such fifth anniversary. The corporation shall give notice of redemption by first class mail, postage prepaid, mailed not less than 20 days prior to the date fixed for redemption to the holders whose shares are to be redeemed at their respective addresses appearing on the stock books of the corporation. Notice so mailed shall be conclusively presumed to have been duly given whether or not actually received. Such notice shall state: (i) the date fixed for redemption; (ii) the redemption price; (iii) the number of shares of Series D Preferred Stock to be redeemed and if less than all the shares held by such holder are to be redeemed, the number of shares to be so redeemed from such holder; (iv) the place where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that after the close of business on such date fixed for redemption the shares to be so redeemed shall not accrue dividends. If the corporation does not redeem all of the shares of Series D Preferred Stock for which redemption has been duly demanded pursuant to this Section, the sole remedy of the holders of such shares in respect of such failure to redeem shall be the exercise of the voting rights conferred by Section 3(c) above. For the purposes of Section 3 above, the corporation shall be considered to have redeemed any shares for which redemption has been duly demanded if such shares are thereafter purchased by the corporation or any person or entity that then owns, directly or indirectly, at least 50% of the corporation's then outstanding Common Stock.

(b) At the Option of the Corporation. On and after the fifth anniversary of the effective date of the merger of Trans-IMS Corporation into the corporation, the corporation, at its option, may redeem any or all shares of Series D Preferred Stock at a redemption price of $8.00 per share, plus an amount equal to all accrued and unpaid dividends thereon (whether or not declared) to and including the date of redemption.

(c) Redemption Procedures. (i) If, pursuant to Section 4(a), the corporation will redeem less than all of the shares for which demands for redemption were duly made, or if less than all of the outstanding shares of Series D Preferred Stock are to be redeemed pursuant to Section 4(b), the shares to be redeemed shall be selected pro rata (subject to rounding to avoid fractional shares) as nearly as practicable or by lot, or by such other method as the Board of Directors may determine to be equitable; provided, however, that if the corporation is proposing to redeem shares pursuant to Section 4(b) and any shares for which demands for redemption were duly made pursuant to Section 4(a) have not been redeemed, then priority shall be given to the redemption of such shares for which such demands were duly made.

(ii) Notice of any redemption pursuant to Section 4(b) shall be given by first class mail, postage prepaid, mailed not less than 30 nor more than 60 days prior to the date fixed for redemption to the holders of record of the Series D Preferred Stock to be redeemed at their respective addresses appearing on the stock books of the corporation. The Board of Directors of the corporation shall fix a record date for determining holders of record who are entitled to receive notice of any redemption, not more than 10 days prior to the mailing of such notice. Notice so mailed shall be conclusively presumed to have been duly given whether or not actually received. Such notice shall state: (i) the date fixed for redemption; (ii) the redemption price; (iii) the number of shares of Series D Preferred Stock to be redeemed and if less than all the shares held by such holder are to be redeemed, the number of shares to be so redeemed from such holder; (iv) the place where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that after the close of business on such date fixed for redemption the shares to be so redeemed shall not accrue dividends.

(iii) Upon surrender in accordance with the notice of redemption referred to in Section 4(a) or 4(c)(ii), the certificate for any shares of Series D Preferred Stock so redeemed (duly endorsed or accompanied by appropriate instruments of transfer, if so required by the corporation in such notice), the holders of record of such shares shall be entitled to receive the redemption price, without interest. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without cost to the holder thereof.

(iv) Notice of redemption having been mailed as provided in Section 4(a) or 4(c)(ii), from and after the

redemption date (unless default shall be made by the corporation in providing money for the payment of the redemption price) dividends on the shares of the Series D Preferred Stock called for redemption shall cease to accrue, and said shares shall no longer be deemed to be outstanding, and all rights of the holders thereof as stockholders of the corporation (except the right to receive from the corporation the redemption price) shall cease.

5. No Preemptive Rights. No holder of a share or shares of Series D Preferred Stock shall, because of such holder's ownership of such stock, have a preemptive right to purchase, subscribe for or take any part of any capital stock of the corporation nor shall any such holder have a preemptive right to purchase, subscribe for or take any part of notes, debentures, bonds or any other securities of the corporation, including, but not limited to, securities convertible into or carrying options or warrants to purchase capital stock of the corporation.

6. Liquidation Preference. Upon any voluntary or involuntary liquidation, dissolution or winding-up of the corporation, the holders of the Series D Preferred Stock will be entitled to receive out of the assets of the corporation available for distribution to stockholders, before any distribution of assets is made to the holders of shares of Common Stock, an amount in cash equal to $8.00 per share, plus an amount equal to all accumulated and unpaid dividends on such shares of Series D Preferred Stock to and including the date of such liquidation, dissolution or winding up. If, upon any voluntary or involuntary liquidation, dissolution or winding up of the corporation, the amounts payable with respect to the Series D Preferred Stock and any parity stock are not paid in full, the holders of the Series D Preferred Stock and such parity stock shall share ratably in any such distribution of assets of the corporation in proportion to the full respective preferential amounts (including accumulated and unpaid dividends) to which they are entitled. After payment to the holders of the Series D Preferred Stock (including accumulated and unpaid dividends) provided for in this Section 6, the holders of Series D Preferred Stock shall be entitled to no further participation in any distribution of assets of the corporation.

7. Conversion Rights. Holders of the Series D Preferred Stock shall have no rights to convert the Series D Preferred Stock into any other class of capital stock of the corporation.

8. Cancellation of Redeemed Shares. All shares of Series D Preferred Stock redeemed pursuant to Section 4 shall be cancelled and shall not be issuable by the corporation, and the Articles of Incorporation shall be appropriately amended, if required, to effect the corresponding reduction in the corporation's authorized capital.

9. No Other Rights. The shares of Series D Preferred Stock shall not have any preferences, voting powers or relative, participating or other special rights except as set forth above and in the Articles of Incorporation or as otherwise required by applicable law.

SIXTH: The number of directors on the corporation shall be fixed and may be altered from time to time as provided in the by-laws of the corporation.

SEVENTH: No shareholder of the corporation shall have any preemptive or similar right to acquire or subscribe for any additional unissued shares of stock, or other securities of any class, or rights, warrants or options to purchase stock or scrip, or securities of any kind convertible into stock or carrying stock purchase warrants or privileges.

EIGHTH: To the fullest extent permitted by the Act, as the same exists or may hereafter be amended, a director of the corporation shall not be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, except that this provision shall not eliminate or limit the liability of a director to the corporation or to its shareholders for monetary damages otherwise existing for (i) any breach of the director's duty of loyalty to the corporation or to its shareholders; (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) acts specified in Section 7-108-403 of the Act relating to any unlawful distribution; or (iv) any transaction from which the director directly or indirectly derived any improper personal benefit. If the Act is hereafter amended to eliminate or limit further the liability of a director, then, in addition to the elimination and limitation of liability provided by the preceding sentence, the liability of each director shall be eliminated or limited to the fullest extent permitted by the Act as so amended. Any repeal or modification of this Article by the shareholders of the corporation shall be prospective only and shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

NINTH: The corporation shall indemnify officers, directors, employees or agents to the extent provided in the corporation's bylaws.

FIFTH: A copy of the executed Plan of Merger is attached hereto.

SIXTH: The merger shall become effective immediately upon filing these Articles of Merger with the Secretary of State of Colorado in accordance with the provisions of Section 7-111-105 of the Colorado Business Corporation Act.

SEVENTH: The number of votes cast for the Plan of Merger by each voting group entitled to vote separately on the merger was sufficient for approval by that voting group.

DATED as of this _____ day of _____

INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado Corporation

By:_____
_____
President

TRANS-IMS CORPORATION,
a Colorado Corporation

By:_____
_____
President

# PUT/CALL AGREEMENT

THIS PUT/CALL AGREEMENT, dated _____ is among Eli Lilly and Company, an Indiana corporation ("Lilly"), Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), and the person or entity or persons or entities whose name or names appears on the signature page hereto as Holder (each, a "Holder").

## PRELIMINARY STATEMENT

Holder is the owner of shares of Common Stock or Series B Preferred Stock of IMS, or is the owner of rights to acquire such shares pursuant to options or warrants, as specified on the signature page hereof.

Pursuant to an Agreement and Plan of Merger, dated as of August 2, 1995 (the "Merger Agreement"), following approval by the IMS shareholders, a subsidiary of Lilly has been, or will be, merged into IMS (the "Merger"), and upon the Merger the outstanding shares of Common Stock and certain outstanding shares of Series B Preferred Stock have been, or will be, converted into cash or shares of Series D Preferred Stock, par value $0.01 per share, of IMS (the "New Preferred Stock"). In addition, rights to acquire Common Stock following the Merger pursuant to options or warrants, or upon the conversion of Series B Preferred Stock, have or will become rights to acquire New Preferred Stock.

Holder may elect to receive shares of New Preferred Stock in the Merger (the "Merger Shares") and/or to acquire additional shares of New Preferred Stock following the Merger pursuant to the exercise of options or warrants or the conversion of Series B Preferred Stock (the "Additional Shares").

Holder and Lilly desire to grant each other certain rights regarding the possible future purchase of such number of the Merger Shares and Additional Shares as are specified on the signature page hereof (such Merger Shares and Additional Shares so subject to the rights provided herein being herein called the "Subject Shares").

In order to facilitate the possible future purchase of the Subject Shares, the parties will execute an Escrow Agreement (the "Escrow Agreement") with

_____

an agent named therein (the "Agent") substantially in the form of Exhibit A hereto.

## AGREEMENT

The parties agree as follows:

1. PUT RIGHT. (a) Grant. Lilly hereby grants to Holder, subject to the terms and conditions of this Agreement, the right to require Lilly (or Lilly's designee(s)) to purchase any or all of the Subject Shares at the Purchase Price (as defined below) during the Put Periods specified below.

(b) Put Periods. The initial Put Period shall be a period of at least 10 business days beginning on the first anniversary of the Merger; the second Put Period shall be a period of at least 10 business days beginning on _____, 1998 [date to be about 30 months after Merger]. The Put Period shall be specified in the applicable Put Notification (as defined below) and shall be subject to extension, suspension or deferral as provided in Section 1(c) below. During each Put Period, Holder may exercise the Put Right in whole or in part by delivering to Lilly a Put Exercise Notice that specifies the number of Subject Shares to be sold to Lilly during that Put Period. A Put Exercise Notice shall be revocable until such time as Lilly shall have delivered a Put Purchase Certificate and thereafter shall not be revocable unless the Subject Shares specified in such Put Exercise Notice are not purchased by Lilly within 45 days after Lilly's receipt of the Put Exercise Notice, in which event the Put Exercise Notice may be revoked by delivering written notice of revocation to Lilly.

(c) Extensions; Suspensions; Deferrals. Lilly may elect, in its discretion, to extend any Put Period beyond the period specified in the Put Notification. In addition, Lilly shall have the right to defer commencement of a Put Period, or to suspend a Put Period that has commenced, or to defer the making of purchases pursuant to the Put Right, in order to permit compliance with all applicable laws; provided, however, that Lilly will use its commercially reasonable efforts to cause such compliance so as to avoid or minimize any such deferral or suspension, except that if commencement or continuation of a Put Period, or the making of purchases pursuant to the Put Right, would require the disclosure to Holder of information about IMS or Lilly that, in Lilly's reasonable judgment, it is not then in the best interests of IMS or Lilly to disclose, Lilly may, in its discretion, defer the commencement of, or may suspend, the Put Period or defer such purchases, for up to 90 days. Lilly shall give prompt written notice of any such

extension, suspension or deferral by sending an amended Put Notification to Holder. Any such extension, suspension or deferral shall not prevent Holder from revoking Holder's Put Exercise Notice, as provided in Section 1(b) above.

(d) Put Notification. At least 10 and not more than 30 days prior to the beginning of a Put Period, Lilly shall send a notice (the "Put Notification") to Holder, together with a form of Put Exercise Notice to be used by Holder in exercising the Put. The Put Notification shall inform Holder of (i) the rights of Holder to require Lilly to purchase the Subject Shares, (ii) the date of the commencement and termination of the Put Period (subject to possible extension, suspension or deferral pursuant to Section 1(c) above), (iii) the Purchase Price, (iv) instructions as to how to exercise the Put and (v) the address to which payment for the Purchase Price will be mailed unless Lilly receives notice from Holder at least three business days prior to the purchase date that payment should be mailed to another address, or should be sent, at Holder's expense, to a specified address via a reputable overnight courier delivery service or another delivery method reasonably acceptable to Lilly, or should be held by the Agent for delivery at its office to Holder or Holder's authorized representative.

(e) Purchase and Payment. At any time following receipt of a proper Put Exercise Notice, but not later than the third business day following the end of a Put Period (as modified pursuant to Section 1(c) above), Lilly shall purchase the Subject Shares covered by such Put Exercise Notice by delivering to the Agent a Put Purchase Certificate executed on behalf of Lilly by an officer or other authorized signatory that shall state:

(1) Lilly has received a Put Exercise Notice executed by Holder in compliance with this Agreement;

(2) Such Put Exercise Notice has not been revoked;

(3) The number of Subject Shares being sold pursuant to such Put Exercise Notice;

(4) The aggregate Purchase Price of such Subject Shares (net of any applicable taxes to be withheld pursuant to Section 3 below); and

(5) The name of Holder and the address to which payment for the aggregate Purchase Price should be mailed (or otherwise delivered in accordance with Holder's instructions as specified in the Put Exercise Notice);

and shall deposit with the Agent funds sufficient to pay the aggregate Purchase Price for such Subject Shares, and shall instruct the Agent to release the certificates and related stock powers for such Subject Shares to Lilly and as promptly as practicable to pay the aggregate Purchase Price to Holder.

(f) Partial Exercise. If the number of Subject Shares being sold by a Holder pursuant to a Put Exercise Notice is less than the number of shares represented by the relevant stock certificate held in escrow under the Escrow Agreement, Lilly and IMS will cause a new certificate for the remaining shares to be issued in the name of such Holder and deposited in such escrow. Holder will, if so requested by Lilly, execute and deliver to Lilly prior to the purchase date under the Put Exercise Notice an undated stock power endorsed in blank relating to such remaining shares, and Lilly will deposit such stock power into the escrow.

2. CALL RIGHT. (a) Grant. Holder hereby grants to Lilly, subject to the terms and conditions of this Agreement, the right to require Holder to sell any or all of the Subject Shares to Lilly (or its designee(s)) at the Purchase Price (the "Call Right").

(b) Call. Lilly may exercise the Call Right in whole at any time or in part from time to time after the third anniversary of the Merger by giving notice to Holder specifying the number of Subject Shares to be purchased and the scheduled date of purchase, which date shall be at least 10 days after the date such notice is given. Lilly may revoke such notice, or may defer the scheduled date of purchase, by giving notice to Holder at any time prior to Lilly's purchase of Subject Shares pursuant to the Call notice. On the purchase date, Lilly shall deliver to the Agent a Call Purchase Certificate executed on behalf of Lilly by an officer or other authorized signatory that shall state:

(1) Lilly has exercised its Call Right in compliance with this Agreement;

(2) Such exercise has not been revoked;

(3) The number of Subject Shares being purchased pursuant to such exercise;

(4) The aggregate Purchase Price of such Subject Shares (net of any applicable taxes to be withheld pursuant to Section 3 below); and

(5) The name of Holder and the address to which payment for the aggregate Purchase Price should be mailed (or otherwise delivered in accordance with Holder's instructions received by Lilly at least three business days prior to the scheduled date of purchase);

and shall deposit with the Agent funds sufficient to pay the aggregate Purchase Price for such Subject Shares, and shall instruct the Agent to release the certificates and related stock powers for such Subject Shares to Lilly and as promptly as practicable to pay the aggregate Purchase Price to Holder.

3. PURCHASE PRICE. The Purchase Price shall be $8.00 per Subject Share, plus any unpaid dividends accrued to the date on which Lilly deposits funds with the Agent sufficient to pay the Purchase Price, but less any delivery expenses to be charged to Holder in accordance with Section 1(d)(v) above. If the IMS Preferred Stock shall be split or combined, the Purchase Price shall be appropriately adjusted. The Purchase Price shall be paid by issuance of the Agent's check, payable to Holder's order in New York Clearing House (next day) funds. Lilly shall be entitled to deduct and withhold from the Purchase Price such amounts as Lilly is required to deduct and withhold with respect to the making of such payment under the Internal Revenue Code, or any provision of state, local or foreign tax law. To the extent that amounts are so withheld by Lilly, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to Holder.

4. ESCROW. (a) The parties hereto agree that the Agent will be a bank or trust company with capital surplus and undivided profits of at least $100 million and with offices located in New York City, Chicago or Denver (which bank or trust company also may be the transfer agent and/or paying agent for the New Preferred Stock), such Agent to be selected by Lilly and be reasonably acceptable to IMS.

(b) Escrow of Merger Shares. Holder is executing and delivering to IMS an undated stock power endorsed in blank relating to the portion of the Merger Shares subject to the rights herein provided. Holder hereby authorizes IMS to, and IMS will promptly following the Merger, insert into the stock power the certificate numbers of the stock certificates representing such Merger Shares and deliver to the Agent the certificates for such Merger Shares, together with the stock power, to be held, and be subject to release, in accordance with the Escrow Agreement.

(c) Escrow of Additional Shares. If Holder acquires any Additional Shares subject to the rights herein provided, Holder agrees that Holder will cause the

certificates for such Additional Shares and, if there are not already on deposit in the escrow sufficient appropriate stock powers, an undated stock power endorsed in blank relating to such Additional Shares to be delivered to the Agent to be held, and be subject to release, in accordance with the Escrow Agreement. Holder hereby authorizes IMS to cause any certificates for such Additional Shares to be delivered directly to the Agent.

5. TRANSFERS OF SUBJECT SHARES. Holder shall have the right to sell, assign, donate, pledge or otherwise transfer or encumber any or all of the Subject Shares and any related rights and obligations under this Agreement only with Lilly's prior written consent (any transfer or encumbrance being herein called a "transfer"). Lilly will grant such consent provided that:

(a) the transferee shall have executed and delivered an agreement reasonably satisfactory to Lilly confirming that the Subject Shares being transferred will remain subject to this Agreement, including, without limitation, the Call Right;

(b) the certificates for the Subject Shares being transferred are or remain deposited in the escrow with the Agent and the transferee shall have executed and delivered to the Agent an undated stock power endorsed in blank regarding those Subject Shares; provided, however, that if Holder wishes to make a bona fide pledge to a bank, financial institution or brokerage firm, Lilly will consent to the pledge and to the release from escrow and delivery to the pledgee of the related stock certificates and stock powers provided the pledgee shall have executed and delivered an agreement (which shall satisfy clause (a) above) reasonably satisfactory to Lilly confirming that the pledged shares will remain subject to this Agreement and that upon release of the pledge the pledged shares will be returned to the Agent for deposit in the escrow and that upon any exercise of the Call Right the certificates and stock powers for the pledged shares will be delivered to Lilly, free and clear of the pledge or any claim or encumbrance created thereby; and

(c) Lilly is reasonably satisfied that the transfer (i) will comply with all applicable Federal and state securities laws and other applicable legal requirements and (ii) will not result in the outstanding New Preferred Stock being held of record by 500 or more persons within the meaning of Section 12(g) of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder.

6. LEGENDS. Each certificate representing the Subject Shares shall bear the following legend:

"The shares represented hereby are subject to (i) redemption by the Corporation during the periods, at the prices and on the terms and conditions specified in the Articles of Incorporation, (ii) an option on the part of the holder to require Eli Lilly and Company to purchase, and an option on the part of Eli Lilly and Company to require the holder to sell, such shares, at the times and at the prices and on the terms and conditions specified in a Put/Call Agreement and a related Escrow Agreement, both dated as of _____, 1995, copies of which are available for inspection at the Corporation's executive offices. These shares are not transferrable except as provided in the Put/Call Agreement."

7. NO RESTRICTIONS ON LILLY. (a) Holder hereby acknowledges that the existence of the Put Right and the Call Right will not impair or restrict in any way Lilly's right, following the Merger, to transfer all or any of its interest in IMS or to cause IMS to merge, sell its assets or engage in other extraordinary transactions, including, without limitation, transactions that would result in the cashing out of the New Preferred Stock or the exchange of the New Preferred Stock for other securities, except that prior to the third anniversary of the Merger Lilly will not cause IMS to engage in a merger or other extraordinary transaction that would result in Holder's being deemed for Federal income tax purposes to have sold Subject Shares in such merger or other extraordinary transaction. Lilly represents that, as of this Agreement, it has no present intention to cause IMS to engage in such a merger or other extraordinary transaction prior to the fifth anniversary of the Merger.

(b) If pursuant to a merger, consolidation, recapitalization, reorganization, sale of substantially all of the assets or other such transaction involving IMS, the outstanding shares of New Preferred Stock are converted into or exchanged for cash, property or securities of IMS or any other issuer, then the Put Right and the Call Right shall apply to such cash, property or securities and the Purchase Price and other terms hereof shall be subject to appropriate adjustment, so as to preserve unchanged to the fullest extent possible the rights and obligations of the parties to this Agreement.

8. REPRESENTATIONS AND WARRANTIES.

(a) By Holder. Holder hereby represents and warrants to Lilly and IMS as follows:

(i) Holder has full power and authority to enter into, and to carry out Holder's obligations under, this Agreement and the Escrow Agreement, and Holder has duly executed and delivered this Agreement and the Escrow Agreement, which constitute valid, legally binding and enforceable obligations of Holder;

(ii) Holder is the sole record owner and, except in the case of a Holder who holds as a trustee, is the sole beneficial owner, of the number of shares of Common Stock or Series B Preferred Stock of IMS, and has the right to acquire the number of additional shares, specified on the signature page hereof, subject to no lien, security interest, proxy or other right, claim or interest of any third party; and

(iii) upon delivery of certificates and stock powers to Lilly and payment by Lilly therefor as contemplated hereby, Lilly will become the sole beneficial and record owner of the Subject Shares, subject to no lien, security interest, proxy or other right, claim of interest of Holder or any other person or entity.

(b) By Lilly and IMS. Lilly and IMS each hereby represents and warrants to Holder that the warranting party has full corporate power and authority to enter into, and to carry out its obligations under, this Agreement and the Escrow Agreement, which constitute its valid, legally binding and enforceable obligations.

9. NOTICES. All notices, requests, demands, consents and other communications required or permitted to be given or made hereunder shall be in writing and shall be deemed to have been duly given or made if delivered personally, or sent by reputable overnight courier delivery or by telecopy or similar facsimile transmission, or mailed by prepaid registered or certified mail, return receipt requested, to Holder at the address specified on the signature page hereto or to Lilly or IMS at the address set forth below (or in any such case to such other address as a party shall designate for itself by notice given or made in accordance herewith);

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Attention: General Counsel

Integrated Medical Systems, Inc.
15000 West Sixth Avenue, Suite 400
Golden, Colorado 80401

Any such notice, request or other communication shall be deemed delivered and given or made on the third business day after the date of mailing, if mailed by registered or certified mail, or on the first business day after date of transmittal, if sent by courier delivery or by telecopy or similar facsimile transmission, or on the date of delivery, if delivered personally. Notwithstanding the foregoing, a Put Exercise Notice shall not be deemed given or delivered, and no revocation of a Put Exercise Notice pursuant to Section 1(b) above or change of payment delivery instructions shall be deemed given or delivered, until it is actually delivered to Lilly during the applicable time period, unless Lilly elects to waive such requirement.

10. ASSIGNMENT. This Agreement shall not be assignable by Holder except that rights and obligations relating to Subject Shares may be assigned to a transferee of those Subject Shares pursuant to Section 5 above. This Agreement shall be assignable in whole at any time or in part from time to time by Lilly and IMS. Following any assignment, the assignor shall remain liable for the performance of the assignor's obligations under this Agreement. Subject to the foregoing, the terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective heirs, beneficiaries, representatives, successors and permitted assigns.

11. WAIVER, AMENDMENT, ETC. None of the terms or provisions of this Agreement may be waived, altered, modified or amended except by a writing duly signed by Holder, Lilly and IMS.

12. EXECUTION IN COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which counterparts taken together shall constitute one and the same instrument.

13. GOVERNING LAW. This Agreement shall be governed by, and construed in accordance with, the laws in effect in the State of Colorado without giving effect to its conflicts of law principles.

14. SUBMISSION TO JURISDICTION. The parties hereto irrevocably submit to the jurisdiction of any state or federal court sitting in the State of Colorado over any action or proceeding arising out of this Agreement, and hereby irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such state or federal court. Each of the parties hereby irrevocably waives, to the fullest extent such party may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. The parties irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to each of them at their respective addresses for notices pursuant to Section 9 above. Nothing in this Section 14 shall affect the right of any party to serve legal process in any other manner permitted by law or affect the right of any party, assuming proper jurisdiction exists, to bring any action or proceeding against any party in the courts of any other jurisdiction.

15. EFFECT OF HEADINGS. The section headings in this Agreement are for convenience only and shall not affect the construction hereof.

[Signature Page for Holder]

_____
(name of Holder)

_____
(signature of Holder)

Address:

| | Number of Shares | |
|---|---|---|
| Owned | Right to Acquire Under Options | Right to Acquire Under Warrants |
| Common Stock | | |
| Series B Preferred Stock | | |

| | Number of Shares To Be Acquired in Merger | |
|---|---|---|
| Owned | Under Options | Under Warrants |
| Series D Preferred Stock | | |

| | Number of Shares of Series D Preferred Stock Subject to Put/Call | |
|---|---|---|
| Owned | Under Options | Under Warrants |
| Series D Preferred Stock | | |

[Signature Page for Lilly and IMS]

ELI LILLY AND COMPANY

By_____

INTEGRATED MEDICAL SYSTEMS, INC.

By_____

EXHIBIT A

# ESCROW AGREEMENT

This Escrow Agreement, dated as of _____, 1995, by and among Eli Lilly and Company, an Indiana corporation ("Lilly"), Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), one or more shareholders of IMS identified on the signature pages hereof ("Holders") and _____, a _____ (the "Escrow Agent").

## PRELIMINARY STATEMENT

Each Holder is the owner of shares of Common Stock or Series B Preferred Stock of IMS, or is the owner of rights to acquire such shares pursuant to options or warrants or the conversion of convertible securities.

Pursuant to an Agreement and Plan of Merger, dated as of August 2, 1995 (the "Merger Agreement"), following approval by the IMS shareholders, a subsidiary of Lilly has been or will be merged into IMS (the "Merger"), and upon the Merger the outstanding shares of Common Stock and certain outstanding shares of Series B Preferred Stock of IMS have been or will be converted into cash or shares of Series D Preferred Stock of IMS (the "New Preferred Stock"). In addition, rights to acquire Common Stock of IMS pursuant to

options or warrants or the conversion of Series B Preferred Stock have or will become rights to acquire New Preferred Stock.

Lilly, IMS and Holders have entered into Put/Call Agreements pursuant to which Holders and Lilly have granted each other certain rights regarding the possible future purchase of some or all of the New Preferred Stock that such Holders may acquire (the "Subject Shares").

Lilly, IMS and Holders desire that the stock certificates and related stock powers for the Subject Shares be held in escrow pending the possible purchase thereof pursuant to the Put/Call Agreements.

## AGREEMENT

### Section 1. Establishment of Escrow.

Lilly, IMS or any Holder may from time to time deliver to the Escrow Agent certificates representing Subject Shares registered in the name of Holder and undated stock powers endorsed in blank by such Holder relating to those Subject Shares (such certificates and stock powers are herein called "Escrowed Shares"). Escrowed Shares shall be held, administered and disposed of by the Escrow Agent in accordance with the terms and conditions of this Escrow

Agreement. The Escrow Agent shall deliver promptly to Lilly and IMS written notice of the receipt by the Escrow Agent of any Escrowed Shares that are delivered by a Holder rather than by Lilly or IMS.

Section 2. Custody and Release.

(a) The Escrow Agent shall act as custodian of the Escrowed Shares.

(b) Upon delivery by Lilly to the Escrow Agent of one or more Put Purchase Certificates or Call Purchase Certificates, together with funds sufficient to pay the aggregate Purchase Price for the Escrowed Shares specified in such Certificates, the Escrow Agent shall immediately release such Escrowed Shares to Lilly. In addition, the Escrow Agent shall as promptly as practicable, and in any event not later than five business days after Lilly delivery of such Certificates, issue its checks payable to the order of the Holders specified in the Put Purchase Certificates or Call Purchase Certificates. Such checks shall be in New York Clearing House funds and shall be sent to the addresses and in the manner specified in the applicable Put Purchase Certificates or Call Purchase Certificates. As used in this Escrow Agreement, a Put Purchase Certificate shall mean a properly executed Certificate substantially in the form of Exhibit 1 attached hereto, and a Call Purchase Certificate

shall mean a properly executed Certificate substantially in the form of Exhibit 2 attached hereto.

(c) Upon delivery to the Escrow Agent of instructions signed by Lilly and any Holder to release any Escrowed Shares held of record by such Holder, the Escrow Agent shall immediately release such Escrowed Shares to such Holder in accordance with such instructions.

(d) If for any reason the Escrow Agreement has not been terminated by December 31, 2001, the Escrow Agent shall release promptly all Escrowed Shares to the respective Holders who are the record owners thereof.

[add boilerplate per form of escrow agreement to be provided by the Agent and reasonably satisfactory to Lilly and IMS]

Exhibit 1

PUT PURCHASE CERTIFICATE

Eli Lilly and Company ("Lilly") hereby certifies to _____, as Agent under the Escrow Agreement dated _____, 1995 as follows:

1. Lilly has received Put Exercise Notices executed by Holders pursuant to Section 1(d) of the Put/Call Agreement, dated _____, 1995 (the "Agreement"), as specified on Attachment 1 hereto;

2. Such Put Exercise Notices have not been revoked;

3. The number of Subject Shares being sold by each Holder pursuant to such Put Exercise Notices is specified on Attachment 1 hereto, and the aggregate number of Subject Shares being sold by all such Holders is _____;

4. The Purchase Price of the Subject Shares (net of any applicable taxes to be withheld pursuant to Section 3 of the Agreement) being sold by each such Holder is specified on Attachment 1 hereto, and the aggregate purchase price (net of such taxes) for all such Subject Shares is $_____; and

5. The names of the Holders and the addresses to which payment for the Purchase Price should be mailed (or otherwise delivered in accordance with instructions as specified in the applicable Put Exercise Notice) are set forth on Attachment 1 hereto.

Upon Agent's receipt of funds sufficient to pay the aggregate Purchase Price for the aforesaid Subject Shares, Agent is hereby instructed to release the certificates and related stock powers for such Subject Shares to Lilly and as promptly as practicable to pay the Purchase Price to the Holders in accordance with clause 5 above.

IN WITNESS WHEREOF, Lilly has executed this Certificate on _____, 199_.

ELI LILLY AND COMPANY

By_____

Attachment 1
---

| Name and Address*# of Holder | Number of Shares Being Sold | Purchase Price |
|---|---|---|

_____

* Address to which payment should be mailed

\# [Any special delivery instructions to be noted here]

Appendix C

August 2, 1995

The Board of Directors
Integrated Medical Systems, Inc.
15000 West 6th Avenue
Suite 400
Golden, Colorado 80401

Members of the Board:

You have requested our opinion as to the fairness, from a financial point of view, of the consideration to be offered to the holders of the common stock of Integrated Medical Systems, Inc. (the "Company"), other than Eli Lilly and Company and its subsidiaries (collectively, "Lilly"), and the holders of the Series B Preferred Stock of the Company (the holders of common stock and Series B Preferred Stock of the Company, other than Lilly, are hereinafter collectively referred to as the "Majority Shareholders"), pursuant to the Agreement and Plan of Merger, dated as of July 31, 1995, by and among Eli Lilly and Company, Trans-IMS Corporation (the "Subsidiary") and the Company (together with the exhibits thereto, the "Merger Agreement"), As more fully described in the Merger Agreement, and subject to the terms and conditions specified therein, the Subsidiary shall be merged with and into the Company (the "Merger") and (a) each holder of common stock of the Company (other than Lilly) will have the opportunity to elect to receive, for each share held, either $8.00 in cash or one share of newly issued Series D Preferred Stock ("Series D Preferred Stock") of the Company and (b) each holder of Series B Preferred Stock of the Company will have the opportunity to elect to receive, for each share held, either $5.33 in cash or 2/3 of a share of Series D Preferred Stock, in each case subject to dissenters' appraisal rights (such cash elections and stock elections to be offered to such shareholders pursuant to the Merger Agreement are hereinafter collectively referred to as the "Merger Consideration").

In arriving at our opinion, we reviewed the Merger Agreement and held discussions with certain senior officers, directors and other representatives and advisors of the Company concerning the business, operations and prospects of the Company. We participated in discussions and negotiations among representatives of the Company and Lilly and their financial and legal advisors. We examined certain business and financial information relating to the Company as well as certain financial forecasts and other data which were provided to us by the management of the Company. We reviewed the financial terms of the Merger Consideration in relation to, among other things, the Company's historical and projected earnings and the capitalization and financial condition of the Company. We also considered, to the extent publicly available, the financial terms of certain other transactions which we deemed comparable to the Merger and analyzed certain financial and other publicly available information relating to the businesses of other companies whose operations we considered comparable to the Company. In addition, we conducted such other analyses and examinations and considered such other financial, economic and market criteria as we deemed necessary to arrive at our opinion.

In rendering our opinion, we have assumed and relied upon, without independent verification, the accuracy and completeness of all financial and other information publicly available or furnished to or otherwise reviewed by or discussed with us. Except as described above, we have not conducted any review or investigation of the Company or Lilly. With respect to financial forecasts and other information provided to or otherwise reviewed by or discussed with us, we assumed that such forecasts and other information were reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of the Company as to the expected future financial performance of the Company. We have not made or been provided with an independent valuation or appraisal of the assets, liabilities (contingent or otherwise) or reserves of the Company nor have we made any physical inspection of the properties or assets of the Company. We have assumed the correctness of and relied upon the representations and warranties of the Company, the Subsidiary and Eli Lilly and Company in the Merger Agreement and have not attempted to independently verify the same. We were not asked to, and did not, solicit acquisition proposals from any third parties. Our opinion is necessarily based upon information available to us, and financial, stock market and other conditions and circumstances existing and disclosed to us, as of the date hereof.

Our opinion does not address the relative merits of the Merger as compared to any alternative business strategies that might exist for the Company or the effect of any other transaction in which the Company may engage.

We were not asked to, and do not, express any opinion as to the relative merits of receiving the cash consideration or the stock consideration in the Merger and accordingly, this opinion is not intended to be and shall not be deemed to be a recommendation to any shareholder as to whether or not to make a cash election. In addition, we were not asked to, and do not, express any opinion as to (a) what the value of the Series D Preferred Stock actually will be when issued to shareholders of the Company pursuant to the Merger - or the price at which the Series D Preferred Stock will trade, if at all, subsequent to the Merger, (b) any election by any shareholder of the Company to retain shares of Series B Preferred Stock of the Company or (c) the relative fairness of the Merger to the holders of the common stock of the Company and the holders of the Series B Preferred Stock of the Company.

Smith Barney has been engaged to render financial advisory services to the Company in connection with the Merger and will receive a fee for our services, a significant portion of which is contingent upon completion of the Merger. We will also receive a fee upon delivery of this opinion. In the regular course of our business, we and our affiliates may actively trade the equity and debt securities of Lilly for our own account or for the account of our customers and, accordingly, may at any time hold a long or short position in such securities. In addition, we and our affiliates (including The Travelers Inc. and its affiliates) may maintain business relationships with the Company, Lilly and their affiliates.

Our advisory services, and the opinion expressed herein, are provided solely for the use of the Company (including its Board of Directors) in its evaluation of the proposed Merger and are not on behalf of, and are not intended to confer rights or remedies upon, Lilly, any stockholder of the Company or Lilly, or any person other than the Board of Directors or the Company. Our opinion may not be published or otherwise used or referred to, nor shall any public reference to Smith Barney be made, without our prior written consent, except that we consent to disclosure of this opinion in the proxy statement relating to the Merger so long as such disclosure is provided to us and our counsel for review and comment prior to its publication. This opinion is not intended to be and shall not be deemed to be a recommendation to any stockholder of the Company to vote in favor of the Merger.

Based upon and subject to the foregoing, our experience as investment bankers, our work as described above and other factors we deemed relevant, we are of the opinion that, as of the date hereof, the Merger Consideration to be offered to the Majority Shareholders pursuant to the Merger Agreement is fair, from a financial point of view, to the Majority Shareholders.

Very truly yours,

SMITH BARNEY INC.

# COLORADO BUSINESS CORPORATION ACT

## ARTICLE 113

## DISSENTERS' RIGHTS

### PART 1

### RIGHT OF DISSENT--PAYMENT FOR SHARES

7-113-101 DEFINITIONS.--For purposes of this article:

(1) "Beneficial shareholder" means the beneficial owner of shares held in a voting trust or by a nominee as the record shareholder.

(2) "Corporation" means the issuer of the shares held by a dissenter before the corporate action, or the surviving or acquiring domestic or foreign corporation, by merger or share exchange of that issuer.

(3) "Dissenter" means a shareholder who is entitled to dissent from corporate action under section 7-113-102 and who exercises that right at the time and in the manner required by part 2 of this article.

(4) "Fair value", with respect to a dissenter's shares, means the value of the shares immediately before the effective date of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action except to the extent that exclusion would be inequitable.

(5) "Interest" means interest from the effective date of the corporate action until the date of payment, at the average rate currently paid by the corporation on its principal bank loans or, if none, at the legal rate as specified in section 5-12-101, C.R.S.

(6) "Record shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares that are registered in the name of a nominee to the extent such owner is recognized by the corporation as the shareholder as provided in section 7-107-204.

(7) "Shareholder" means either a record shareholder or a beneficial shareholder.

7-113-102 RIGHT TO DISSENT.--(1) A shareholder, whether or not entitled to vote, is entitled to dissent and obtain payment of the fair value of his or her shares in the event of any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party if:

(I) Approval by the shareholders of that corporation is required for the merger by section 7-111-103 or 7-111-104 or by the articles of incorporation, or

(II) The corporation is a subsidiary that is merged with its parent corporation under section 7-111-104;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired;

(c) Consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the property of the corporation for which a shareholder vote is required under section 7-112-102(1); and

(d) Consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the property of an entity controlled by the corporation if the shareholders of the corporation were entitled to vote upon the consent of the corporation to the disposition pursuant to section 7-112-102(2).

(2) A shareholder, whether or not entitled to vote, is entitled to dissent and obtain payment of the fair value of the shareholder's shares in the event of:

(a) An amendment to the articles of incorporation that materially and adversely affects rights in respect of the shares because it:

(I) Alters or abolishes a preferential right of the shares; or

(II) Creates, alters, or abolishes a right in respect of redemption of the shares, including a provision respecting a sinking fund for their redemption or repurchase; or

(b) An amendment to the articles of incorporation that affects rights in respect of the shares because it:

(I) Excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

(II) Reduces the number of shares owned by the shareholder to a fraction of a share or to scrip if the fractional share or scrip so created is to be acquired for cash or the scrip is to be voided under section 7-106-104.

(3) A shareholder is entitled to dissent and obtain payment of the fair value of the shareholder's shares in the event of any corporate action to the extent provided by the bylaws or a resolution of the board of directors.

(4) A shareholder entitled to dissent and obtain payment for the shareholder's shares under this article may not challenge the corporate action creating such entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

7-113-103 DISSENT BY NOMINEES AND BENEFICIAL OWNERS.--(1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in the record shareholder's name only if the record shareholder dissents with respect to all shares beneficially owned by any one person and causes the corporation to receive written notice which states such dissent and the name, address, and federal taxpayer identification number, if any, of each person on whose behalf the record shareholder asserts dissenters' rights. The rights of a record shareholder under this subsection (1) are determined as if the shares as to which the record shareholder dissents and the other shares of the record shareholder were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to the shares held on the beneficial shareholder's behalf only if:

(a) The beneficial shareholder causes the corporation to receive the record shareholder's written consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights; and

(b) The beneficial shareholder dissents with respect to all shares beneficially owned by the beneficial shareholder.

(3) The corporation may require that, when a record shareholder dissents with respect to the shares held by any one or more beneficial shareholders, each such beneficial shareholder must certify to the corporation that the beneficial shareholder and the record shareholder or record shareholders of all shares owned beneficially by the beneficial shareholder have asserted, or will timely assert, dissenters' rights as to all such shares as to which there is no limitation on the ability to exercise dissenters' rights. Any such requirement shall be stated in the dissenters' notice given pursuant to section 7-113-203.

PART 2

PROCEDURE FOR EXERCISE OF DISSENTERS' RIGHTS

7-113-201 NOTICE OF DISSENTERS' RIGHTS.--(1) If a proposed corporate action creating dissenters' rights under section 7-113-102 is submitted to a vote at a shareholders' meeting, the notice of the meeting shall be given to all shareholders, whether or not entitled to vote. The notice shall state that shareholders are or may be entitled to assert dissenters' rights under this article and shall be accompanied by a copy of this article and the materials, if any, that, under articles 101 to 117 of this title, are required to be given to shareholders entitled to vote on the proposed action at the meeting. Failure to give notice as provided by this subsection (1) to shareholders not entitled to vote shall not affect any action taken at the shareholders' meeting for which the notice was to have been given.

(2) If a proposed corporate action creating dissenters' rights under section 7-113-102 is authorized without a meeting of shareholders pursuant to section 7-107-104, any written or oral solicitation of a shareholder to execute a writing consenting to such action contemplated in section 7-107-104 shall be accompanied or preceded by a written notice stating that shareholders are or

may be entitled to assert dissenters' rights under this article, by a copy of this article, and by the materials, if any, that, under articles 101 to 117 of this title, would have been required to be given to shareholders entitled to vote on the proposed action if the proposed action were submitted to a vote at a shareholders' meeting. Failure to give notice as provided by this subsection (2) to shareholders not entitled to vote shall not affect any action taken pursuant to section 7-107-104 for which the notice was to have been given.

7-113-202 NOTICE OF INTENT TO DEMAND PAYMENT.--(1) If a proposed corporate action creating dissenters' rights under section 7-113-102 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights shall:

(a) Cause the corporation to receive, before the vote is taken, written notice of the shareholder's intention to demand payment for the shareholder's shares if the proposed corporate action is effectuated; and

(b) Not vote the shares in favor of the proposed corporate action.

(2) If a proposed corporate action creating dissenters' rights under section 7-113-102 is authorized without a meeting of shareholders pursuant to section 7-107-104, a shareholder who wishes to assert dissenters' rights shall not execute a writing consenting to the proposed corporate action.

(3) A shareholder who does not satisfy the requirements of subsection (1) or (2) of this section is not entitled to demand payment for the shareholder's shares under this article.

7-113-203 DISSENTERS' NOTICE.--(1) If a proposed corporate action creating dissenters' rights under section 7-113-102 is authorized, the corporation shall give a written dissenters' notice to all shareholders who are entitled to demand payment for their shares under this article.

(2) The dissenters' notice required by subsection (1) of this section shall be given no later than ten days after the effective date of the corporate action creating dissenters' rights under section 7-113-102 and shall:

(a) State that the corporate action was authorized and state the effective date or proposed effective date of the corporate action;

(b) State an address at which the corporation will receive payment demands and the address of a place where certificates for certificated shares must be deposited;

(c) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(d) Supply a form for demanding payment, which form shall request a dissenter to state an address to which payment is to be made;

(e) Set the date by which the corporation must receive the payment demand and certificates for certificated shares, which date shall not be less than thirty days after the date the notice required by subsection (1) of this section is given;

(f) State the requirement contemplated in section 7-113-103(3), if such requirement is imposed; and

(g) Be accompanied by a copy of this article.

7-113-204 PROCEDURE TO DEMAND PAYMENT.--(1) A shareholder who is given a dissenters' notice pursuant to section 7-113-203 and who wishes to assert dissenters' rights shall, in accordance with the terms of the dissenters' notice:

(a) Cause the corporation to receive a payment demand, which may be the payment demand form contemplated in section 7-113-203(2)(d), duly completed, or may be stated in another writing; and

(b) Deposit the shareholder's certificates for certificated shares.

(2) A shareholder who demands payment in accordance with subsection (1) of this section retains all rights of a shareholder, except the right to transfer the shares, until the effective date of the proposed corporate action giving rise to the shareholder's exercise of dissenters' rights and has only the right to receive payment for the shares after the effective date of such corporate action.

(3) Except as provided in section 7-113-207 or 7-113-209(1)(b), the demand for payment and deposit of certificates are irrevocable.

(4) A shareholder who does not demand payment and deposit the shareholder's share certificates as required by the date or dates set in the dissenters' notice is not entitled to payment for the shares under this article.

7-113-205 UNCERTIFICATED SHARES.--(1) Upon receipt of a demand for payment under section 7-113-204 from a shareholder holding uncertificated shares, and in lieu of the deposit of certificates representing the shares, the corporation may restrict the transfer thereof.

(2) In all other respects, the provisions of section 7-113-204 shall be applicable to shareholders who own uncertificated shares.

7-113-206 PAYMENT.--(1) Except as provided in section 7-113-208, upon the effective date of the corporate action creating dissenters' rights under section 7-113-102 or upon receipt of a payment demand pursuant to section 7-113-204, whichever is later, the corporation shall pay each dissenter who complied with section 7-113-204, at the address stated in the payment demand, or if no such address is stated in the payment demand, at the address shown on the corporation's current record of shareholders for the record shareholder holding the dissenter's

shares, the amount the corporation estimates to be the fair value of the dissenter's shares, plus accrued interest.

(2) The payment made pursuant to subsection (1) of this section shall be accompanied by:

(a) The corporation's balance sheet as of the end of its most recent fiscal year or, if that is not available, the corporation's balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, and, if the corporation customarily provides such statements to shareholders, a statement of changes in shareholders' equity for that year and a statement of cash flow for that year, which balance sheet and statements shall have been audited if the corporation customarily provides audited financial statements to shareholders, as well as the latest available financial statements, if any, for the interim or full-year period, which financial statements need not be audited;

(b) A statement of the corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated;

(d) A statement of the dissenter's right to demand payment under section 7-113-209; and

(e) A copy of this article.

7-113-207 FAILURE TO TAKE ACTION.--(1) If the effective date of the corporate action creating dissenters' rights under section 7-113-102 does not occur within sixty days after the date set by the corporation by which the corporation must receive the payment demand as provided in section 7-113-203, the corporation shall return the deposited certificates and release the transfer restrictions imposed on uncertificated shares.

(2) If the effective date of the corporate action creating dissenters' rights under section 7-113-102 occurs more than sixty days after the date set by the corporation by which the corporation must receive the payment demand as provided in section 7-113-203, then the corporation shall send a new dissenters' notice, as provided in section 7-113-203, and the provisions of sections 7-113-204 to 7-113-209 shall again be applicable.

7-113-208 SPECIAL PROVISIONS RELATING TO SHARES ACQUIRED AFTER ANNOUNCEMENT OF PROPOSED CORPORATE ACTION.--(1) The corporation may, in or with the dissenters' notice given pursuant to section 7-113-203, state the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action creating dissenters' rights under section 7-113-102 and state that the dissenter shall certify in writing, in or with the dissenter's payment demand under section 7-113-204, whether or not the dissenter (or the person on whose behalf dissenters' rights are asserted) acquired beneficial ownership of the shares before that date. With respect to any dissenter who does not so certify in writing, in or with the payment demand, that the dissenter or the person on whose behalf the dissenter asserts dissenters' rights acquired beneficial ownership of the shares before such date,

the corporation may, in lieu of making the payment provided in section 7-113-206, offer to make such payment if the dissenter agrees to accept it in full satisfaction of the demand.

(2) An offer to make payment under subsection (1) of this section shall include or be accompanied by the information required by section 7-113-206(2).

7-113-209 PROCEDURE IF DISSENTER IS DISSATISFIED WITH PAYMENT OR OFFER.--(1) A dissenter may give notice to the corporation in writing of the dissenter's estimate of the fair value of the dissenter's shares and of the amount of interest due and may demand payment of such estimate, less any payment made under section 7-113-206, or reject the corporation's offer under section 7-113-208 and demand payment of the fair value of the shares and interest due, if:

(a) The dissenter believes that the amount paid under section 7-113-206 or offered under section 7-113-208 is less than the fair value of the shares or that the interest due was incorrectly calculated;

(b) The corporation fails to make payment under section 7-113-206 within sixty days after the date set by the corporation by which the corporation must receive the payment demand; or

(c) The corporation does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares as required by section 7-113-207(1).

(2) A dissenter waives the right to demand payment under this section unless the dissenter causes the corporation to receive the notice required by subsection (1) of this section within thirty days after the corporation made or offered payment for the dissenter's shares.

## PART 3

## JUDICIAL APPRAISAL OF SHARES

7-113-301 COURT ACTION.--(1) If a demand for payment under section 7-113-209 remains unresolved, the corporation may, within sixty days after receiving the payment demand, commence a proceeding and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay to each dissenter whose demand remains unresolved the amount demanded.

(2) The corporation shall commence the proceeding described in subsection (1) of this section in the district court of the county in this state where the corporation's principal office is located or, if it has no principal office in this state, in the district court of the county in which its registered office is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the registered office of the domestic corporation merged into, or whose shares were acquired by, the foreign corporation was located.

(3) The corporation shall make all dissenters, whether or not residents of this state, whose demands remain unresolved parties to the proceeding commenced under subsection (2) of this section as in an action against their shares, and all parties shall be served with a copy of the petition. Service on each dissenter shall be by registered or certified mall, to the address stated in such dissenter's payment demand, or if no such address is stated in the payment demand, at the address shown on the corporation s current record of shareholders for the record shareholder holding the dissenter's shares, or as provided by law.

(4) The jurisdiction of the court in which the proceeding is commenced under subsection (2) of this section is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to such order. The parties to the proceeding are entitled to the same discovery rights as parties in other civil proceedings.

(5) Each dissenter made a party to the proceeding commenced under subsection (2) of this section is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's shares, plus interest, exceeds the amount paid by the corporation, or for the fair value, plus interest, of the dissenter's shares for which the corporation elected to withhold payment under section 7-113-208.

7-113-302 COURT COSTS AND COUNSEL FEES.--(1) The court in an appraisal proceeding commenced under section 7-113-301 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation; except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment under section 7-113-209.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the corporation and in favor of any dissenters if the court finds the corporation did not substantially comply with the requirements of part 2 of this article; or

(b) Against either the corporation or one or more dissenters, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to said counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefitted.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 20. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Eli Lilly and Company

Sections 23-1-37-1 to 23-1-37-15 of the Indiana Business Corporation Law give Indiana corporations broad powers to indemnify their directors and officers and those of affiliated corporations against liability incurred in any proceeding to which they are made parties by reason of being or having been such directors or officers, subject to specified conditions and exclusions; authorizes the payment for or reimbursement of reasonable expenses incurred by such persons in such proceedings; gives a director or officer who successfully defends a proceeding the right to be so indemnified; and authorizes Indiana corporations to buy directors' and officers' liability insurance. Such indemnification is not exclusive of any other rights to which those indemnified may be entitled under the corporation's articles of incorporation or by-laws, resolution of the board of directors or stockholders or otherwise.

Article 12(g) of the Amended Articles of Incorporation of Lilly provides as follows:

"The Corporation shall indemnify each person who is or was a director, officer or employee of the Corporation, or of any other corporation which he is serving or served in any capacity at the request of the Corporation, against any and all liability and reasonable expense that may be incurred by him in connection with or resulting from any claim, action, suit, or proceeding (whether actual or threatened, brought by or in the right of the Corporation or such other corporation or otherwise, civil, criminal, administrative, investigative, or in connection with an appeal relating thereto), in which he may become involved, as a party or otherwise, by reason of his being or having been a director, officer, or employee of the Corporation or of such other corporation, or by reason of any past or future action taken or not taken in his capacity as such director, officer, or employee, whether or not he continues to be such at the time such liability or expense is incurred, provided such person acted in good faith, in what he reasonably believed to be the best interests of the Corporation or such other corporation, as the case may be, and, in addition, in any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful. As used in this Article 12(g), the terms "liability" and "expense" shall include, but shall not be limited to, attorneys' fees and disbursements and amounts of judgments, fines, or penalties against, and amounts paid in settlement by, a director, officer, or employee. The termination of any claim, action, suit, or proceeding, civil or criminal, by judgment, settlement (whether with or without court approval) or conviction or upon a plea of guilty or of nolo contendere, or its equivalent, shall not create a presumption that a director, officer, or employee did not meet the standards of conduct set forth in the first sentence of this Article 12(g).

"Any such director, officer, or employee who has been wholly successful, on the merits or otherwise, with respect to any claim, action, suit, or proceeding of the character described herein shall be entitled to indemnification as of right. Except as provided in the preceding sentence, any indemnification hereunder shall be made at the discretion of the Corporation, but only if (1) the Board of Directors, acting by a quorum consisting of directors who are not parties to or who have been wholly successful with respect to such claim, action, suit or proceeding, shall find that the director, officer, or employee has met the standards of conduct set forth in the first sentence of this Article 12(g), or (2) independent legal counsel (who may be regular counsel of the Corporation) shall deliver to it their written opinion that such director, officer, or employee has met such standards.

"If several claims, issues, or matters of action are involved, any such person may be entitled to indemnification as to some matters even though he is not so entitled as to others.

"The Corporation may advance expenses to, or where appropriate may at its expense undertake the defense of, any such director, officer or employee upon receipt of an undertaking by or on behalf of such person to repay such expenses if it should ultimately be determined that he is not entitled to indemnification under this Article 12(g).

"The provisions of this Article 12(g) shall be applicable to claims, actions, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after the adoption hereof.

"The rights of indemnification provided hereunder shall be in addition to any rights to which any person concerned may otherwise be entitled by contract or as matter of law, and shall inure to the benefits of the heirs, executors, and administrators of any such person."

Lilly has insurance coverages indemnifying directors, officers and certain other employees for expenditures incurred by them in connection with certain acts in their capacities as such, and providing reimbursement to Lilly for expenditures in indemnifying directors, officers and other insured employees for such acts. The maximum aggregate coverage for Lilly and insured individuals is currently $130,000,000 per policy year, with the policies subject to self-retention and deductible provisions. Reference is made to the Cover Notes for Directors and Officers Liability including Company Reimbursement insurance coverage and Excess Directors and Officers Liability and Corporate Reimbursement coverage filed as Exhibit 6 to Lilly's Registration Statement No. 2-66741 and incorporated herein and made a part hereof.

Lilly also has insurance coverage indemnifying directors, officers, and employees for expenditures incurred by them as a result of liabilities that may be imposed under the Employee Retirement Income Security Act of 1974 by reason of their acting as fiduciaries in relation to certain employee benefit plans of Lilly. The maximum aggregate coverage under such insurance is currently $20,000,000 per policy year, with the policy subject to deductible provisions. Reference is made to the Corporate Fiduciary's Liability Insurance Policy and Excess Corporate Fiduciary Liability Policy filed as Exhibit 4.2 to Lilly's Registration Statement No. 2-63891 and incorporated herein and made part hereof.

Integrated Medical Systems, Inc.

Article 109 of the Colorado Business Corporation Act provides that the Company may indemnify directors, officers, employees, fiduciaries and agents of the Company.

Article VIII of the Company's Amended Articles of Incorporation in effect prior to the Merger which are filed herewith as Exhibit 4.3, provide that the Company, through the Company's Board of Directors, shall possess and may exercise all powers of indemnification of directors, officers, employees, agents and other persons whether or not such powers and authority are provided for by the Colorado Business Corporation Act. The Articles of Incorporation to be in effect following the Merger do not contain any provisions regarding indemnification.

ITEM 21. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) Exhibits

| | | |
|---|---|---|
| 2.1 | - | Agreement and Plan of Merger, dated August 2, 1995, among Lilly, Trans-IMS Corporation, and IMS. |
| 2.2 | - | Form of Put/Call Agreement among Lilly, IMS and certain shareholders of IMS (attached as Appendix B to the Proxy Statement-Prospectus). |
| 2.3 | - | Form of Support Agreement, dated August 2, 1995, between Lilly and certain shareholders of IMS. |
| 2.4/*/ | - | Forms of IMS Warrants and Options to Purchase Series D Preferred Stock. |
| 2.5 | - | Form of Proxy for holders of stock of IMS. |
| 4.1 | - | Articles of Incorporation to be in effect following the Merger (included in the Articles of Merger attached as Appendix A to the Proxy Statement-Prospectus). |
| 4.2 | - | By Laws of IMS to be in effect following the Merger. |
| 4.3 | - | Amended Articles of Incorporation of IMS in effect prior to the Merger. |
| 4.4 | - | By-Laws of IMS in effect prior to the Merger. |
| 5.1/*/ | - | Opinion of Dewey Ballantine as to the legality of the Lilly securities to be issued in the Merger. |
| 5.2/*/ | - | Opinion of Hopper and Kanouff, P.C. as to the legality of the IMS securities to be issued in the Merger. |
| 8.1/*/ | - | Tax Opinion of Dewey Ballantine. |
| 8.2/*/ | - | Tax Opinion of Cleary, Gottlieb, Steen & Hamilton. |
| 10.1 | - | Stock Purchase Agreement, dated January 6, 1994, between IMS and McKesson Corporation. |
| 10.2 | - | Sponsorship and Participation Agreement, dated November 17, 1993, between IMS and McKesson Corporation. |
| 10.3 | - | Stockholder's Rights Agreement, dated January 6, 1994, between IMS and McKesson Corporation. |
| 10.4 | - | Senior Subordinated Note from IMS (which includes the registration rights for Charles Brown). |
| 10.5 | - | Indemnification Agreement, dated August 14, 1992, between IMS and David Holbrooke. |
| 10.6 | - | IMS 1989 Restated Stock Option Plan. |

| | | |
|---|---|---|
| 10.7 | - | IMS 1994 Employee Stock Option Plan. |
| 10.8 | - | Promissory Note, dated June 12, 1995, between Lilly and IMS. |
| 10.9 | - | Security Agreement, dated June 12, 1995, between Lilly and IMS. |
| 10.10 | - | Pledge Agreement, dated June 12, 1995, between Lilly and IMS. |
| 10.11 | - | Promissory Note, dated July 27, 1995, between Lilly and IMS. |
| 10.12 | - | Security Agreement, dated July 27, 1995, between Lilly and IMS. |
| 10.13 | - | Pledge Agreement, dated July 27, 1995, between Lilly and IMS. |
| 10.14 | - | Promissory Note, dated August 28, 1995, between Lilly and IMS. |
| 10.15 | - | Security Agreement, dated August 28, 1995, between Lilly and IMS. |
| 10.16 | - | Pledge Agreement, dated August 28, 1995, between Lilly and IMS. |
| 10.17 | - | Form of Registration Agreement applicable to holders of Series B Preferred Stock. |
| 21.1 | - | List of Subsidiaries of IMS. |
| 23.1 | - | Consent of Arthur Andersen LLP. |
| 23.2 | - | Consent of Ernst & Young LLP. |
| 23.3 | - | Consent of Dewey Ballantine (included in Exhibits 5.1 and 8.1 hereto). |
| 23.4 | - | Consent of Hopper and Kaunoff, P.C. (included in Exhibit 5.2 hereto). |
| 23.5 | - | Consent of Cleary, Gottlieb, Steen & Hamilton (included in Exhibit 8.2 hereto). |

---

/*/ To be filed by amendment.

(b) Financial Statement Schedules

(c) Information Provided Pursuant to Item 4(b)

Fairness Opinion provided by Smith Barney Inc. is included as Appendix C to the Proxy Statement-Prospectus.

ITEM 22. UNDERTAKINGS.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the

securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expense incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes as follows: that prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other Items of the applicable form.

The registrant undertakes that every prospectus (i) that is filed pursuant to the immediately preceding paragraph, or (ii) that purports to meet the requirements of section 10(a)(3) of the Act and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to the registration statement and will not be used until such amendment is effective, and that, for purposes of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

The undersigned registrant hereby undertakes to respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11 or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

The undersigned registrant hereby undertakes to deliver or cause to be delivered with the prospectus, to each person to whom the prospectus is sent or given, the latest annual report to security holders that is incorporated by reference in the prospectus and furnished pursuant to and meeting the requirements of Rule 14a-3 or Rule 14c-3 under the Securities Exchange Act of 1934; and, where interim financial information required to be presented by Article 3 of Regulation S-X is not set forth in the prospectus, to deliver, or cause to be delivered to each person whom the prospectus is sent or given, the latest quarterly report that is specifically incorporated by reference in the prospectus to provide such interim financial information.

The undersigned registrant hereby undertakes to supply by means of post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

SIGNATURES

PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT, THE REGISTRANT HAS DULY CAUSED THIS REGISTRATION STATEMENT TO BE SIGNED ON ITS BEHALF BY THE UNDERSIGNED, THEREUNTO DULY AUTHORIZED, IN THE CITY OF INDIANAPOLIS, STATE OF INDIANA, ON SEPTEMBER 7, 1995.

Eli Lilly and Company

By /s/ Randall L. Tobias
---
Randall L. Tobias,
Chairman of the Board of Directors
and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that each person whose signature appears below constitutes and appoints Randall L. Tobias and Sidney Taurel his true and lawful attorneys-in-fact and agents, each acting alone, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any or all amendments to this Registration Statement, including post-effective amendments, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, and hereby ratifies and confirms all that said attorney-in-fact and agents, each acting alone, or their substitute or substitutes, may lawfully do or cause to be done.

PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT OF 1933, THIS REGISTRATION STATEMENT HAS BEEN SIGNED BY THE FOLLOWING PERSONS IN THE CAPACITIES AND ON THE DATES INDICATED.

| Signature | Title | Date |
|---|---|---|
| /s/ Randall L. Tobias<br>Randall L. Tobias | Chairman of the Board of Directors and Chief Executive Officer and a Director (principal executive officer) | September 7, 1995 |
| /s/ James M. Cornelius<br>James M. Cornelius | Vice President, Finance, and a Director principal financial officer) | September 7, 1995 |
| /s/ Arnold C. Hanish<br>Arnold C. Hanish | Chief Accounting Officer (principal accounting officer) | September 7, 1995 |
| /s/ Steven C. Beering, M.D.<br>Steven C. Beering, M.D. | Director | September 7, 1995 |

| | | |
|---|---|---|
| /s/ James W. Cozad<br>---<br>James W. Cozad | Director | September 7, 1995 |
| /s/ Alfred G. Gilman, M.D. Ph.D.<br>---<br>Alfred G. Gilman, M.D., Ph.D. | Director | September 7, 1995 |
| /s/ Karen N. Horn, Ph.D<br>---<br>Karen N. Horn, Ph.D | Director | September 7, 1995 |
| /s/ J. Clayburn La Force Jr., Ph.D.<br>---<br>J. Clayburn La Force Jr., Ph.D. | Director | September 7, 1995 |
| /s/ Kenneth L. Lay, Ph.D.<br>---<br>Kenneth L. Lay, Ph.D. | Director | September 7, 1995 |
| /s/ Franklyn G. Prendergast, M.D., Ph.D.<br>---<br>Franklyn G. Prendergast, M.D., Ph.D. | Director | September 7, 1995 |
| /s/ Kathi P. Seifert<br>---<br>Kathi P. Seifert | Director | September 7, 1995 |
| /s/ Sidney Taurel<br>---<br>Sidney Taurel | Director | September 7, 1995 |
| /s/ August M. Watanabe, M.D.<br>---<br>August M. Watanabe, M.D. | Director | September 7, 1995 |
| ---<br>Alva O. Way | Director | |
| /s/ Richard D. Wood<br>---<br>Richard D. Wood | Director | September 7, 1995 |

SIGNATURES

PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT, THE REGISTRANT HAS DULY CAUSED THIS REGISTRATION STATEMENT TO BE SIGNED ON ITS BEHALF BY THE UNDERSIGNED, THEREUNTO DULY AUTHORIZED, IN THE CITY OF GOLDEN, STATE OF COLORADO, ON SEPTEMBER 7, 1995.

Integrated Medical Systems, Inc.

By /s/ Kevin R. Green
---
Kevin R. Green
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that each person whose signature appears below constitutes and appoints Charles I. Brown and Kevin R. Green his true and lawful attorneys-in-fact and agents, each acting alone, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any or all amendments to this Registration Statement, including post-effective amendments, and to file the same, with all exhibits thereto, and all documents in connection therewith, with the Securities and Exchange Commission, granting unto attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, and hereby ratifies and confirms all that said attorney-in-fact and agents, each acting alone, or their substitute or substitutes, may lawfully do or cause to be done.

PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT OF 1933, THIS REGISTRATION STATEMENT HAS BEEN SIGNED BY THE FOLLOWING PERSONS IN THE CAPACITIES AND ON THE DATES INDICATED.

| Signature | Title | Date |
|---|---|---|
| /s/ Kevin R. Green<br>Kevin R. Green | President and Chief Executive Officer and a Director (principal executive officer) | September 7, 1995 |
| /s/ Charles I. Brown<br>Charles I. Brown | Chief Financial Officer and a Director (principal financial officer) | September 7, 1995 |
| /s/ Richard J. Smeltz<br>Richard J. Smeltz | Vice President - Finance (principal accounting officer) | September 7, 1995 |
| /s/ James A. Larson<br>James A. Larson | Director | September 7, 1995 |
| /s/ Alan S. Danson<br>Alan S. Danson | Director | September 7, 1995 |

| | | |
|---|---|---|
| /s/ John W. Hanes, Jr.<br>---<br>John W. Hanes, Jr. | Director | September 7, 1995 |
| /s/ David R. Holbrooke<br>---<br>David R. Holbrooke | Director | September 7, 1995 |
| /s/ Michael S. Hunt<br>---<br>Michael S. Hunt | Director | September 7, 1995 |
| /s/ John A. McChesney<br>---<br>John A. McChesney | Director | September 7, 1995 |
| /s/ Kevin E. Moley<br>---<br>Kevin E. Moley | Director | September 7, 1995 |
| /s/ James T. Murphy<br>---<br>James T. Murphy | Director | September 7, 1995 |

EXHIBIT 2.1

CONFORMED COPY

# AGREEMENT AND PLAN OF MERGER

among

ELI LILLY AND COMPANY

TRANS-IMS CORPORATION

and

INTEGRATED MEDICAL SYSTEMS, INC.

Dated as of August 2, 1995

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AGREEMENT AND PLAN OF MERGER (the "Agreement"), dated as of August 2, 1995 by and among ELI LILLY AND COMPANY, an Indiana corporation ("Lilly"), TRANS-IMS CORPORATION, a Colorado corporation ("Acquisition"), and INTEGRATED MEDICAL SYSTEMS, INC., a Colorado corporation (the "Company").

WHEREAS, the authorized capital stock of Acquisition consists of 1,000 shares of Common Stock, $.01 par value ("Acquisition Common Stock"), of which 100 are issued and outstanding and entitled to vote;

WHEREAS, the authorized capital stock of the Company consists of 25,000,000 shares of Common Stock, without par value ("Company Common Stock"), of which, as of the date hereof, 6,577,162 shares were issued and outstanding; 2,000,000 shares of Series B Preferred Stock, $1.00 par value ("Company Series B Preferred Stock"), of which, as of the date hereof, 2,000,000 shares were issued and outstanding; 5,000,000 shares of Series C Preferred Stock, $1.00 par value ("Company Series C Preferred Stock"), of which, as of the date hereof, 3,000,000 shares were issued and outstanding (the Company Common Stock, Company Series B Preferred Stock and Company Series C Preferred Stock are hereinafter referred to collectively as "Company Capital Stock"); and in addition as of the date hereof, 1,333,333 shares of Company Common Stock are subject to issuance upon the conversion of the Company Series B Preferred Stock, 3,000,000 shares of Company Common Stock are subject to issuance upon the conversion of the Company Series C Preferred Stock, 2,391,637 shares of Company Common Stock are subject to issuance pursuant to options ("Company Options") and 660,103 shares of Company Common Stock and 500,000 shares of Company Series C Preferred Stock (convertible into 500,000 shares of Company Common Stock) are subject to issuance pursuant to warrants ("Company Warrants");

WHEREAS, all of the issued and outstanding shares of Acquisition Common Stock are owned by Lilly;

WHEREAS, the respective Boards of Directors of Lilly, Acquisition and the Company deem it advisable and in the best interests of their respective stockholders that Acquisition shall merge into the Company pursuant to the Articles of Merger attached hereto as Exhibit A (the "Articles of Merger") and the applicable provisions of the laws of the State of Colorado and have, by resolutions duly adopted, approved the principal terms of such merger which are herein set forth and Acquisition and the Company have

directed that the principal terms of such merger be submitted to their respective stockholders for approval; and

WHEREAS, the parties desire to state the terms and conditions of such merger, the mode of carrying the same into effect, the consideration which the holders of Company Capital Stock, Company Options, Company Warrants and Acquisition Common Stock are to receive in exchange for such shares upon the merger and such other details and provisions as are deemed necessary or desirable.

NOW THEREFORE, the parties hereto agree as set forth below:

ARTICLE I. THE MERGER AND EFFECTIVE DATE.

1.01. The Merger. On the Effective Date (as defined in Section 1.02 hereof), Acquisition shall be merged (the "Merger") into the Company, which shall be (and is hereinafter sometimes referred to as) the "Surviving Corporation". The corporate existence of the Company with all its rights, privileges, powers and franchises shall continue unaffected and unimpaired by the Merger, and as the Surviving Corporation it shall be governed by the laws of the State of Colorado and succeed to all rights, privileges, powers, franchises, assets, liabilities and obligations of Acquisition in accordance with the Colorado Business Corporation Act. The separate existence and corporate organization of Acquisition shall cease upon the Effective Date and thereupon the Company and Acquisition shall be a single corporation, the Company.

1.02. The Effective Date. As soon as practical after the date hereof, this Agreement and the Merger shall be submitted to the stockholders of the Company in accordance with Section 7-111-101 of the Colorado Business Corporation Act. If the Merger is duly adopted by such stockholders, then promptly thereafter, or if later, at 10:00 a.m., New York time, on the day three business days following the date on which the last of the conditions set forth in Sections 8, 9, and 10 is fulfilled or waived or at such other time and place as the parties hereto may agree, a meeting (the "Closing") will take place at such place as shall be agreed upon by the parties hereto at which the transactions contemplated hereby will be consummated. At the Closing, the appropriate officers of Acquisition and the Company shall duly execute the Articles of Merger and cause it to be duly filed with the Secretary of State of Colorado in accordance with Section 7-111-105 of the Colorado Business Corporation Act. The Merger shall become effective upon such filing in accordance with the Colorado Business

Corporation Act. The date and time when the Merger so becomes effective is referred to in this Agreement as the "Effective Date."

ARTICLE II. ARTICLES OF INCORPORATION; BY-LAWS; DIRECTORS AND OFFICERS.

2.01. Articles of Incorporation. The Articles of Incorporation of the Company, as in effect immediately prior to the Effective Date, shall be amended on the Effective Date as set forth in the Articles of Merger. From and after the Effective Date, said Articles of Incorporation, as so amended, shall continue as the Articles of Incorporation of the Surviving Corporation, until amended in accordance with the terms thereof and as provided by law.

2.02. By-Laws. The By-Laws of Acquisition, as in effect immediately prior to the Effective Date, a copy of which is attached hereto as Exhibit B, shall, as of the Effective Date, become the By-Laws of the Surviving Corporation, but shall be subject to alteration, amendment or repeal at any time thereafter in accordance with law, the Articles of Incorporation of the Surviving Corporation or said By-Laws.

2.03. Directors and Officers. The directors and officers of the Surviving Corporation on and immediately following the Effective Date shall, in the case of directors, be the person or persons who served as a director of Acquisition immediately prior thereto, and, in the case of officers, shall be the persons who served as officers of the Company immediately prior thereto until their respective successors are duly elected or appointed or until their earlier death, resignation or removal in accordance with the Surviving Corporation's Articles of Incorporation and By-Laws, or as otherwise provided by applicable law.

ARTICLE III. CONVERSION AND EXCHANGE OF SHARES AND OPTIONS AND RELATED PUT/CALL AGREEMENTS.

3.01. Conversion. On the Effective Date, by virtue of the Merger and without any further action on the part of either the Company, Acquisition or the holders of any shares of capital stock of the Company or Acquisition:

(a) Each share of Company Capital Stock held by the Company as treasury stock shall forthwith be cancelled without payment of any consideration therefor and without any conversion thereof;

(b) Each share of Acquisition Common Stock then issued and outstanding shall be converted into and become 120,000 validly issued, fully paid and nonassessable shares of common stock, par value $.01 per share, of the Surviving Corporation ("Surviving Corporation Common Stock");

(c) (1) Each share of Company Common Stock issued and outstanding immediately prior to the Effective Date (other than Dissenting Shares (as hereinafter defined), shares of Company Common Stock referred to in Section 3.01(a), and shares of Company Common Stock owned by Lilly or any subsidiary of Lilly) shall, as a matter of law, be converted, in accordance with the election to be made or to be deemed to have been made by the holder thereof in accordance with the procedures set forth in this Section 3.01, into (i) the right to receive $8.00 in cash, without interest, or (ii) the right to receive one share of Series D Preferred Stock, par value $.01 per share, of the Surviving Corporation ("New Preferred Stock").

(c)(2) Each share of Company Series B Preferred Stock issued and outstanding immediately prior to the Effective Date (other than Dissenting Shares (as hereinafter defined)) shall in accordance with the election to be made or to be deemed to have been made by the holder thereof in accordance with the procedures set forth in this Section 3.01, either remain outstanding (with the preferences, limitations and relative rights set forth in the Articles of Incorporation of the Surviving Corporation as amended by the Articles of Merger) or, as a matter of law, be converted into (i) the right to receive $5.33 in cash, without interest, plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Company Series B Preferred Stock to the Effective Date, or (ii) the right to receive two-thirds (2/3) of a share of New Preferred Stock plus an amount, in cash, without interest, equal to the amount of all accrued and unpaid dividends on such share of Company Series B Preferred Stock to the Effective Date. The cash and New Preferred Stock that may be issued pursuant to Section 3.01(c)(1) or this Section 3.02(c)(2) is referred to herein as the "Merger Consideration".

(c)(3) Notwithstanding the foregoing, no fractional shares of New Preferred Stock will be issued as a result of the Merger. In lieu of the issuance of fractional shares, cash payments will be made to each holder of Company Series B Preferred Stock in respect of any fractional share that would otherwise be issuable to such holder (after aggregating all of the shares of New Preferred Stock to be issued to such holder) in an amount equal to such fractional part of a share of New Preferred Stock multiplied by $8.00.

No such holder shall be entitled to dividends, voting rights or any other stockholder right in respect of any fractional share.

(d) Each share of Company Series C Preferred Stock issued and outstanding immediately prior to the Effective Date shall, as a matter of law, be converted into and become one validly issued, fully paid and nonassessable share of Surviving Corporation Common Stock.

(e) Notwithstanding Section 3.01(c), if between the date of this Agreement and the Effective Date, the outstanding shares of Company Common Stock or Company Series B Preferred Stock shall have been changed into a different number of shares or a different class, by reason of any stock dividend, subdivision, reclassification, recapitalization, split, combination or exchange of shares, the applicable cash and/or share amounts of Merger Consideration payable shall be appropriately adjusted to reflect such stock dividend, subdivision, reclassification, recapitalization, split, combination or exchange of shares.

(f) Subject to the election procedures set forth in this Section 3.01, each record holder immediately prior to the Effective Date of shares of Company Common Stock or Company Series B Preferred Stock (other than shares of Company Common Stock owned by Lilly or any subsidiary of Lilly) will be entitled (i) to elect to receive cash for any or all of such shares (a "Cash Election"), or (ii) to elect to receive New Preferred Stock for any or all of such shares (a "Stock Election"). In addition, each record holder immediately prior to the Effective Date of shares of Company Series B Preferred Stock will be entitled to elect to retain those shares of Company Series B Stock (an "Election to Retain Series B Stock"). All such elections shall be made on a form to be specified by Lilly and reasonably satisfactory to the Company (together with appropriate transmittal materials, a "Form of Election"). Holders of record of shares of Company Common Stock or Company Series B Preferred Stock who hold such shares as nominees, trustees or in other representative capacities may submit multiple Forms of Election.

(g) Elections shall be made by holders of Company Common Stock or Company Series B Preferred Stock by mailing to the Exchange Agent (as hereinafter defined) a duly completed Form of Election. To be effective, a Form of Election must be properly completed, signed and submitted to the Exchange Agent and, if the election is to receive the Merger Consideration, accompanied by the certificates representing the shares of Company Common Stock or Company Series B Preferred Stock as to which the election is being made (or by an appropriate guarantee of delivery of such

certificates by a commercial bank or trust company in the United States or a member of a registered national securities exchange or the National Association of Securities Dealers, Inc.). Lilly will have the discretion, which it may delegate in whole or in part to the Exchange Agent, to determine whether Forms of Election have been properly completed, signed and submitted or revoked and to disregard immaterial defects in Forms of Election. The decision of Lilly (or the Exchange Agent) in such matters shall be conclusive and binding. Neither Lilly nor the Exchange Agent will be under any obligation to notify any person of any defect in a Form of Election submitted to the Exchange Agent. The Exchange Agent shall also make all computations contemplated by this Section 3.01 and all such computations shall be conclusive and binding on the holders of Company Common Stock or Company Series B Preferred Stock.

(h) For the purposes hereof, a holder of Company Common Stock or Company Series B Preferred Stock who does not submit a properly completed and signed Form of Election which is received by the Exchange Agent prior to the Election Deadline (as hereinafter defined) shall be deemed to have made a Cash Election, in the case of a holder of Company Common Stock, and an Election to Retain Series B Stock, in the case of a holder of Company Series B Preferred Stock. If Lilly or the Exchange Agent shall determine that any purported Cash Election, Stock Election or Election to Retain Series B Stock was not properly made, the shareholder making such purported Election shall for purposes hereof be deemed to have made a Cash Election, in the case of a holder of Company Common Stock, and an Election to Retain Series B Stock, in the case of Company Series B Preferred Stock.

(i) A Form of Election must be received by the Exchange Agent by the close of business on the date specified by Lilly in the Form of Election (which date shall be at least 20 business days (unless the Company, prior to the Effective Date, agrees to an earlier date) after the Notice of Election is mailed to the holders of Company Capital Stock) (the "Election Deadline") in order to be effective.

(j) An election may be revoked, but only by written notice received by the Exchange Agent prior to the Election Deadline. Upon any such revocation, unless a duly completed Form of Election is thereafter submitted in accordance with paragraph (g), such shares shall be deemed to be Cash Election shares, in the case of Company Common Stock, and Election to Retain Series B Stock shares, in the case of Company Series B Preferred Stock.

3.02. Exchange of Certificates. (a) Prior to the mailing of the
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Proxy Statement (as defined in Section

4.22), Lilly shall designate a bank or trust company reasonably acceptable to the Company to act as exchange agent in the Merger (the "Exchange Agent"). From time to time after the Effective Date, the Surviving Corporation shall deposit or shall cause to be deposited with the Exchange Agent for exchange in accordance with this Article III certificates evidencing shares of New Preferred Stock to be issued pursuant to Stock Elections. In addition, Lilly shall transmit by wire, or other acceptable means, to the Exchange Agent from time to time after the Effective Date funds when and as required for payments pursuant to Cash Elections and payments in lieu of fractional shares in accordance with this Agreement. The Exchange Agent shall agree to hold such funds in trust and deliver such funds (in the form of checks of the Exchange Agent) in accordance with this Article III and such additional terms as may be agreed upon by the Exchange Agent and Lilly. Any portion of such funds which has not been paid pursuant to this Article III by six months after the Effective Date shall promptly be paid to the Surviving Corporation, and thereafter any stockholders of the Company who have not theretofore complied with this Article III shall look only to the Surviving Corporation for payment of the Merger Consideration.

(b) As soon as reasonably practicable after the Effective Date (unless the Company, prior to the Effective Date, agrees to an earlier mailing), Lilly will instruct the Exchange Agent to mail to each holder of record (other than (x) holders of Dissenting Shares or (y) Lilly or any subsidiary of Lilly) of a certificate or certificates which immediately prior to the Effective Date evidenced outstanding shares of Company Common Stock or Company Series B Preferred Stock (the "Certificates") , (i) a letter of transmittal (which shall specify that delivery shall be effected, and risk of loss and title to the Certificate shall pass, only upon proper delivery of the Certificates to the Exchange Agent and shall be in such form and have such other provisions as Lilly may specify and as are reasonably acceptable to the Company), (ii) instructions for use in effecting the surrender of the Certificates in exchange for certificates evidencing shares of New Preferred Stock or cash and (iii) a Form of Election. With respect to a holder of a Certificate, other than a Certificate representing Company Series B Preferred Stock for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made, upon surrender of a Certificate for cancellation to the Exchange Agent together with such letter of transmittal, duly executed and such other customary documents as may be required pursuant to such instructions, the holder of such Certificate shall be entitled to receive in exchange therefor (A) certificates evidencing that number of shares of New Preferred Stock

which such holder has the right to receive in respect of the shares of Company Common Stock or Company Series B Preferred Stock formerly evidenced by such Certificate in accordance with Section 3.01, (B) cash which such holder is entitled to receive in accordance with Section 3.01, (C) cash in lieu of a fractional share of New Preferred Stock which such holder is entitled to receive in accordance with Section 3.01 and (D) any dividends or other distributions to which such holder is entitled pursuant to Section 3.02(c), and the Certificate so surrendered shall forthwith be cancelled; provided, however, that as to any holder who shall have executed a Put/Call Agreement with respect to any shares of New Preferred Stock, the certificates evidencing such shares shall be delivered to the Agent under the Escrow Agreement contemplated by the Put/Call Agreements. In the event of a transfer of ownership of shares of Company Common Stock or Company Series B Preferred Stock which is not registered in the transfer records of the Company, for transferees who elect to receive the Merger Consideration, a certificate evidencing the proper number of shares of New Preferred Stock and/or cash may be issued and/or paid in accordance with this Article III to that transferee if the Certificate evidencing such shares of Company Common Stock or Company Series B Preferred Stock is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and by evidence that any applicable stock transfer taxes have been paid. Until surrendered as contemplated by this Section 3.02, each Certificate, other than a Certificate representing shares of Company Series B Preferred Stock for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made, shall be deemed at any time after the Effective Date to evidence only the right to receive upon such surrender the appropriate Merger Consideration.

(c) No dividends or other distributions declared or made with respect to New Preferred Stock shall be paid to the holder of any unsurrendered Certificate with respect to the shares of New Preferred Stock evidenced thereby, and no other part of the Merger Consideration shall be paid to any such holder, until the holder of such Certificate shall surrender such Certificate. No interest shall accrue or be paid on the Merger Consideration.

(d) All shares of New Preferred Stock issued and cash paid upon conversion of the shares of Company Common Stock or Company Series B Preferred Stock in accordance with the terms hereof shall be deemed to have been issued or paid in full satisfaction of all rights pertaining to such shares of Company Common Stock or Company Series B Preferred Stock. On the Effective Date, each holder of a certificate or certificates theretofore representing shares of Company Common Stock or Company Series B Preferred Stock, other than

a holder of a certificate or certificates representing Company Series B Preferred Stock for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made, shall cease to have any rights as a stockholder of the Company and shall not be deemed to be a stockholder of, or be entitled to any rights of a stockholder with respect to, the Surviving Corporation but thereafter shall have only the rights set forth in this Article III.

(e) Neither Lilly nor the Surviving Corporation shall be liable to any holder of shares of Company Common Stock or Company Series B Preferred Stock for any shares of New Preferred Stock issued upon conversion of shares of Company Common Stock or Company Series B Preferred Stock (or dividends or distributions with respect thereto) or cash in respect of shares of Company Common Stock or Company Series B Preferred Stock delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. In the event any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such Certificate to be lost, stolen or destroyed and, if required by the Company, the posting by such person of a bond in a form and an amount specified by Lilly and reasonably acceptable to the Company as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent will issue in exchange for such lost, stolen or destroyed Certificate the Merger Consideration, without any interest or dividends or other payments thereon, upon due surrender of and deliverable in respect of such Certificate pursuant to this Agreement.

(f) The Surviving Corporation shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of shares of Company Common Stock or Company Series B Preferred Stock or any holder of a Company Option or a Company Warrant such amounts as the Surviving Corporation is required to deduct and withhold with respect to the making of such payment under the Code, or any provision of state, local or foreign tax law. To the extent that amounts are so withheld by the Surviving Corporation, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to such holder in respect of the securities for which such deduction and withholding was made by the Surviving Corporation.

(g) After the Effective Date, there shall be no transfers on the stock transfer books of the Surviving Corporation of any shares of Company Common Stock, other than any shares of Company Common Stock held by Lilly or any subsidiary of Lilly, or any shares of Company Series B

Preferred Stock which were outstanding immediately prior to the Effective Date other than shares of Company Series B Preferred Stock for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made. If, after the Effective Date, Certificates formerly representing shares of Company Common Stock which were outstanding immediately prior to the Effective Date, other than any shares of Company Common Stock held by Lilly or any subsidiary of Lilly, or shares of Company Series B Preferred Stock which were outstanding immediately prior to the Effective Date (for which a valid Election to Retain Series B Stock has not been made or deemed to be made) are presented to the Surviving Corporation or the Exchange Agent, they shall be cancelled and (subject to applicable abandoned property, escheat and similar laws and, in the case of Dissenting Shares, subject to applicable law) exchanged for Merger Consideration as provided in this Article III.

3.03. Options and Warrants. (a)(1) Each holder of Company Options shall have the right to elect to have such Company Options converted, in whole or in part, into (i) the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such a Company Option was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Option, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable); or (ii) the right to purchase one share of New Preferred Stock for each share of Company Common Stock for which such a Company Option was exercisable as of the Effective Date; or (iii) fully vested options to acquire shares of Common Stock of Lilly under the 1994 Lilly Stock Plan registered on Form S-8 ("Lilly Options"). Any election pursuant to clause (ii) above must be for a whole number of shares of New Preferred Stock. Any election pursuant to this Section 3.03 shall be made by delivering to the Company prior to the Election Deadline a duly completed and signed election on a form provided by Lilly and reasonably acceptable to the Company.

(a)(2) Each Company Option for which such election to convert into Lilly Options is duly made shall be converted as follows: each such Company Option shall become a Lilly Option with an exercise price that bears the same relationship to the fair market value of Lilly Common Stock on the Effective Date (as such value is determined under the 1994 Lilly Stock Plan) as the exercise price of the Company Option bears to $8.00; and the number of shares subject to the Lilly Option shall be the number that will result in the Lilly Option having the same aggregate "spread" as existed on the Company Option. (For this purpose, the aggregate "spread" on the Company Option shall be (x) the difference

between $8.00 and the exercise price of the Company Option multiplied by (y) the number of shares subject to the Company Option; and the aggregate "spread" on the Lilly Option shall be (x) the difference between the exercise price of the Lilly Option and the fair market value of Lilly Common Stock on the Effective Date multiplied by (y) the number of shares subject to the Lilly Option.) By way of illustration, if a holder owns a Company Option on 100 shares of Company Common Stock at an exercise price of $2.00 per share, then the aggregate "spread" is $600, i.e., ($8.00 - $2.00) x 100. If the fair market value of Lilly Common Stock on the Effective Date is $80 per share, the exercise price of the Lilly Option will be $20, i.e., 2/8 = 20/80, and the number of Lilly shares subject to the Lilly Option will be 10, i.e., the aggregate "spread" of $600 divided by the per share "spread" of $60 under the Lilly Option. The other terms and conditions of the Lilly Option will, to the extent practicable and permitted under the 1994 Lilly Stock Plan, be substantially the same as the Company Option for which the Lilly Option is substituted. Notwithstanding the foregoing, no Lilly Option to purchase a fractional share of Common Stock of Lilly will be issued to a holder of a Company Option. In lieu thereof, a cash payment will be made in respect of any such Lilly Option that would otherwise be issuable to such holder (after aggregating all of the Lilly Options to be issued to such holder) in an amount equal to such fractional part of a Lilly Option multiplied by the "spread" on a Lilly Option for one share of Lilly Common Stock.

(b) As of the Effective Date, by virtue of the Merger and without any further action on the part of either the Company, Acquisition or the holders of any shares of capital stock of the Company or Acquisition or of any Company Option, each Company Option for which an election in accordance with Section 3.03(a) hereof is not duly made prior to the Election Deadline shall automatically be converted into a Lilly Option pursuant to Section 3.03(a) as if the holder had made an election to receive Lilly Options under that Section. Except as expressly provided in this Agreement or as any holder of a Company Option may agree in respect of such Company Option, each Company Option shall continue unchanged following the Effective Date; provided, however, that no Company Option shall be exercisable for New Preferred Stock after the date on which all outstanding shares of New Preferred Stock have been redeemed by the Company or purchased by Lilly or any affiliate of Lilly and, on such date, any such outstanding Company Option shall be deemed to have been exercised and the New Preferred Stock issuable thereupon shall be deemed to have been redeemed and the holder of such Company Option shall be paid the net amount resulting from subtracting the exercise price from the amount payable upon such deemed redemption.

(c) On the Effective Date, by virtue of the Merger and without any further action on the part of either the Company, Acquisition or the holders of any shares of capital stock of the Company or Acquisition or of any Company Warrant, (1) each Company Warrant (other than any Company Warrants owned by Lilly or any of its subsidiaries) shall be converted, at the election of the holder thereof made prior to the Election Deadline, into the right to receive $8.00 in cash, without interest, for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date (except that in lieu of paying the exercise price of such Company Warrant, the holder thereof may elect to net the amount of the exercise price against and to that extent reduce the $8.00 otherwise receivable); absent such an election, such Company Warrant shall automatically be converted into the right to purchase one share of New Preferred Stock for each share of Company Common Stock for which such Company Warrant was exercisable as of the Effective Date; and (2) each Company Warrant owned by Lilly or any of its subsidiaries shall, on the Effective Date, be converted into the right to purchase one share of Surviving Corporation Common Stock for each share of Company Capital Stock for which such Company Warrant was exercisable as of the Effective Date. Except as expressly provided in this Agreement or as any holder of a Company Warrant may agree in respect of such Company Warrant, each such Company Warrant shall continue unchanged following the Effective Date.

(d) The election procedures for Company Options and Company Warrants shall be substantially the same as those applicable to Company Common Stock and Company Series B Preferred Stock, with such modifications, if any, as shall be specified by Lilly and as are reasonably acceptable to the Company.

(e) On the Effective Date, each holder of a Company Option or a Company Warrant shall cease to have any rights to acquire any Company Capital Stock upon exercise of a Company Option or Company Warrant, and shall thereafter have only the rights to receive Lilly Options, cash or New Preferred Stock set forth in this Article III.

(f) The Company may impose such restrictions on the exercise of Company Options and Company Warrants as the Company shall reasonably determine to be necessary in order to comply with applicable securities laws.

3.04. Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, shares of Company Common Stock or Company Series B Preferred Stock which are outstanding immediately prior the Effective Date (other than the shares referred to in Section 3.01(a)) and

which are held by stockholders who shall have made a demand for payment in the manner provided in Section 7-113-204 of the Colorado Business Corporation Act (the "Dissenting Shares") shall not be converted into the right to receive, or be exchangeable for, the Merger Consideration, but instead the holders thereof shall be entitled to payment of the fair value of such shares plus accrued interest in accordance with the provisions of Section 7-113-206, provided, however, that if any holder fails to establish such holder's entitlement to payment of fair value as provided in Section 7-113-204, such holder or holders (as the case may be) shall forfeit the right to payment of fair value of such shares and such shares shall thereupon be deemed to have been converted into the right to receive, and to have become exchangeable for, as of the Effective Date, the Merger Consideration as if the holder or holders thereof had made a Cash Election. From and after the Effective Date, any payments with respect to demands for payment or in settlement of any such demands shall be made by the Company as the Surviving Corporation in all circumstances. The Company shall give prompt notice to Lilly of any demands received from Dissenting Stockholders for payment for their shares. The Company shall not, except with the prior written consent of Lilly, voluntarily make any payment with respect to, or settle, any such demands for payment.

3.05. Put/Call Agreements. In connection with the Merger, Lilly will offer to each record holder of shares of Company Capital Stock, Company Options or Company Warrants the right to enter into an agreement, substantially in the form attached as, and containing the terms set forth in, Exhibit C, with respect to any or all shares of New Preferred Stock issued to such holder in the Merger or upon the subsequent exercise of Company Options or Company Warrants (each, a "Put/Call Agreement" and, collectively, the "Put/Call Agreements").

## ARTICLE IV. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

Except as set forth in the Disclosure Schedule ("Disclosure Schedule") of even date herewith and signed by an officer of the Company, the Company represents and warrants to Lilly and Acquisition as follows:

4.01. Organization. The Company is (a) a corporation duly organized, validly existing and in good standing under the laws of the State of Colorado, has full corporate power and lawful authority to carry on its business which it is now conducting and to own or lease and operate the assets and properties now owned or leased and operated by it, and (b) is duly qualified to do business and

is in good standing in each other jurisdiction in which qualification is required for it to hold the property or conduct the business it holds or conducts therein, which jurisdictions are set forth in Section 4.01 of the Disclosure Schedule, except in the case of clause (b) above, to the extent that any failure of the Company so to qualify would not have a material adverse effect on the condition (financial or otherwise), results of operations, assets, liabilities, earnings or business of the Company and its Subsidiaries (as defined below) considered as a whole (a "Material Adverse Effect") and would not impair the Company's ability to consummate the Merger or the other transactions contemplated hereby. To the Company's knowledge, any failure to qualify where qualification is required is set forth in Section 4.01 of the Disclosure Schedule.

4.02. Capitalization. (a) The Company's authorized, issued and outstanding capital stock, and the number of shares of Company Capital Stock issuable upon exercise of outstanding Company Options and Company Warrants, at the date hereof, are correctly stated in the preamble to this Agreement. All the outstanding shares of Company Capital Stock are, and all shares of Company Capital Stock which will be outstanding on the Effective Date will be, duly authorized and validly issued, fully paid and nonassessable and will have been offered, issued and sold in compliance with all applicable securities laws (Federal or state). All outstanding Company Options and Company Warrants granted by the Company are validly outstanding, and all shares of Company Capital Stock to be issued upon exercise thereof are duly authorized and will be validly issued, fully paid and nonassessable; and the shares of Surviving Corporation Common Stock and the New Preferred Stock to be issued in the Merger, or upon exercise after the Effective Date of Company Options or Company Warrants pursuant to Section 3.03, or upon the conversion after the Effective Date of shares of Company Series B Preferred Stock for which a valid Election to Retain Series B Stock is made or is deemed to be made, will, when issued in exchange for shares of Acquisition Common Stock or Company Capital Stock, or upon such exercise of Company Options or Company Warrants or conversion of such Series B Preferred Stock, pursuant to this Agreement, be duly authorized and validly issued, fully paid and nonassessable. Except as set forth in the preamble, there are no shares of capital stock of the Company authorized, issued or outstanding, and there are no options, calls, subscriptions, warrants, rights, agreements or commitments of any character obligating the Company, contingently or otherwise, to issue shares of its capital stock or securities or rights convertible into shares of its capital stock or, except as set forth in Section 4.02(a) of the Disclosure Schedule, to register shares of its capital

stock or securities or rights convertible into shares of its capital stock under the Securities Act of 1933, as amended (the "Securities Act"), or any other applicable securities laws (Federal or state). The Company is not required to register any class of equity security with the Securities and Exchange Commission (the "Commission") pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended.

(b) Except as set forth in Section 4.02(b) of the Disclosure Schedule, (i) all outstanding shares of capital stock of each Subsidiary (as hereinafter defined) and all equity or ownership interests in each Affiliated Entity (as hereinafter defined) are owned beneficially and of record by the Company free and clear of all security interests, liens, claims, pledges, options, rights of first refusal, agreements, limitations on voting rights, charges and other encumbrances of any nature whatsoever (other than pursuant to the Loan Documents (as hereinafter defined)) and are not subject to any preemptive rights, and (ii) there are no outstanding options, calls, subscriptions, warrants, rights, agreements or commitments of any character whatsoever relating to, or securities or rights convertible into, shares of capital stock of any Subsidiary or equity or ownership interests in any Affiliated Entity.

4.03. Subsidiaries, Affiliated Entities and Other Relationships. (a) Except as set forth in Section 4.03 of the Disclosure Schedule, the Company does not own, directly or indirectly, in excess of 1% of the capital stock or other equity securities of any corporation or have any direct or indirect equity or ownership interest in excess of 1% of the total equity or ownership interests in, or any interest as a general partner in, any partnership, joint venture or other business association or entity and the Company does not own, directly or indirectly, any of the capital stock of Lilly.

(b) Each corporation that is listed in Section 4.03 of the Disclosure Schedule and in which the Company owns, directly or indirectly, in excess of 20% of the capital stock or other equity securities (each a "Subsidiary", and collectively the "Subsidiaries") is a corporation duly organized, validly existing and in good standing under the laws of its respective state of incorporation (as indicated in Section 4.03 of the Disclosure Schedule) with full corporate power and lawful authority to carry on its business which it is now conducting and to own or lease and operate the assets and properties now owned or leased and operated by it, and is duly qualified to do business and is in good standing in each other jurisdiction in which qualification is required for it to hold the property or conduct the business it holds or conducts therein, and each partnership, joint venture or

other business association or entity that is listed in Section 4.03 of the Disclosure Schedule and in which the Company has any direct or indirect equity or ownership interest in excess of 20% of the total equity or ownership interests, or any interest as a general partner (each an "Affiliated Entity," and collectively the "Affiliated Entities"), is duly organized, validly existing, qualified to do business and in good standing under all applicable laws with full power and authority to carry on its business which it is now conducting and to own or lease and operate the assets and properties now owned or leased by it, except to the extent that any failures to so qualify would not, alone or in the aggregate, have a Material Adverse Effect and would not impair the Company's ability to consummate the Merger or the other transactions contemplated hereby. To the Company's knowledge, any failure to qualify where such qualification is required is set forth in Section 4.03 of the Disclosure Schedule. (Any Affiliated Entity in which the Company or a Subsidiary is a general partner or which is controlled directly or indirectly by the Company is hereinafter called a "Controlled Affiliated Entity." Any Subsidiary in which the Company owns directly or indirectly 50% or more of the capital stock having ordinary voting power for the election of directors (other than Illinois Medical Information Network, Inc. and IMS-Net of Arkansas, Inc.) is hereinafter called a "Controlled Subsidiary.")

4.04. Articles of Incorporation and By-Laws; Minute Books and Stock Books. The Company has delivered to Lilly complete and accurate copies of the Articles of Incorporation and By-Laws of the Company, and the articles or certificates of incorporation and by-laws (or other organizational documents) of each Controlled Subsidiary and Controlled Affiliated Entity, as in effect on the date hereof. The minute books and stock books of the Company and its Controlled Subsidiaries are up-to-date and accurately reflect the meetings of stockholders and directors (or actions taken by written consent in lieu of a meeting) of the Company and its Controlled Subsidiaries, and all stock issuances and transfers (other than transfers as to which the Company has not been given notice).

4.05. Authority Relative to Merger Documents. (a) The Company has full corporate power to enter into this Agreement and the Put/Call Agreements and the Escrow Agreement contemplated by the Put/Call Agreements (the Put/Call Agreements and the Escrow Agreement are hereinafter collectively called the "Ancillary Agreements"), and, subject to the approval of its stockholders, to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and the Ancillary Agreements and the filing of the Articles of Merger and the consummation of the transactions contemplated by this Agreement and the

Ancillary Agreements have been duly and validly authorized by its Board of Directors; except for the approval of its stockholders, no other corporate acts or proceedings on the part of the Company are necessary to authorize this Agreement or the Ancillary Agreements or the transactions contemplated by this Agreement or the Ancillary Agreements; and, subject to the approval of its stockholders, this Agreement and the Ancillary Agreements constitute the valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms.

(b) Neither the execution and delivery of this Agreement or the Ancillary Agreements by the Company nor the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements nor compliance by the Company with any of the provisions of this Agreement or the Ancillary Agreements will (i) violate, or conflict with, or result in a breach of any provisions of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, trigger any change-of-control provisions or rights of purchase or sale, or result in the creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any Subsidiary or Affiliated Entity under, any of the terms, conditions or provisions of the respective Articles of Incorporation or By-Laws of the Company or the articles or certificate of incorporation or by-laws (or other organizational documents) of any Subsidiary or Affiliated Entity, or the Company Options or Company Warrants or any note, bond, mortgage, indenture, deed of trust, license, partnership agreement, joint venture agreement, collaborative arrangement or relationship or other contract, commitment or agreement or other instrument or obligation to which the Company or any Subsidiary or Affiliated Entity is a party, or by which the Company or any Subsidiary or Affiliated Entity or any of their respective properties or assets may be bound or affected, except for such conflict, breach or default as to which requisite waivers or consents shall have been obtained by the Company or its Subsidiary or Affiliated Entity as appropriate, or shall have been waived by Lilly in writing, or (ii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to the Company or any Subsidiary or Affiliated Entity or any of their respective properties or assets./1/

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/1/ The representations and warranties made by the Company in this Section 4.05(b) and subsequent Sections with respect to any Subsidiary or Affiliated Entity which is not a Controlled Subsidiary or a Controlled Affiliated Entity are being made only to the best of the Company's knowledge.

(c) No consent or approval by, notice to or registration with any governmental authority, other than (i) compliance with applicable Federal and state securities laws and (ii) filing of the Articles of Merger with the Secretary of State of the State of Colorado, is required on the part of the Company and its Subsidiaries and Affiliated Entities prior to the Effective Date in connection with the execution and delivery by the Company of this Agreement and the Ancillary Agreements or the consummation by the Company of the Merger and the other transactions contemplated by this Agreement and the Ancillary Agreements.

4.06. Compliance with Law. Except for matters that individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect: (i) the Company and each Subsidiary and Affiliated Entity now holds all, and in the past has at all times held, and the Company and each Subsidiary and Affiliated Entity is now, and has at all times in the past been, in compliance with, all licenses, permits and authorizations necessary for the lawful conduct of their businesses under and pursuant to, and (ii) is now in compliance with, and in the past has been in compliance with, all applicable statutes, laws, ordinances, rules and regulations of all Federal, state, local and foreign governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over them or over any part of their operations. To the Company's knowledge, any failure or failures, whether or not reasonably expected to have a Material Adverse Effect, to hold any licenses, permits or authorizations referred to in clause (i) or to comply therewith or to comply with any statutes, laws, ordinances, rules and regulations referred to in clause (ii) is set forth in Section 4.06 of the Disclosure Schedule.

4.07. Financial Statements. The Company has delivered to Lilly (i) audited consolidated balance sheets of the Company and its Subsidiaries as of December 31, 1992, 1993 and 1994, and the related statements of operations and cash flows for the periods ended on each of those dates, all of which are accompanied by the related opinions of Arthur Andersen LLP, independent public accountants and (ii) an unaudited consolidated balance sheet of the Company and its Subsidiaries as of May 31, 1995, and the related unaudited statement of operations and cash flows for the five months then ended. All such financial statements, together with the notes thereto, are in accordance with the respective books and records of the Company and its Subsidiaries, have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods covered by such statements and present fairly in all material respects the consolidated financial position of the Company and its Subsidiaries and the results of their operations and changes in their

consolidated financial position, as of the respective dates and for the respective periods indicated, except that the unaudited consolidated financial statements may be subject to normal year-end adjustments, none of which will be material.

4.08. Absence of Undisclosed Liabilities. Except as set forth on the unaudited consolidated balance sheet of the Company and its Subsidiaries at May 31, 1995 referred to in Section 4.07 (the "Company Balance Sheet"), or in the notes thereto, and except as set forth in the Disclosure Schedule and except for liabilities not so set forth that individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect: (i) neither the Company nor any of its Subsidiaries, at such date (the "Balance Sheet Date"), had any indebtedness or liability, absolute, contingent or otherwise, whether or not of a nature required to be reflected or reserved against in a balance sheet prepared in accordance with generally accepted accounting principles; (ii) neither the Company nor any of its Subsidiaries had outstanding on the date hereof any indebtedness or liability, absolute, contingent or otherwise, and (iii) neither the Company nor any of its Subsidiaries on the Effective Date shall have any indebtedness or liability, absolute, contingent or otherwise. Between the date hereof and the Effective Date, the Company will not, and will not permit any of its Subsidiaries to, without prior written consent of Lilly, incur or become subject to, or agree to incur or become subject to, any liability or obligation, absolute, contingent or otherwise, except liabilities incurred in the ordinary course of business consistent with past practice and obligations under contracts entered into in the ordinary course of business consistent with past practice.

4.09. Absence of Certain Changes or Events. Other than as set forth in Section 4.09 of the Disclosure Schedule or as expressly contemplated by this Agreement, the Company and its Subsidiaries and Affiliated Entities have since the Balance Sheet Date conducted their respective businesses only in the ordinary course consistent with past practice and there has not been any occurrence or event that, in any one case or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect or would impair the Company's ability to consummate the Merger and the other transactions contemplated by this Agreement; and, without limiting the foregoing, except as set forth in Section 4.09 of the Disclosure Schedule or as expressly contemplated by this Agreement, there has not been since the Balance Sheet Date any:

(a) issuance or sale, agreement to issue or sell or authorization of the issuance or sale of any shares

of Company Capital Stock or capital stock of any Subsidiary or other securities exchangeable for or convertible into shares of Company Capital Stock or capital stock of any Subsidiary or the grant of any options or rights to acquire any shares of Company Capital Stock or capital stock of any Subsidiary, except pursuant to Company Options and Company Warrants disclosed in the preamble to this Agreement, or, any amendment of any currently outstanding Company Options or Company Warrants or other rights or securities of the Company or any Subsidiary;

(b) purchase or other acquisition, directly or indirectly, of any shares of Company Capital Stock or capital stock of any Subsidiary or any securities exchangeable for or convertible into shares of Company Capital Stock or capital stock of any Subsidiary;

(c) declaration or payment of any dividends on Company Capital Stock or capital stock of any Subsidiary not wholly-owned by the Company;

(d) entering into any material transaction relating to the Company or any Subsidiary or Affiliated Entity, including, without limitation, any material joint venture, partnership, sponsorship or network licensing arrangements or relationships, or terminating, modifying or changing any existing material joint venture, partnership, sponsorship or network licensing arrangements or relationships;

(e) merger or consolidation with, or purchase of substantially all of the assets of, or other acquisition of any business or any proprietorship, firm, association, corporation or other business organization or division thereof by the Company or any Subsidiary or Affiliated Entity;

(f) change in the respective banking or safety deposit box arrangements of the Company and its Subsidiaries set forth in the Disclosure Schedule;

(g) grant of any powers of attorney, except in connection with patent and trademark applications and prosecutions, and in the ordinary course of business;

(h) increase or increases or decrease or decreases in the rates of direct compensation payable or to become payable by the Company or any Subsidiary to any of their respective officers, employees, agents or consultants, other than routine increases or decreases made in the ordinary course of business, or any bonus, service award or other like benefit,

granted, made or agreed to for any such officer, employee, agent or consultant, or any welfare, pension, retirement or similar payment or arrangement made or agreed to, except payments made pursuant to the existing agreements or plans described in Section 4.14 or 4.19 of the Disclosure Schedule and except payments or arrangements agreed to in the ordinary course of business and consistent with past practices or as required by law;

(i) amendment or change in the Articles of Incorporation or By-Laws of the Company or the articles or certificate of incorporation or by-laws (or other organizational documents) of any Subsidiary or Affiliated Entity;

(j) issuance or sale by the Company or any Subsidiary of any promissory notes, bonds or other corporate debt securities of the Company or any Subsidiary or Affiliated Entity or other incurrence of indebtedness for borrowed money except (a) in the ordinary course of business, (b) under existing lines of credit or (c) under the Promissory Notes and related Security Agreements and Pledge Agreements, dated June 12, 1995, and July 27, 1995, between the Company and Lilly (together, the "Loan Documents");

(k) discharge or satisfaction of any lien, charge or encumbrance or payment of any obligation or liability, absolute or contingent, other than current liabilities and the current portion of bank debt, if any, shown on the Company Balance Sheet and current liabilities incurred since the Balance Sheet Date in the ordinary course of business;

(l) mortgage, pledge or subjection to lien, charge or any other encumbrance of any of the assets of the Company or any Subsidiary or Affiliated Entity, tangible or intangible, except Permitted Liens (as hereinafter defined) or pursuant to existing lines of credit or the Loan Documents;

(m) lending of any money of the Company or any Subsidiary or Affiliated Entity or otherwise pledging the credit of the Company or any Subsidiary or Affiliated Entity, or the sale, assignment or transfer of any of the tangible assets of the Company or any Subsidiary or Affiliated Entity or cancellation of any debts or claims, except in each case in the ordinary course of business;

(n) cancellation, amendment, termination, waiver or sale, assignment or transfer of any material

Intellectual Property (as defined in Section 4.14 hereof);

(o) material increase in the rate at which the Company incurs net losses or reduces its available cash;

(p) waiver of any rights of substantial value by the Company or any Subsidiary or Affiliated Entity, whether or not in the ordinary course of business;

(q) settlement or other compromise of any material litigation against the Company or any Subsidiary or Affiliated Entity;

(r) reclassification of the shares of capital stock of the Company or any Subsidiary;

(s) entrance into any collective bargaining agreement by the Company or any Subsidiary;

(t) capital expenditures by the Company or any Subsidiary or incurring of any liability therefor of more than $25,000 in any one case or $125,000 in the aggregate, other than the replacement of VAX ComCenters with new NT Technology;

(u) change in the method of accounting or accounting practice of the Company or any Subsidiary; or

(v) contract, agreement or understanding by the Company or any Subsidiary or Affiliated Entity to cause or allow any of the foregoing.

4.10. Tax Matters. The Company and its Subsidiaries have filed in a timely manner or received appropriate extensions for all returns which are required to have been filed by each of them, and such returns are complete and accurate in all material respects, and the Company and its Subsidiaries have paid or made provision for the payment of all taxes which are due and payable pursuant to such returns or pursuant to any assessments received by them, whether or not in connection with such returns. The amounts set up as provisions for taxes on the Company's consolidated balance sheets as of December 31, 1994 and the Balance Sheet Date, respectively, are sufficient in the aggregate with respect to (i) all unpaid Federal, state, county, local and foreign taxes, whether or not disputed, agreed to or applicable as of December 31, 1994 and the Balance Sheet Date, respectively, and for all years and periods prior thereto for which the Company or its Subsidiaries may be liable and (ii) all deferred taxes for

all taxable and deductible items included in the consolidated statements of income of the Company and its Subsidiaries for the year ended December 31, 1994 and the five months ended May 31, 1995, and for all years and periods prior thereto, regardless of when such items are reportable for tax purposes. The United States Internal Revenue Service has not audited any Federal income tax returns filed by the Company and its Subsidiaries. There are no agreements for the extension of the time for the assessment of any amounts of tax. The Company has made available to Lilly true and complete copies of all Federal, state, county, local and foreign income tax returns filed by the Company or its Subsidiaries, together with all available revenue agents' reports and conferees' reports covering any income tax examinations. There are no tax liens upon any property or assets of the Company or its Subsidiaries. Neither the Company nor any Subsidiary is a party to any pending action or proceeding by any governmental authority for the assessment or collection of any tax, and no claim for assessment or collection of any tax has been asserted against the Company or its Subsidiaries that has not been paid. There are no pending or, to the Company's knowledge, threatened audits, investigations, or claims for or relating to any liability in respect of taxes. Neither the Company nor any of its Subsidiaries has (A) filed a statement under Section 341(f) of the Internal Revenue Code of 1986, as amended (the "Code") (or any comparable state or local income tax provision) consenting to have the provisions of Section 341(f)(2) of the Code (or any comparable state or local income tax provision) apply to any disposition of any of its assets or property or (B) agreed to make any adjustment under Section 481(a) of the Code by reason of a change in accounting method or otherwise. The Company and its Subsidiaries have complied and will comply in all material respects through the Closing Date with all regulations relating to the payment and withholding of employees' wages and payment over to the proper governmental authorities of all amounts required to be so withheld. The Company is not a United States real property holding corporation as defined in Section 897 of the Code. Except as set forth in Section 4.10 of the Disclosure Schedule, neither the Company nor any of its Subsidiaries has entered into (and prior to the Closing Date, shall not enter into) any employment agreement or other employment arrangement which has given or will give rise to any "excess parachute payment" (within the meaning of Section 280G of the Code) taking into account the change in control of the Company and its Subsidiaries contemplated by this Agreement and prior changes in control of the Company and its Subsidiaries or any corporations whose assets were acquired by the Company or its Subsidiaries.

4.11. Title to Properties. (a) Except as set forth in Section 4.11 of the Disclosure Schedule, the Company and each Subsidiary and Affiliated Entity has good and marketable title to, or a valid, binding and enforceable leasehold interest in, all of its respective properties and assets, real, personal and mixed, tangible and intangible, including those reflected on the Company Balance Sheet (except those subsequently disposed of in the ordinary course of business), free and clear of all mortgages, liens, pledges, changes, encumbrances or title defects of any nature whatsoever other than (i) liens listed in Section 4.11 of the Disclosure Schedule, (ii) liens for taxes accrued but not yet due or for taxes the validity of which is being contested in good faith by appropriate proceedings, (iii) statutory liens of carriers, warehousemen, mechanics, workmen and materialmen for liability or obligations incurred in the ordinary course of business that are not yet delinquent or are being contested in good faith, and (iv) liens that were incurred in the ordinary course of business and that were not incurred in connection with the borrowing of money and that, either individually or in the aggregate, do not materially detract from the value of the property to which they attach or materially impair the use of such property (collectively, "Permitted Liens").

(b) Section 4.11 of the Disclosure Schedule sets forth: (i) a correct and complete list of all leases of real property to which the Company or any Subsidiary is a party as lessee as of the date hereof involving annual lease payments of more than $25,000 (the "Material Leases"), (ii) a correct and complete list of all real property owned by the Company or any Subsidiary as of the date hereof (the "Real Property"), and (iii) all options to purchase any real property. The Company has previously made available to Lilly true, correct and complete copies of the Material Leases, contracts to purchase, deeds, title insurance policies and other title documents relating to the Real Property and any options relating to such real properties as are under option.

4.12. Accounts Receivable. The accounts receivable shown on the Company Balance Sheet at the Balance Sheet Date or acquired by the Company after the Balance Sheet Date and prior to the Effective Date have been collected or to the Company's knowledge are (or will be) collectible in amounts not less than the aggregate amount thereof (net of allowance for doubtful accounts established in accordance with prior practice) carried (or to be carried) on the books of the Company.

4.13. Physicians. The Company has connectivity with at least 25,000 physicians through networks operated by the Company, Subsidiaries, Affiliated Entities or licensees

from the Company and at least 1,250 physicians under contract to be connected to such networks. There are no restrictions on the Company's right or ability to communicate with such physicians.

4.14. Material Contracts. Section 4.14 of the Disclosure Schedule sets forth a true and complete list as of the date of this Agreement of contracts, commitments and agreements (for purposes of this Agreement, contracts, commitments and agreements shall include, without limitation, all joint venture, partnership, sponsorship and network licensing arrangements or relationships of the Company and its Subsidiaries) to which the Company or any Subsidiary or Affiliated Entity is a party or under which any of them is obligated or bound or to which any of their properties or assets may be subject, which involve a payment or receipt by the Company or any Subsidiary after the date hereof of more than $25,000 in any one year or $75,000 in the aggregate, and contracts, commitments and agreements that individually or in the aggregate with other contracts, commitments and agreements are material to the business of the Company and its Subsidiaries, other than any contract, agreement or commitment set forth in Section 4.19 of the Disclosure Schedule. Each of such contracts is in full force and effect and is enforceable against all parties thereto in accordance with its terms. Neither the Company nor any of its Subsidiaries or Affiliated Entities is in default under any such contract, commitment or agreement, and the Company has no knowledge of any fact, circumstance or event which might reasonably be expected in the future to cause it or any of its Subsidiaries or Affiliated Entities to be in default under any such contract, commitment or agreement; and no party having any commitment to, or contract or agreement with, the Company or any Subsidiary or Affiliated Entity is in default thereunder and the Company has no knowledge of any fact, circumstance or event which might reasonably be expected in the future to cause any such party to be in default under any such contract, commitment or agreement.

4.15. Patents, Trademarks, Copyrights and Trade Secrets. Section 4.15 of the Disclosure Schedule contains a true and complete list of all United States and foreign patents and patent applications, trademarks (whether registered or as to which registration has been applied for), trade names, service marks and copyrights owned by the Company or any of its Subsidiaries, or owned by third parties and to or in which the Company or any of its Subsidiaries has any interest, as of the date hereof. Patents, patent applications, trademarks, trade names, service marks, copyrights, processes, designs, formulae, inventions, know-how, trade secrets, ideas or concepts are collectively referred to herein as "Intellectual Property".

There is (i) no existing or, to the knowledge of the Company, threatened infringement, misuse or misappropriation of any material Intellectual Property of the Company or any Subsidiary or Affiliated Entity by others and (ii) no pending or threatened claim by the Company or any Subsidiary or Affiliated Entity against others for infringement, misuse or misappropriation, of any material Intellectual Property of the Company or its Subsidiaries or Affiliated Entities. Neither the Company nor any of its Subsidiaries or Affiliated Entities is infringing, misusing or misappropriating any Intellectual Property of any third party and no claim of such infringement, misuse or misappropriation is pending or, to the knowledge of the Company, threatened. All Intellectual Property which is necessary to, or is (or at any time in the past was) used in, the business of the Company or any Subsidiary or Affiliated Entity is (or at all appropriate times was) either owned by the Company or one or more of its Subsidiaries or Affiliated Entities free and clear of any adverse claims of any nature of any third party or is (or at all appropriate times was) the subject of an appropriate license or agreement pursuant to which the Company or one or more of its Subsidiaries or Affiliated Entities, as appropriate, was granted the right to make such uses thereof. All the patents, patent applications, trademarks, trade names, service marks and copyrights shown in Section 4.15 of the Disclosure Schedule are owned by the Company or its Subsidiaries or Affiliated Entities, free from any objections, defects or adverse claims of interest of any third party. All patents owned by or licensed to the Company or any Subsidiary or Affiliated Entity are valid patents, and the Company has no knowledge of any facts or claims which may bring such validity into question.

4.16. Litigation. There are no claims, actions, suits, labor disputes, investigations and proceedings of any kind, pending or, to the Company's knowledge, threatened which involve, affect or relate to the Company or any of its Subsidiaries or Affiliated Entities or their respective officers, employees, directors, agents or representatives in connection with the business and affairs of the Company and its Subsidiaries or Affiliated Entities that, if adversely determined, would, in any one case, result in a liability for the Company or any Subsidiary or Affiliated Entity in excess of $50,000 or would, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect. To the knowledge of the Company, there is no reasonable basis for any such claim, action, suit, labor dispute, investigation or proceeding. There are no agreements, decrees, injunctions or orders of or with any court or governmental department or agency outstanding against the Company or any of its Subsidiaries or Affiliated Entities. Section 4.16 of the Disclosure Schedule contains

a true and complete list of all lawsuits, investigations and proceedings pending or, to the Company's knowledge, threatened, against the Company or any of its Subsidiaries or Affiliated Entities.

4.17. Insurance. Section 4.17 of the Disclosure Schedule contains a true and complete list of all insurance policies currently in force with respect to the business of the Company and its Subsidiaries, together with the premiums currently paid thereon. Such policies are in such amounts and insure against such losses and risks as are reasonably adequate to protect the properties and businesses of the Company and its Subsidiaries.

4.18. Information Provided by the Company. The information to be provided by the Company to Lilly for use in any application or filing to be made to any governmental body in connection with the Merger will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not false or misleading.

4.19. ERISA. Except for the Employee Plans identified in Section 4.19 or 4.20 of the Disclosure Schedule, neither the Company nor any Subsidiary maintains or contributes to any Employee Plan. For purposes of this Section, "Employee Plan(s)" shall mean and include any pension, retirement, profit-sharing, severance, termination, deferred compensation, bonus or other incentive plan, stock option or stock purchase plan, medical, retiree medical, vision, dental or other health plan, or life insurance plan, or any other employee benefit plan, program, employment agreement, arrangement, agreement or understanding, including, without limitation, any "employee benefit plan" as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") that provides benefits to any current or former employees, officers or directors of the Company or its Subsidiaries. The Company has made available to Lilly true, correct and complete copies of all Employee Plans, summary plan descriptions thereof (to the extent required by ERISA), and all trust agreements or funding agreements including insurance contracts and all amendments thereto and the most recently received IRS determination letter, the most recently filed IRS Form 5500 and the most recently prepared actuarial valuation. Except as disclosed in Section 4.19 of the Disclosure Schedule, with respect to such Employee Plans in respect of the Company and/or its Subsidiaries: (i) each Employee Plan that is a "welfare benefit plan" (as defined in section 3(1) of ERISA) is either unfunded or funded through insurance contracts; (ii) neither the Company nor any Subsidiary is in default under any Employee Plan, and all such Employee Plans have been maintained in compliance

with all applicable provisions of all applicable statutes, rules or regulations (including, without limitation, ERISA and the Code); (iii) as to each Employee Plan for which an Annual Report, including schedules, or comparable report, is required to be filed under ERISA or the Code or any analogous legislation, each such Annual Report has been filed, no liabilities with respect to such plan existed on the date of such Annual Report except as disclosed therein, and no adverse change has occurred with respect to the financial data covered by such Annual Report since the date thereof; (iv) the execution of this Agreement and performance of the transactions contemplated hereby will not constitute a stated triggering event under any Employee Plan that will result in any payment (whether of severance pay or otherwise) becoming due from the Company, any Subsidiary, Acquisition or Lilly to any employees of the Company or any Subsidiary; (v) each such Employee Plan that is a "pension plan," as defined in section 3(2) of ERISA, is tax-qualified under Section 401(a) of the Code; (vi) there has not been an accumulated funding deficiency (as defined in Section 412 of the Code) for which an excise tax is due for any Employee Plan that is a "pension plan" within the meaning of Section 3(2) of ERISA and that is tax-qualified under Section 401(a) of the Code; and the assets of each Employee Plan that is such a pension plan are at least as great as the respective liabilities of each such plan on a termination basis based on the assumptions used in the most recent actuarial valuation as of the date set forth in such valuation; (vii) neither the Company nor any Subsidiary has maintained, contributed to or been required to contribute to (A) at any time since September 1, 1974, any Employee Plan under which more than one employer makes contributions (within the meaning of section 4064(a) of ERISA) or (B) at any time since August 25, 1980, to any Employee Plan that is a "multiemployer plan" (as defined in section 3(37)(A) or (D) of ERISA, as amended by the Multiemployer Pension Plan Amendments Acts of 1980); (viii) none of the Employee Plans provides for or promises retiree medical, disability or life insurance benefits to any current or former officer, director or employee of the Company or any Subsidiary; and (ix) there has been no prohibited transaction (within the meaning of section 406 of ERISA or Section 4975 of the Code) with respect to any Employee Plan which could subject the Company or any Subsidiary or any Employee Plans (or their trusts, trustees or administrators) to any tax or penalty imposed under Section 4975 of the Code or section 502(i) or ERISA; no complete or partial termination has occurred within the five years preceding the date hereof with respect to any Employee Plan; and no reportable event (within the meaning of section 4043 of ERISA) for which any 30-day notice period has not been waived has occurred or is reasonably expected to occur with respect to any Employee

Plan subject to Title IV of ERISA other than any reportable event arising out of the transactions contemplated hereby.

4.20. Personnel and Labor Matters. Section 4.20 of the Disclosure Schedule contains a true and complete list of (i) the names and current salaries of the respective members of the Board of Directors and the respective officers of the Company and each Subsidiary and (ii) wage rates and commission arrangements for nonsalaried and non-executive salaried employees of the Company and each Subsidiary. Except as set forth in Section 4.20 of the Disclosure Schedule, (i) neither the Company nor any Subsidiary has a labor contract, collective bargaining agreement or employment agreement with any personnel or any representative of the personnel of the Company or any Subsidiary; (ii) the Company and its Subsidiaries are, and have at all times in the past been, in compliance with all applicable laws respecting employment and employment practices, terms and conditions of employment and wages and hours, and have not, at any time, engaged in any unfair labor practice; (iii) there is no unfair labor practice complaint pending against the Company or any Subsidiary; (iv) there is no labor strike, dispute, slowdown or stoppage pending or, to the Company's knowledge, threatened against or affecting the Company or any Subsidiary and neither the Company nor any Subsidiary has experienced any of such actions in the past; (v) no grievance or arbitration proceeding arising out of or under collective bargaining agreements of the Company or any Subsidiary is pending and no such claims therefor exist; and (vi) there are no charges pending or, to the knowledge of the Company, threatened against the Company or any Subsidiary before the Equal Employment Opportunity Commission.

4.21. Environmental Matters. (a) Except as set forth in Section 4.21(a) to the Disclosure Schedule, the Company and each Subsidiary and Affiliated Entity are in compliance with all Environmental Laws, and are not subject to environmental remedial (clean-up) obligations imposed under Environmental Laws or to any liability for damages with respect to environmental matters. "Environmental Laws" means all federal, state and local laws, regulations, rules or orders dealing with or relating to environmental pollution or contamination, human and non-human organism exposure to pollutants and chemical substances, and include, as examples and without limitation, the federal Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Consumer Product Safety Act and the Occupational Safety and Health Act ("OSHA").

(b) Except as set forth in Section 4.21(b) to the Disclosure Schedule, neither the Company nor any Subsidiary or Affiliated Entity has received any claim, demand, notice, complaint, court order, administrative order or request for information from any governmental authority or private party within the past five years alleging violation of, or asserting any non-compliance with or liability under or potential liability under or exceedance under, any Environmental Laws by it.

(c) Except as set forth in Section 4.21(c) to the Disclosure Schedule, the Company and its Subsidiaries and Affiliated Entities possess all governmental permits, licenses, orders, consents and approvals required under all Environmental Laws for the ownership of their properties and the conduct of their businesses.

(d) (i) Neither the Company nor any Subsidiary or Affiliated Entity has disposed of, or transported, or arranged for the disposal of, any Hazardous Materials (as hereinafter defined) to any site which is listed on the National Priorities List maintained under Section 105 of CERCLA, or is the subject of federal, state or local environmental enforcement actions, or other governmental environmental investigations, (ii) except in amounts below reportable quantities, as defined in CERCLA, there has not been any release, as defined in CERCLA, of Hazardous Materials at or from any facility or real property owned, operated or leased by the Company or any Subsidiary or Affiliated Entity during any period of such entity's ownership, operation or leasehold, or (iii) except in accordance with applicable law, neither the Company nor any Subsidiary nor any other party has treated, stored for more than 90 days, disposed of or recycled any Hazardous Materials at any time on any real property owned, operated or leased at any time by the Company or any Subsidiary or Affiliated Entity.

For the purposes of this Section 4.21, "Hazardous Materials" means any materials containing any (i) "hazardous substances" as defined by CERCLA or any similar applicable state law, (ii) petroleum, including crude oil or any fraction thereof, (iii) asbestos, (iv) polychlorinated biphenyls ("PCB's"), (v) "hazardous substances," "toxic substances" and "extremely hazardous substances" as defined in or listed under The Emergency Planning and Community Right-To-Know Act, (vi) "hazardous air pollutants" listed under Title V of the Clean Air Act, (vii) substances subject to the OSHA hazard communication rule, and (viii) radionuclides.

(e) Except as set forth in Section 4.21(e) to the Disclosure Schedule, there are not, nor have there been at

any time, any Underground Storage Tanks, as defined in RCRA and under applicable state law, located on any real property owned, operated or leased at any time by the Company or any Subsidiary or Affiliated Entity.

(f) Except as set forth in Section 4.21(f) to the Disclosure Schedule, there are no, nor have there been at any time, friable asbestos-containing materials, or PCB-containing capacitors, transformers or other equipment or fixtures containing PCB's on any real property owned, operated or leased at any time by the Company or any Subsidiary or Affiliated Entity, except for such materials, capacitators, transformers or other equipment or fixtures that are not subject to any obligation for abatement or replacement, and are in good condition, are not emitting or releasing Hazardous Materials and, if subject to inspection, labeling or other regulatory requirements, are maintained in accordance with such requirements.

(g) Section 4.21(g) of the Disclosure Schedule identifies all written environmental audits, assessments or studies within the possession of the Company or any Subsidiary or Affiliated Entity with respect to the facilities or real property owned, operated or leased at any time by the Company or any Subsidiary or Affiliated Entity at any time.

(h) Except as set forth in Section 4.21(h) to the Disclosure Schedule, neither the Company, nor any Subsidiary or Affiliated Entity, nor any officer or employee of the Company or any Subsidiary or Affiliated Entity acting within the scope of his or her employment has (i) violated any Environmental Laws or (ii) made any material false statement to, including any material omission in any statement made to, or withheld material information from, any governmental agency or employee responsible for administering any Environmental Laws.

(i) Except as set forth in Section 4.21(i) to the Disclosure Schedule, there are no (x) Environmental Laws or (y) permits, licenses, consents, approvals, orders, decrees, directives, or agreements from or with any governmental authority or any other person and pertaining to compliance with any Environmental Laws, which obligate the Company or any of its Subsidiaries or Affiliated Entities to take any action by a date certain and as to which obligation the Company or its Subsidiary or Affiliated Entity, as the case may be, will be unable to comply for any reason.

(j) Except as set forth in Section 4.21(j) to the Disclosure Schedule, there exist no, nor have there been at any time, environmental conditions at any real property owned, operated or leased at any time by the Company or any

Subsidiary or Affiliated Entity which, if disclosed to a governmental authority or other third party, could result in the imposition on the Company or any of its Subsidiaries or Affiliated Entities of any environmental remedial (clean-up) obligation under any Environmental Law or any liability for damages with respect to environmental matters.

4.22. Registration Statement; Proxy Statement. Neither (i) the Registration Statement on Form S-4 to be filed with the Commission in connection with the issuance in the Merger of shares of New Preferred Stock and the puts/calls described in Section 3.05 above (the "S-4") nor (ii) the proxy statement relating to the meeting of the stockholders of the Company (the "Special Meeting") to be held in connection with the Merger (the "Proxy Statement") will (x) in the case of the Proxy Statement, at the date it or any amendment or supplement is mailed to stockholders, and at the time of the Special Meeting and (y) in the case of the S-4, at the time it is filed with the Commission, when it becomes effective under the Securities Act and at the Effective Date, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The S-4 will comply as to form in all material respects with the provisions of the Securities Act and the rules and regulations thereunder. No representation is made by the Company with respect to statements made therein based on information supplied by Lilly for inclusion in the Proxy Statement or the S-4.

4.23. Interested Transactions. (a) Except as set forth in the Disclosure Schedule, to the best knowledge of the Company, no director or officer of the Company or any Subsidiary and no stockholder owning more than 5% of any class of the outstanding Company Capital Stock, (i) owns, directly or indirectly, any interest in, or is a director, officer, substantial stockholder or employee of, or consultant to, any competitor of the Company or any Subsidiary, or is in any way associated with or involved in the business conducted by the Company or any Subsidiary other than in such capacity as a director or officer of the Company or a Subsidiary or stockholder of the Company, (ii) owns, directly or indirectly, in whole or in part, any property, asset or right, tangible or intangible, which is associated with any property, asset or right owned by the Company or a Subsidiary or which the Company or a Subsidiary is presently operating or using or the use of which is contemplated for its business, or (iii) is an official or employee of, or is otherwise connected with, any labor organizations having dealings with the Company or a Subsidiary.

(b) No officer or director of the Company or any Subsidiary, or any affiliate or associate of any such person, is a party to any contract or arrangement (whether written or oral) with the Company or any Subsidiary which is not on terms generally as favorable to the Company or such Subsidiary as could be obtained in a comparable arm's length transaction with a person not so affiliated or associated with such officer or director.

4.24. Opinion of Financial Advisor. The Company has received the opinion of Smith Barney Inc. to the effect that the Merger Consideration to be received by the Company's stockholders (other than Lilly or its subsidiaries) pursuant to this Agreement is fair to such stockholders from a financial point of view, a copy of which has been delivered to Lilly and Acquisition.

4.25. Brokers or Finders. No person or entity is entitled to any brokerage, finder's, investment advisory fee or like payment from the Company or any Subsidiary in connection with the transactions contemplated by this Agreement other than Smith Barney Inc. the amount of whose fees have been disclosed in writing to Lilly.

4.26. Powers of Attorney and Suretyships. Neither the Company nor any Subsidiary has any powers of attorney outstanding or has any obligation or liability, either actual, accrued, accruing or contingent, as guarantor, surety, co-signer, endorser, co-maker, indemnitor or otherwise in respect of the obligation of any person, corporation, partnership, joint venture, association, organization or other entity.

## ARTICLE V. REPRESENTATIONS AND WARRANTIES OF LILLY.

Lilly hereby represents and warrants to the Company as follows:

5.01. Organization. Lilly is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana.

5.02. Authority Relative to Merger Documents. (a) Lilly has full corporate power to enter into and to carry out its obligations under this Agreement and the Ancillary Agreements. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement and the Ancillary Agreements have been duly and validly authorized by its Board of Directors; no other corporate acts or proceedings on the part of Lilly are necessary to authorize this Agreement or the Ancillary Agreements or the transactions contemplated

hereby or thereby; and this Agreement constitutes, and, when executed, the Ancillary Agreements will constitute, the valid and legally binding obligation of Lilly enforceable against Lilly in accordance with its or their terms.

(b) Neither the execution and delivery of this Agreement or the Ancillary Agreements by Lilly nor the consummation of the transactions contemplated hereby or thereby nor compliance by Lilly with any of the provisions hereof or thereof will (i) violate or conflict with any of the terms, conditions or provisions of the Articles of Incorporation or By-Laws of Lilly or (ii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Lilly or any of its subsidiaries or any of their properties or assets.

(c) Other than filings in compliance with applicable Federal and state securities laws, no consent or approval by, notice to registration with any governmental authority is required on the part of Lilly prior to the Effective Date in connection with the execution and delivery by Lilly of this Agreement or the Ancillary Agreements or the consummation by Lilly of the Merger and the other transactions contemplated by this Agreement or the Ancillary Agreements.

5.03. Proxy Statement; Registration Statement. Neither (i) the S-4, nor (ii) the information supplied or to be supplied by Lilly for inclusion in the Proxy Statement will (x) in the case of the Proxy Statement, at the date it or any amendment or supplement is mailed to stockholders and at the time of the Special Meeting and (y) in the case of the S-4, at the time it is filed with the Commission, when it becomes effective under the Securities Act and at the Effective Date, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading. The S-4 will comply as to form in all material respects with the provisions of the Securities Act and the rules and regulations thereunder, except that no representation is made by Lilly with respect to statements made therein based on information supplied by the Company for inclusion in the S-4.

5.04. Brokers. No person or entity is entitled to any brokerage, finder's, investment advisory fee or like payment from Lilly or Acquisition in connection with the transactions contemplated by this Agreement other than Lehman Brothers.

5.05. No Restricted Transactions. Lilly has no present intention to engage in or cause a transaction of the

type described in Section 7.18 prior to the fifth anniversary of the Closing.

ARTICLE VI. REPRESENTATIONS AND WARRANTIES OF ACQUISITION.

Acquisition hereby represents and warrants to the Company as follows:

6.01. Organization. Acquisition is a corporation duly organized, validly existing and in good standing under the laws of the State of Colorado. Acquisition has been formed for the sole purpose of effecting the Merger and has undertaken no activities and incurred no liabilities other than those incident to its organization or the transactions contemplated by this Agreement.

6.02. Authority Relative to Merger Documents.

(a) Acquisition has full corporate power to enter into this Agreement and to carry out its obligations under this Agreement. The execution and delivery of this Agreement and the filing of the Articles of Merger and the consummation of the transactions contemplated hereby have been duly and validly authorized by its Board of Directors; no other corporate acts or proceedings on the part of Acquisition are necessary to authorize this Agreement or the transactions contemplated by this Agreement; and this Agreement constitutes the valid and legally binding obligation of Acquisition enforceable against Acquisition in accordance with its terms.

(b) Neither the execution and delivery of this Agreement by Acquisition nor the filing of the Articles of Merger nor the consummation of the transactions contemplated by this Agreement nor compliance by Acquisition with any of the provisions herein will (i) violate or conflict with any of the terms, conditions or provisions of the Articles of Incorporation or By-Laws of Acquisition or (ii) violate any order, writ, injunction, decree, statute, rule or regulation applicable to Acquisition or any of its properties or assets.

(c) Other than the filing of the Articles of Merger with the Secretary of State of the State of Colorado, and filings in compliance with Federal and state securities laws, no consent or approval by, notice to or registration with any governmental authority is required on the part of Acquisition prior to the Effective Date in connection with the execution and delivery by Acquisition of this Agreement or the consummation by Acquisition of the Merger and the other transactions contemplated by this Agreement.

ARTICLE VII. CERTAIN UNDERSTANDINGS AND AGREEMENTS.

7.01. Conduct of Business. The Company covenants and agrees that, except as set forth in Section 4.09 of the Disclosure Schedule or as expressly contemplated by this Agreement, during the period from the date of this Agreement to the Effective Date, the business of the Company and its Controlled Subsidiaries and Controlled Affiliated Entities shall be conducted only in the ordinary and usual course consistent with past practices, that the Company shall use and shall cause each of its Controlled Subsidiaries, and any Controlled Affiliated Entities, to use best efforts to maintain and preserve and, as appropriate in the ordinary course of business, further their respective business relationships and business prospects, and to keep available the services of its directors, officers and employees, and that neither the Company nor any Controlled Subsidiary, nor any Controlled Affiliated Entity, shall take any of the following actions or permit to occur any of the following events without the prior written consent of Lilly:

(a) except pursuant to Company Options and Company Warrants disclosed in the preamble to this Agreement, issue or sell, agree to issue or sell or authorize the issuance or sale of any shares of its Company Capital Stock or the capital stock of any Subsidiary or other securities exchangeable for or convertible into shares of Company Capital Stock or the capital stock of any Subsidiary or grant any options or rights to acquire any shares of Company Capital Stock or the capital stock of any Subsidiary or amend any currently outstanding Company Options or Company Warrants or other rights or securities of the Company or any Subsidiary,

(b) purchase or otherwise acquire, directly or indirectly, any shares of Company Capital Stock or the capital stock of any Subsidiary or any securities exchangeable for or convertible into shares of Company Capital Stock or the capital stock of any Subsidiary,

(c) declare or pay any dividends on Company Capital Stock or capital stock of any Subsidiary not wholly-owned by the Company, except that the Company may declare immediately prior to the Effective Date a cash dividend on the Company Series B Preferred Stock in an amount equal to all accrued and unpaid dividends to the time of declaration,

(d) enter into any material transaction relating to the Company or any Subsidiary or Affiliated Entity, including, without limitation, any material joint venture, partnership, sponsorship or network licensing

arrangements or relationships, or modify or effect material changes to any existing material joint venture, partnership, sponsorship or network licensing arrangements or relationships,

(e) merge or consolidate with, purchase substantially all of the assets of, or otherwise acquire any business or any proprietorship, firm, association, corporation or other business organization or division thereof,

(f) make any change in the respective banking or safety deposit box arrangements of the Company and its Controlled Subsidiaries set forth in the Disclosure Schedule,

(g) grant any powers of attorney, except in connection with patent and trademark applications and prosecutions, and in the ordinary course of business,

(h) increase or decrease the rates of direct compensation payable or to become payable to their respective officers, employees, agents or consultants, other than routine increases or decreases made in the ordinary course of business, or grant, make or agree to any bonus, service award or other like benefit for any such officer, employee, agent or consultant, or make or agree to any welfare, pension, retirement or similar payment or arrangement, except payments made pursuant to the existing agreements or plans described in the Disclosure Schedule and except payments or arrangements agreed to in the ordinary course of business and consistent with past practice or as required by law,

(i) amend or change the Articles of Incorporation or By-Laws of the Company or the articles or certificate of incorporation or by-laws (or other organizational documents) of any Controlled Subsidiary or Controlled Affiliated Entity,

(j) issue or sell any promissory notes, bonds or other corporate debt securities of the Company or any Controlled Subsidiary or Controlled Affiliated Entity or otherwise incur any indebtedness for borrowed money except (a) in the ordinary course of business, (b) under their existing lines of credit as of the date hereof or (c) pursuant to Section 7.15 below,

(k) discharge or satisfy any lien, charge or encumbrance or pay any obligation or liability, absolute or contingent, other than current liabilities and the current portion of bank debt as shown on the

Company Balance Sheet and current liabilities incurred since that date in the ordinary course of business,

(l) mortgage, pledge or subject to lien, charge or any other encumbrance, any of their respective assets, tangible or intangible, except pursuant to existing lines of credit or Section 7.15 below,

(m) lend any money of the Company or any Subsidiary or Controlled Affiliated Entity or otherwise pledge the credit of the Company or any Controlled Subsidiary or Controlled Affiliated Entity, or sell, assign or transfer any of the tangible assets or cancel any debts or claims of the Company or any Controlled Subsidiary or Controlled Affiliated Entity, except in each case in the ordinary course of business,

(n) cancel, amend, terminate, waive, or sell, assign or transfer any material Intellectual Property,

(o) waive any rights of substantial value, whether or not in the ordinary course of business,

(p) settle or otherwise compromise any material litigation against the Company or any Controlled Subsidiary or Controlled Affiliated Entity,

(q) reclassify any shares of its capital stock,

(r) enter into any collective bargaining agreement,

(s) make expenditures for items deemed to be capital items under generally accepted accounting principles, of more than $25,000 in any one case or $125,000 in the aggregate,

(t) change its method of accounting or accounting practice, or

(u) enter into any contract, agreement, or understanding to cause or allow any of the foregoing; or

(v) cause any other event or condition of any character which in any one case or in the aggregate would reasonably be expected to have a Material Adverse Effect.

The Company further covenants and agrees that, prior to the Effective Date, it shall and shall cause each of its Controlled Subsidiaries and Controlled Affiliated Entities to:

(a) use its best efforts to duly comply with all laws applicable to them and to the conduct of their businesses in all material respects and all laws applicable to the transactions contemplated by this Agreement,

(b) use its best efforts to maintain in full force and effect its insurance policies set forth in the Disclosure Schedule (or policies providing substantially the same coverage), copies of which will be furnished to Lilly,

(c) use its best efforts to take such action as may reasonably be necessary to preserve its properties wherever located, including, but not limited to, all steps reasonably necessary to maintain its material Intellectual Property and any pending applications therefor, and any other intangible assets which are material to their businesses as conducted presently or hereafter,

(d) maintain its books and records in accordance with generally accepted accounting principles and in the usual, regular and ordinary manner, and

(e) promptly advise Lilly in writing of any occurrence or event including, without limitation, the commencement or threat of any litigation, which individually or in the aggregate has had or might reasonably be expected to have a Material Adverse Effect.

7.02. Registration Statement; Proxy Statement. The Company and Lilly jointly shall promptly prepare and file with the Commission the S-4, and the Company shall promptly prepare the Proxy Statement. Each of Lilly and the Company shall use its best efforts to have the S-4 declared effective under the Securities Act as promptly as practicable after such filing; provided, however, that Lilly shall have the right, upon notice to the Company, to delay or suspend the effectiveness of the S-4 for a period not to exceed 90 days if Lilly would otherwise be required to disclose in the S-4 information that, in Lilly's reasonable judgment, it is not then in the best interests of IMS or Lilly to disclose, but the exercise of such right to delay or suspend shall not extend the termination date specified in Section 11.01(c); provided, however, that the date so specified shall be deemed to be extended by the number of days of such delay or suspension if Lilly and Acquisition (i) agree that for the purposes of the conditions precedent to their obligations to effect the Merger set forth in Sections 9.01, 9.02 and 9.04 "Effective Date" shall mean December 31, 1995 (or such later date as may have been

agreed upon by the parties hereto) and that upon delivery of the certificates and opinions referred to in such Sections those conditions shall be deemed to have been satisfied or waived, and (ii) agree that the conditions set forth in Sections 9.07 and 9.09 have been satisfied or waived.

7.03. Meeting of Stockholders. The Company shall take all action necessary in accordance with applicable law and its Articles of Incorporation and By-Laws to convene the Special Meeting as promptly as practicable to consider and vote upon the approval and adoption of this Agreement and to consider and vote upon such other matters as may be necessary to effectuate the transactions provided for herein. The Board of Directors of the Company has resolved to recommend, and except as the Board of Directors determines in good faith, based on the advice of outside counsel to the Company, is required to satisfy its fiduciary duties, the Board of Directors shall continue to recommend, and shall take all lawful action to solicit proxies for and otherwise obtain, such approval and adoption. Lilly shall, or shall cause its subsidiaries to, vote any shares of Company Capital Stock held by Lilly or such subsidiaries, and entitled to vote, in favor of the approval and adoption of this Agreement and the transactions contemplated hereby.

7.04. Regulatory Matters. Lilly and the Company will take all such action as is or may be necessary under any applicable laws and will file and, if appropriate, use their best efforts to (i) obtain any consent, authorization, order or approval of any third party or any governmental or regulatory body, (ii) have declared effective or approved all documents and notifications with the Commission and other governmental or regulatory bodies, and (iii) cause any United States or state court or other governmental or regulatory body to lift, withdraw or otherwise cause to cease to have effect any non-final, appealable judgment, decree or other order which is in effect and prohibits consummation of the transactions contemplated by this Agreement that, in the case of (i), (ii) or (iii) above, they deem necessary or appropriate for the consummation of the Merger and the transactions provided for herein, and each party shall give the other information reasonably requested by such other party pertaining to it and its subsidiaries and affiliates reasonably necessary to enable such other party to take such actions.

7.05. Adoption. Lilly, as sole stockholder of Acquisition, hereby adopts this Agreement and approves the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by Acquisition and shall cause Acquisition to perform all of its agreements contained herein.

7.06. Access and Confidentiality. (a) Between the date hereof and the Effective Date, the Company shall, and shall cause its Controlled Subsidiaries and Controlled Affiliated Entities to, (i) give Lilly's authorized representatives full access, subject to coordination with the Company, to any and all of their premises, properties, contracts, books, records and affairs and (ii) cause their officers, employees, counsel, appraisers or other experts and independent certified public accountants to (1) furnish to Lilly's authorized representatives any and all financial, patent, scientific, environmental and other information pertaining to its business as Lilly shall from time to time reasonably require and (2) be available upon reasonable notice to answer questions from Lilly's representatives. Such access shall also include a review of relationships with the Company's key personnel and the placing of one or more Lilly employees at any office of the Company or any of its Controlled Subsidiaries or Controlled Affiliated Entities for the purpose of enabling such employees to become familiar with the operations of the Company and its Controlled Subsidiaries and Controlled Affiliated Entities.

(b) Lilly will hold in confidence all information obtained as a result of such access or previously furnished by the Company and its Subsidiaries and Affiliated Entities and will use such information only for the purpose of considering the Merger. Notwithstanding the foregoing, the Company acknowledges that, if the Merger is not consummated, Lilly or one of Lilly's subsidiaries may develop products or services similar to those developed or being developed by the Company and its Subsidiaries and Affiliated Entities, provided that such development does not utilize any information obtained from the Company or its Subsidiaries or Affiliated Entities unless Lilly legally is entitled to use such information pursuant to the following provisions of this Section 7.06. The right of Lilly and its subsidiaries to undertake such development shall not be impaired by any disclosure to Lilly or its subsidiaries by the Company or its Subsidiaries or Affiliated Entities, whether pursuant to this Section 7.06 or otherwise. Additionally, the obligation of confidentiality and non-use shall not apply to any information that prior to the date of disclosure by the Company or its Subsidiaries or Affiliated Entities was known to Lilly or its subsidiaries or to the public, or that subsequently becomes known to the public through no act or omission by Lilly or its representatives, or that is subsequently disclosed to Lilly by a third party having a lawful right to make such disclosure, or that is developed by Lilly independently of the information provided pursuant to this Section 7.06. The obligation of confidentiality and non-use shall expire December 31, 1997. As of the date hereof, the provisions of this Section 7.06(b) shall supersede and replace any previously executed

confidentiality undertaking by Lilly or its subsidiaries or affiliates to the Company.

7.07. [Intentionally Deleted]

7.08. Execution of Articles of Merger. At the Closing, subject to the provisions of Articles 8, 9 and 10, Lilly, the Company and Acquisition will cause the Articles of Merger in the form attached to this Agreement as Exhibit A to be duly executed and delivered on their behalf.

7.09. Other Transactions. The Company agrees that neither it nor any of its Subsidiaries or Controlled Affiliated Entities or any of their respective employees, agents or representatives (including, without limitation, its investment bankers) will, directly or indirectly, solicit or enter into any agreement or understanding with, or otherwise encourage inquiries or proposals from, or furnish any non-public information concerning the Company or any Subsidiary or Affiliated Entity to, any person or entity other than Lilly or a representative thereof with respect to the acquisition (by purchase, merger or otherwise) of any or all of the capital stock of the Company or any Subsidiary or Affiliated Entity or any or all of the assets of the Company or any of its Subsidiaries or Affiliated Entities or any other material corporate transaction relating to the Company or its Subsidiaries or Affiliated Entities; provided, however that the Company may engage in discussions or negotiations with a third party who, unsolicited, seeks to initiate such discussions or negotiations and may pursuant to confidentiality agreements furnish such party information concerning the Company and its business, properties and assets, provided that the Board of Directors of the Company shall conclude in good faith on the basis of the advice of the Company's outside counsel that such action is necessary to satisfy the fiduciary duties of the Board of Directors. Should the Company receive an unsolicited offer for such a transaction, or obtain information that such an offer is likely to be made, it will provide Lilly with prompt notice thereof, including the identity of the prospective offeror and the terms and conditions of such offer.

7.10. Best Efforts. Subject to the terms and conditions herein provided, Lilly, Acquisition and the Company shall use, and the Company shall cause its Controlled Subsidiaries and Controlled Affiliated Entities to use, their best efforts to take, or cause to be taken, all action, and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate and make effective the transactions contemplated by this Agreement, including, without limitation, using their best efforts to satisfy the conditions contained in Sections 8, 9 and 10 hereof.

7.11. Certain Notification. At all times until the Effective Date, each party shall promptly notify the other in writing of the occurrence of any event which will or may result in the failure to satisfy any of the conditions specified in Sections 8, 9 and 10.

7.12. Certification of Stockholder Vote. At or prior to the closing of the transactions contemplated by this Agreement, the Company shall deliver to Lilly a certificate of the Company's Secretary setting forth (i) the number of shares of Company Common Stock, Company Series B Preferred Stock and Company Series C Preferred Stock that voted in favor of adoption of this Agreement and the consummation of the Merger and the number of shares of Company Common Stock, Company Series B Preferred Stock and Company Series C Preferred Stock voted against adoption of this Agreement and consummation of the Merger; and (ii) the number of Dissenting Shares.

7.13. Expenses. Subject to Sections 11.02 and 11.03 hereof, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such expenses.

7.14. Support Agreements. Concurrent with the execution of this Agreement, each member of the Board of Directors of the Company shall enter into a support agreement (the "Support Agreements") substantially in the form attached hereto as Exhibit D.

7.15. Additional Financing. Lilly shall advance to the Company from time to time, at the Company's request, funds, as required to fund the then current cash requirements of the Company but not to exceed $1.5 million per month; provided, however, that at the time of each such advance (i) each of the Company's representations and warranties made in this Agreement and the Loan Documents shall then be true in all material respects and the Company shall not have defaulted in any material respect in the performance of any obligation under this Agreement or the Loan Documents, and (ii) the Company shall not be engaged in discussions or negotiations with a third party of the kind contemplated by the proviso to the first sentence of Section 7.09. Each such advance shall become due on July 1, 1996 (subject to acceleration as provided in the Loan Documents) and shall otherwise be on terms and conditions that are substantially similar to those contained in the Loan Documents.

7.16. Key Management Personnel. At or prior to the Closing, Lilly will offer to enter into an agreement with each of the persons named in Schedule 1 hereto under which the Company would agree not to reduce their respective

rates of compensation and benefits for the one year beginning on the Effective Date and Lilly would pay, or cause the Company to pay, such person an amount equal to one year's base salary (to be paid over the one year period in accordance with the Company's customary payment practices and subject to any applicable tax withholding requirements) if during the one-year period beginning on the Effective Date such person's employment is terminated by action of the Company for any reason other than for cause or such person resigns because he or she is required by the Company to relocate to any office not within reasonable commuting distance of his or her residence. Such agreement will also provide that such person shall agree not to compete with IMS in the business of medical communication networks for the purpose of transporting information and messages between healthcare providers and payors anywhere in the United States of America and not to solicit the business of the Company's customers, or to solicit employees of the Company to leave the Company, for the period during which he or she is receiving such severance payments. For this purpose, "cause" shall mean (i) willful and continued failure to perform such person's duties with the Company, (ii) fraud or dishonesty in connection with the performance of such duties, (iii) conviction for, or plea of guilty or nolo contendere to, a charge
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of commission of a felony or a crime involving moral turpitude or (iv) material breach of any employment, confidentiality or other agreement with the Company, or any applicable policies or procedures established by the Company for its employees. The form of the agreement reflecting the foregoing and other terms and conditions shall be provided by Lilly and be reasonably acceptable to the Company.

7.17. [Intentionally deleted]

7.18. Restricted Transactions. Lilly will not, prior to the third
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anniversary of the Closing, engage in or cause, or otherwise permit to occur, a merger (other than the Merger and the transactions contemplated hereby) or other extraordinary transaction that would result in the holders of New Preferred Stock being deemed for Federal income tax purposes to have sold their shares of New Preferred Stock in such merger or other extraordinary transaction.

7.19. Indemnification of Officers and Directors. From and after the
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Effective Date, the Surviving Corporation shall indemnify and hold harmless each director and officer of the Company (and each such person's personal representative, estate, heirs, testator or intestate successors) against any costs or expenses (including reasonable attorneys' fees), judgments, fines, losses, claims, damages, liabilities and amounts paid in settlement

in connection with any actual or threatened claim, action, suit, proceeding or investigation arising out of matters existing or occurring on or prior to the Effective Date (including without limitation any which arise out of or relate to the transactions contemplated by this Agreement), whether asserted or claimed prior to, or on or after, the Effective Date, in accordance with the indemnification provisions (as set forth in Exhibits A and B hereto) of the Articles of Incorporation and the By-Laws of the Surviving Corporation in the same manner and to the same extent as if such person were a director or officer of the Surviving Corporation.

7.20. Letter Agreement. The Company shall use its best efforts to satisfy the requirements of the letter agreement of even date herewith between the Company and Lilly (the "Letter Agreement").

ARTICLE VIII. CONDITIONS TO OBLIGATIONS OF EACH PARTY.

The respective obligations of each party to effect the Merger shall be subject to the fulfillment or waiver, at or prior to the Effective Date, of the following conditions:

8.01. Approval and Adoption. This Agreement and all other matters necessary to effectuate the transactions provided for herein and to vest Lilly and Acquisition with the rights provided herein shall have been approved and adopted by the requisite vote of the holders of outstanding shares of Company Common Stock, Company Series B Preferred Stock and Company Series C Preferred Stock as required by law and the Company's Articles of Incorporation and By-Laws.

8.02. Consents. Except for the filing of the Articles of Merger with the Secretary of State of the State of Colorado, all consents, authorizations, orders and approvals of, and filings and registrations with, any federal or state governmental authority that are required for the consummation by each party hereto of the transactions provided for herein shall have been obtained or made. The S-4 shall have been declared effective under the Securities Act and no stop order shall be in effect nor shall any proceeding have been commenced seeking such a stop order.

8.03. No Action or Proceeding. No claim, action, suit, order or other proceeding shall be pending or threatened by any public authority or private person before any court, agency or governmental or administrative body or other entity of competent jurisdiction which, in the reasonable opinion of Lilly or the Company, creates any substantial likelihood that the consummation of this

Agreement or the transactions contemplated hereby will be restrained, enjoined or otherwise prevented or that any material damages will be recovered or other material relief obtained as a result of the Merger or as a result of any agreement entered into in connection with, or as a condition precedent to, the consummation of the Merger.

8.04. Certain Stockholder Approval. This Agreement and the Merger shall have received at the Special Meeting the affirmative vote of shares representing at least a majority of the voting power of the outstanding shares of the Company Common Stock and Company Series B Preferred Stock that are not owned by Lilly or its subsidiaries.

ARTICLE IX. CONDITIONS TO OBLIGATIONS OF LILLY AND ACQUISITION.

The obligation of Lilly and the obligation of Acquisition to effect the Merger shall be subject to the fulfillment or waiver, at or prior to the Effective Date, of the following additional conditions:

9.01. Representations and Warranties True at the Effective Date. The representations and warranties of the Company contained in this Agreement shall be deemed to have been made again at and as of the Effective Date and all such representations and warranties that are qualified as to materiality shall then be true and correct, and all such representations and warranties that are not so qualified shall then be true and correct in all material respects, and, at the Effective Date, the Company shall have delivered to Lilly a certificate to such effect signed by the president or any vice president or the chief financial officer of the Company.

9.02. The Company's Performance. Each of the obligations of the Company to be performed by it on or before the Effective Date, pursuant to the terms of this Agreement, shall have been performed in all material respects at the Effective Date, and, at the Effective Date, the Company shall have delivered to Lilly a certificate to such effect signed by the president or any vice president or the chief financial officer of the Company.

9.03. Authority. All action required to be taken by, or on the part of, the Company to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby shall have been duly and validly taken by the Board of Directors and stockholders of the Company.

9.04. Opinion of Counsel. Lilly shall have been furnished with an opinion or opinions of Messrs. Hopper and Kanouff, or other counsel selected by the Company and reasonably satisfactory to Lilly, dated the Effective Date, in form and substance reasonably satisfactory to Lilly, to the effect that:

(a) the Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Colorado, has full corporate power and lawful authority to carry on its business which it is now conducting and to own or lease and operate the assets and properties now owned or leased and operated by it;

(b) except as set forth in the Disclosure Schedule, each of the Company's Subsidiaries is a corporation duly organized, validly existing and in good standing under the laws of its respective state of incorporation with full corporate power and lawful authority to carry on its business which it is now conducting and to own or lease and operate the assets and properties now owned or leased and operated by it;

(c) the Company has full corporate power to carry out the transactions provided for in this Agreement and the Ancillary Agreements; all corporate and other proceedings required to be taken by, or on the part of, the Company to authorize it to execute and deliver this Agreement and the Ancillary Agreements and the Articles of Merger and to file the Articles of Merger and to consummate the transactions contemplated hereby and thereby have been duly and validly taken; this Agreement and the Ancillary Agreements and the Articles of Merger have been duly and validly authorized, executed and delivered by the Company and constitute the valid and legally binding obligations of the Company enforceable against the Company in accordance with their respective terms; and assuming that Lilly and Acquisition have taken all requisite corporate action to authorize this Agreement, including the approval of the principal terms of the Merger by the requisite vote or written consent of Lilly as sole stockholder of Acquisition in accordance with Section 7-111-101 of the Colorado Business Corporation Act, upon the filing of a duly executed copy of the Articles of Merger with the Secretary of State of the State of Colorado pursuant to Section 7-111-105 of the Colorado Business Corporation Act, Acquisition will be duly and validly merged into the Company and the outstanding shares of Company Common Stock, Company Series B Preferred Stock (other than shares for which a valid Election to Retain Series B Stock, or a deemed Election

to Retain Series B Stock, has been made) and Company Series C Preferred Stock will be exchanged as provided in this Agreement;

(d) the authorized, issued and outstanding capital stock of the Company is as stated in the preamble to this Agreement;

(e) all the outstanding shares of Company Common Stock, Company Series B Preferred Stock and Company Series C Preferred Stock have been duly authorized and are validly issued, fully paid and nonassessable and were offered, issued and sold in compliance with all applicable federal and state securities laws; the Company is not required to register any class of equity security with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended; all outstanding Company Options and Company Warrants are validly outstanding and all shares of Company Capital Stock to be issued upon exercise thereof are duly authorized and will be validly issued, fully paid and nonassessable; and the shares of Surviving Corporation Common Stock and New Preferred Stock to be issued in the Merger, or upon exercise after the Effective Date of Company Options or Company Warrants pursuant to Section 3.03, or upon conversion after the Effective Date of shares of Company Series B Preferred Stock for which a valid Election to Retain Series B stock is made or deemed to have been made, will, when issued in exchange for shares of Acquisition Common Stock or Company Capital Stock, or upon such exercise of Company Options or Company Warrants or conversion of such Series B Preferred Stock, pursuant to this Agreement, be duly authorized and validly issued, fully paid and nonassessable;

(f) to the knowledge of such counsel, except as set forth in the preamble to the Agreement or in the Disclosure Schedule, there are no options, calls, subscriptions, warrants, rights, agreements or commitments of any character obligating the Company, contingently or otherwise, to issue shares of its capital stock or securities or rights convertible into shares of its capital stock;

(g) except as set forth in the Disclosure Schedule, all outstanding shares of capital stock of each Subsidiary are owned of record and, to the knowledge of such counsel, beneficially by the Company, and are owned, to the knowledge of such counsel, free and clear of all security interests, liens, claims, pledges, charges and other encumbrances of any nature whatsoever and all options, rights of first refusal,

agreements, limitations on voting rights; such shares are not subject to any preemptive rights. To the knowledge of such counsel, except as set forth in the Disclosure Schedule, there are no outstanding options, calls, subscriptions, warrants, rights, agreements or commitments of any character whatsoever relating to, or securities or rights convertible into, shares of capital stock of any Subsidiary;

(h) neither the execution and delivery of this Agreement or the Ancillary Agreements nor the consummation of the transactions contemplated hereby or thereby nor compliance by the Company with any of the provisions hereof or thereof will:

(i) violate, or conflict with, or result in a breach of any provisions of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, or accelerate the performance required by, trigger any change-of-control provisions or rights of purchase or sale, or result in the creation of any lien, security interest, charge or encumbrance upon any of the properties or assets of the Company or any Subsidiary or Affiliated Entity under, any of the terms, conditions or provisions of the respective Articles of Incorporation or By-Laws (or other organizational documents) of the Company or any Subsidiary or Affiliated Entity, or the Company Options or the Company Warrants, or, to the knowledge of such counsel, except as set forth in the Disclosure Schedule, of any note, bond, mortgage, indenture, deed of trust, license, joint venture agreement, collaborative arrangement or relationship or other contract, commitment or agreement or other instrument or obligation to which the Company or any Subsidiary or Affiliated Entity is a party, or by which the Company or any Subsidiary or Affiliated Entity or any of their respective properties or assets may be bound or affected, or

(ii) violate any statute, rule or regulation or, to the knowledge of such counsel, any order, writ, injunction decree applicable to the Company or any Subsidiary or Affiliated Entity or any of their respective properties or assets;

(i) no consent or approval by, notice to or registration with any governmental authority (other than compliance with Federal and state securities laws, and filing of the Articles of Merger with the Secretary

of State of the State of Colorado) is required on the part of the Company and its Subsidiaries and Affiliated Entities in connection with the consummation by the Company of the transactions contemplated by this Agreement or the Ancillary Agreements;

(j) The S-4 (and any amendment thereof or supplement thereto) complies as to form with all requirements of the Securities Act (except that no opinion need be expressed as to (i) financial statements and other financial and statistical data or (ii) as to any information relating to Lilly);

(k) except as set forth in the Disclosure Schedule, there are no pending or to the knowledge of such counsel threatened claims by the Company or its Subsidiaries or Affiliated Entities against others for infringement, misuse or misappropriation of any Intellectual Property owned by any third party, and there are no pending or to the knowledge of such counsel threatened claims by others against the Company or its Subsidiaries or Affiliated Entities for infringement, misuse or misappropriation of any Intellectual Property owned by any third party.

Messrs. Cleary, Gottlieb, Steen & Hamilton, as special counsel to the Company, shall also furnish Lilly with an opinion, dated the Effective Date, in form and substance reasonably satisfactory to Lilly, with respect to matters of federal law referred to in subparagraph (h)(ii) and subparagraph (i) and (j) above.

Messrs. Hopper and Kanouff and Messrs. Cleary, Gottlieb, Steen & Hamilton shall also state that nothing has come to the attention of such counsel that causes them to believe that the S-4 and Proxy Statement (and any amendments thereof or supplements thereto), as of the date of the Special Meeting, as of the effective date of the S-4 and as of the Effective Date, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not false or misleading (except that no opinion need be expressed as to (a) financial statements and other financial or statistical data or (b) as to any information relating to Lilly).

The opinion of Company counsel shall also cover, in a manner reasonably satisfactory to Lilly, such other matters pertaining to the transactions contemplated by this Agreement as Lilly or its counsel reasonably may request. As to any matter which involves the laws of a jurisdiction in which the counsel rendering the opinion is not an expert,

such counsel may rely upon the opinion of local counsel of established reputation satisfactory to Lilly. Any opinion may expressly rely as to matters of fact upon certificates furnished by appropriate officers of the Company or appropriate government officials. Any opinion may include customary assumptions, exceptions and qualifications.

9.05. Dissenting Stockholders. On or prior to the Effective Date the Company shall deliver to Lilly a list certified by its Secretary of all stockholders who made a demand for payment pursuant to Section 7-113-204 of the Colorado Business Corporation Act and setting forth the number of shares of Company Common Stock and Company Series B Preferred Stock owned by each such stockholder. The total number of such shares of Company Common Stock and Company Series B Preferred Stock as to which dissenters' rights may be exercised pursuant to Section 7-113-102 of the Colorado Business Corporation Act shall not exceed 10% of the total number of shares of Company Common Stock or Company Series B Preferred Stock, respectively, outstanding on the Effective Date. The Company will not, except with the prior written consent of Lilly, voluntarily make any payment with respect to, or settle, or offer to settle, any demands by stockholders of the Company exercising dissenters' rights for payment of the fair value of their shares of Company Capital Stock.

9.06. [Intentionally Deleted]

9.07. Certain Litigation. Except with respect to the matters disclosed in Sections 4.15 and 4.16 of the Disclosure Schedule, no claim, action, suit, or other proceeding shall be pending or threatened by any public authority or private person before any court, agency or governmental administrative body or other entity of competent jurisdiction which in the reasonable opinion of Lilly creates any reasonable possibility of material interference with the ability of Lilly, through representatives designated by it, to manage following the Effective Date the business theretofore conducted by the Company and its Subsidiaries.

9.08. No Withholding of Tax. The Company shall have delivered to Lilly on or prior to the Effective Date a statement pursuant to Section 1445(b)(2) of the Code and Treasury Regulations Section 1.1445-2(c)(3) thereunder, in form and substance satisfactory to Lilly, certifying that the shares of Company Capital Stock do not constitute a "U.S. real property interest" for purposes of Sections 897 and 1445 of the Code and the Treasury Regulations thereunder.

9.09. Letter Agreement. The requirements of the Letter Agreement shall have been met to Lilly's reasonable satisfaction.

ARTICLE X. CONDITIONS TO OBLIGATIONS OF THE COMPANY.

The obligation of the Company to effect the Merger shall be subject to the fulfillment, at or prior to the Effective Date, of the following additional conditions:

10.01. Representations and Warranties True at the Effective Date. The representations and warranties of Lilly and Acquisition contained in this Agreement, shall be deemed to have been made again at and as of the Effective Date and all such representations and warranties that are qualified as to materiality shall then be true and correct, and all such representations and warranties that are not so qualified shall then be true and correct in all material respects, and, at the Effective Date, Lilly and Acquisition shall have delivered to the Company certificates to such effect, signed by an officer or other authorized representative.

10.02. Lilly's and Acquisition's Performance. Each of the obligations of Lilly and Acquisition to be performed by them, on or before the Effective Date, pursuant to the terms of this Agreement, shall have been performed in all material respects at the Effective Date, and, at the Effective Date, Lilly and Acquisition shall have delivered to the Company certificates to such effect, signed by an officer or other authorized representative of Lilly and Acquisition.

10.03. Authority. All action required to be taken by, or on the part of, Lilly and Acquisition to authorize the execution, delivery and performance of this Agreement and the consummation of the transaction contemplated hereby shall have been duly and validly taken by the Boards of Directors of Lilly and Acquisition, respectively, and by the sole stockholder of Acquisition.

10.04. Opinion of Counsel. The Company shall have been furnished with an opinion or opinions of counsel to Lilly, dated the Effective Date, in form and substance reasonably satisfactory to the Company to the effect that:

(a) Lilly is a corporation duly organized, validly existing and in good standing under the laws of the State of Indiana; Acquisition is a corporation duly organized, validly existing and in good standing under the laws of the State of Colorado;

(b) Lilly and Acquisition have full corporate power to carry out the transactions provided for in this Agreement and the Ancillary Agreements; all corporate and other proceedings required to be taken by, or on the part of, Lilly and Acquisition to authorize them to execute and deliver this Agreement and the Ancillary Agreements and the Articles of Merger and to file the Articles of Merger and to consummate the transactions contemplated hereby and thereby have been duly and validly taken; this Agreement and the Ancillary Agreements and the Articles of Merger have been duly and validly authorized, executed and delivered by Lilly and Acquisition, and constitute valid and binding obligations of Lilly and Acquisition enforceable against them in accordance with their terms; and assuming that the Company has taken all requisite corporate action to authorize this Agreement and the Articles of Merger, including the approval of the principal terms of the Merger by the requisite vote of stockholders of the Company in accordance with Section 7-111-101 of the Colorado Business Corporation Act, upon the filing of a duly executed copy of the Articles of Merger with the Secretary of State of the State of Colorado pursuant to Section 7-111-105 of the Colorado Business Corporation Act, Acquisition will be duly and validly merged into the Company and the outstanding shares of Company Common Stock, Company Series B Preferred Stock (other than shares for which a valid Election to Retain Series B Stock, or a deemed Election to Retain Series B Stock, has been made) and Company Series C Preferred Stock will be exchanged as provided in this Agreement;

(c) neither the execution and delivery of this Agreement or the Ancillary Agreements nor the consummation of the transactions contemplated hereby or thereby nor compliance by Lilly or Acquisition with any of the provisions hereof will

(i) violate or conflict with, any of the terms, conditions or provisions of the respective Articles of Incorporation or the By-Laws of Lilly or Acquisition; or

(ii) violate any statute, rule or regulation, or to the knowledge of such counsel, any order, writ, injunction or decree applicable to Lilly or Acquisition or any of their respective properties or assets;

(d) no consent or approval by, notice to or registration with any governmental authority (other than compliance with Federal and state securities laws,

and filing of the Merger Certificate with the Secretary of State of the State of Colorado) is required on the part of Lilly or Acquisition in connection with the consummation by Lilly and Acquisition of the transactions contemplated by this Agreement or the Ancillary Agreements.

Such counsel shall also state that nothing has come to the attention of such counsel that causes them to believe that the S-4, or any of the information in the Proxy Statement or any amendment thereof or supplement thereto that was supplied by Lilly for inclusion therein, contained, at the time of the Special Meeting, as of effective date of the S-4 and as of the Effective Date, any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not false or misleading (except that no opinion need be expressed as to (a) financial statements and other financial or statistical data or (b) as to any information relating to the Company).

Such opinion shall also cover, in a manner reasonably satisfactory to the Company, such other matters pertaining to the transactions contemplated by this Agreement as the Company or its counsel reasonably may request. The matters referred to in the paragraph below subsection (d) of this Section 10.04 shall be given by Dewey Ballantine; the other opinions referred to above shall be given by Dewey Ballantine, Baker & Daniels (Indiana law only), Holme Roberts & Owen LLC (Colorado law only), or a member of Lilly's Legal Division. As to any matter which involves the laws of a jurisdiction in which the counsel rendering the opinion is not expert, such counsel may rely upon the opinion of local counsel of established reputation satisfactory to the Company. Any opinion may expressly rely as to matters of fact upon certificates furnished by appropriate officers of Lilly, Acquisition or appropriate governmental officials. Any opinion may include customary assumptions, exceptions and qualifications.

10.05. Execution of Put/Call Agreements. Lilly shall have executed
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Put/Call Agreements with each holder of shares of Company Capital Stock, Company Options or Company Warrants who shall have elected to enter into such Agreements.

10.06. Tax Opinions. Cleary, Gottlieb, Steen & Hamilton and Dewey
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Ballantine shall have filed as Exhibits to the S-4 their opinions to the effect that the disclosure relating to federal income tax consequences set out in the S-4 is a fair summary of the principal federal income tax consequences.

ARTICLE XI. TERMINATION.

11.01. Termination. This Agreement may be terminated at any time prior to the Effective Date as provided in this Article XI, and in no other manner:

(a) by mutual consent of Lilly, Acquisition and the Company,

(b) by Lilly and Acquisition, or by the Company, respectively, if, at or before the Effective Date, any condition set forth herein for the benefit of Lilly and Acquisition or the Company, respectively, shall not have been timely met and such failure shall not have been cured or eliminated, or by its nature cannot be cured or eliminated,

(c) by Lilly and Acquisition, or by the Company if the Closing shall not have occurred on or before December 31, 1995, or such later date as may have been agreed upon by the parties hereto or as is specified in Section 7.02,

(d) by Lilly and Acquisition, or by the Company, respectively, if any representation or warranty made herein for the benefit of Lilly and Acquisition or the Company, respectively, or in any certificate, schedule or document furnished to Lilly and Acquisition or the Company, respectively, pursuant to this Agreement, if qualified as to materiality, is untrue in any respect, or, if not so qualified, is untrue in any material respect, or the Company or Lilly and Acquisition, respectively, shall have defaulted in any material respect in the performance of any obligation under this Agreement,

(e) by Lilly and Acquisition if the Board of Directors of the Company fails to recommend that the stockholders of the Company approve this Agreement or fails to submit this Agreement to the stockholders for their approval, or

(f) by Lilly and Acquisition if the stockholders of the Company shall have voted upon and not approved the proposal to adopt this Merger Agreement and the transaction contemplated hereby to the extent required by law and the Company's Articles of Incorporation and Bylaws and Section 8.04 above.

In the event of a termination of this Agreement pursuant to this Section 11.01, this Agreement shall terminate (except for Sections 7.06(b), 7.13, 11.02 and 11.03), and there shall be no other liability on the part of

Lilly and Acquisition or the Company to each other (except liability under Sections 7.06(b), 7.13, 11.02 and 11.03 and under the Loan Documents and any loans theretofore made pursuant to Section 7.15 above).

11.02. Termination Fee. In the event of a termination by Lilly and Acquisition under subsections (d), (e) or (f) of Section 11.01 hereof, or a termination by the Company under subsection (d) of Section 11.01 hereof, the terminating party shall be paid by wire transfer in immediately available funds a fee of $4 million (subject to any credit against such amount pursuant to Section 11.03) by the other party.

11.03. Credit Against Loan. In the event a fee is payable by Lilly and Acquisition pursuant to Section 11.02, the Company shall credit the principal and interest amounts payable by the Company to Lilly pursuant to the Loan Documents or any other outstanding indebtedness between the Company and Lilly pursuant to Section 7.15 against such fee. Lilly and Acquisition shall only be liable for payment of the difference between the fee owing pursuant to Section 11.02 and the amounts credited pursuant to this Section 11.03.

ARTICLE XII. MISCELLANEOUS.

12.01. Representations and Warranties Not to Survive. The representations and warranties contained in this Agreement shall not survive the Effective Date.

12.02. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be (a) delivered personally, (b) mailed by postage prepaid, certified mail or registered mail, return receipt requested, (c) delivered by prepaid, overnight courier of recognized national standing, such as Federal Express, or (d) sent by facsimile transmission, in any such case, addressed as follows:

If to Lilly or Acquisition:

Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285

Attention: General Counsel

Telecopy No.: (317) 276-3861

If to the Company:

Integrated Medical Systems, Inc.
15000 West 6th Avenue, Suite 400
Golden, Colorado 80401

Attention: Chief Executive Officer
and President

Telecopy No.: (303) 271-7998

Such notices, requests, demands and other communications shall be deemed made as of the date of actual delivery to the addressee thereof, which in the case of notice mailed return receipt requested, shall be the date of delivery shown on the return receipt.

12.03. Assignability and Parties in Interest. This Agreement shall not be assignable by any of the parties hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors; except for the provisions of Section 7.19, nothing in this Agreement is intended to confer, expressly or by implication, upon any other person any rights or remedies under or by reason of this Agreement; provided that the provisions of Sections 3.03(a) and (b) hereof are intended to be for the benefit of and enforceable by each holder of a Company Option.

12.04. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Colorado.

12.05. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original.

12.06. Publicity. Promptly following the execution of this Agreement, the Company and Lilly will issue a press release with respect thereto. Such press release and any other press releases or public announcements with respect to the Merger shall be subject to mutual agreement to the maximum extent feasible that is consistent with the respective legal obligations of the Company and Lilly to disseminate material information to their stockholders and the public.

12.07. Complete Agreement. Except for (i) the Ancillary Agreements, (ii) the Loan Documents, (iii) the Support Agreements, (iv) the Letter Agreement and (v) any notes and agreements delivered pursuant to Section 7.15 hereof, this Agreement, the exhibits hereto and the schedules and documents delivered pursuant hereto or

referred to herein contain the entire agreement between the parties hereto with respect to the Merger and other transactions contemplated herein and therein and, except as provided herein, supersede all previous negotiations, commitments and writings, including the term sheet, dated June 12, 1995; it being understood that this Agreement shall not be interpreted to supersede any agreements or relationships between the parties hereto that exist on the date hereof and are unrelated to the Merger and the other transactions contemplated hereby.

12.08. Modifications, Amendments and Waivers. At any time prior to the Effective Date, the parties hereto may, by written agreement (a) extend the time for the performance of any of the obligations or other acts of the parties hereto, (b) waive any inaccuracies in the representations and warranties contained in this Agreement or in any schedule or document delivered pursuant hereto and (c) waive compliance with any of the covenants or agreements contained in this Agreement. At any time prior to the Effective Date, if authorized by their respective boards of directors, the parties hereto may, by written agreement, notwithstanding stockholder approval, amend or supplement any of the provisions of this Agreement, provided, however, that after this Agreement has been adopted by stockholders, no material amendment or supplement shall be made unless such amendment or supplement is also adopted by stockholders. Any written instrument or agreement referred to in this Section 12.08 shall be validly and sufficiently authorized for the purposes of this Agreement if signed, on behalf of the Company, Lilly and Acquisition, by persons authorized to sign this Agreement.

12.09. Interpretation. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

12.10. Disclosure Schedule. Disclosure of any fact or item on the Disclosure Schedule shall not necessarily mean that such item or fact individually is material to the condition, results of operations, assets, liabilities, earnings or business of the Company or any Subsidiary or Affiliated Entity individually or the Company and its Subsidiaries and Affiliated Entities considered as a whole.

IN WITNESS WHEREOF, Lilly, Acquisition and the Company have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

ELI LILLY AND COMPANY

By_____
Name:
Title:

Attest:_____
Name:
Title:

TRANS-IMS CORPORATION

By_____
Name:
Title:

Attest:_____
Name:
Title:

INTEGRATED MEDICAL SYSTEMS, INC.

By_____
Name:
Title:

Attest:_____
Name:
Title:

IN WITNESS WHEREOF, Lilly, Acquisition and the Company have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

ELI LILLY AND COMPANY

By /s/ Sidney Taurel
---
Name: Sidney Taurel
Title: Executive Vice-President

Attest: /s/ Daniel P. Carmichael
---
Name: Daniel P. Carmichael
Title: Secretary and Deputy General Counsel

TRANS-IMS CORPORATION

By /s/ M.S. Hunt
---
Name: M.S. Hunt
Title: President

Attest: /s/ G.W. Miller
---
Name: G.W. Miller
Title: Secretary

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Kevin Green
---
Name: Kevin Green
Title: President

Attest: /s/ Charles I. Brown
---
Name: Charles I. Brown
Title: Executive Vice-President

Exhibit 2.3

SHAREHOLDER SUPPORT AGREEMENT

Eli Lilly and Company, an Indiana corporation ("Lilly"), its wholly-owned subsidiary, Trans-IMS, Inc., a Colorado corporation (the "Subsidiary"), and Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), are proposing to enter into an Agreement and Plan of Merger (the "Merger Agreement"), dated today, providing for the merger of the Subsidiary into IMS (the "Merger").

The undersigned Shareholder owns, or has the right to acquire upon the exercise of options or warrants or the conversion of convertible securities, shares of IMS Common Stock and/or Series B Preferred Stock as set forth on the signature page hereof. In order to induce Lilly to enter into, and to make loans to IMS as contemplated in, the Merger Agreement, the Shareholder agrees with Lilly as follows:

1. From and after the date hereof through the first to occur of (x) the consummation of the Merger or (y) the termination of the Merger Agreement, the Shareholder will:

(a) refrain from transferring, selling, pledging (excluding bona fide pledges to banks, financial institutions and brokerage firms), assigning or otherwise disposing of any of the shares of IMS capital stock of any class or series, or any of the options or warrants to acquire such shares, now owned or hereafter acquired by the Shareholder to any person (other than Lilly or a Lilly subsidiary or a member of the Shareholder's immediate family who agrees to be bound by the terms of this Agreement);

(b) refrain from soliciting or (subject to any fiduciary obligations the Shareholder has in his capacity as a director if he is a director of IMS) entering into any agreement or understanding with, or furnishing any non-public information concerning IMS to, any person (except Lilly, its affiliates and representatives) for such transfer, sale, pledge, assignment or other disposition or for a merger or sale of IMS, or the sale of a substantial part of its assets, and refrain from voting in favor of, or otherwise supporting or assisting, any such transaction; and

(c) vote all shares of IMS capital stock of any class or series owned by the Shareholder in favor of the merger contemplated by the Merger Agreement if the Merger Agreement is submitted to the shareholders of IMS.

2. The Shareholder agrees that if the Merger is consummated, he will elect to receive cash and/or Series D Preferred Stock in exchange for any shares of Series B Preferred Stock that he then owns, and will not elect to retain such shares of Series B Preferred Stock. The Shareholder also hereby waives any rights that he may have to register securities of IMS under the Securities Act of 1933, as amended, or to require IMS to provide information to facilitate public resales of securities pursuant to Rule 144 or otherwise and consents to the termination of any agreements providing for such rights, such waiver and consent to become inoperative in the event that the Merger is not consummated.

3. This Agreement shall be governed by the laws of the State of Colorado; shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective heirs, beneficiaries, representatives, successors and assigns; and shall entitle Lilly to the equitable relief of specific performance in the event of a breach. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and may not be modified, amended, altered or supplemented except upon the execution and delivery of a subsequent written agreement; and may be executed in separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one agreement.

Dated: August 2, 1995

Accepted and agreed:

ELI LILLY AND COMPANY

By_____ _____

The Shareholder

Address:

| | Number of Shares | |
|---|---|---|
| | Owned | Right to Acquire |
| Common Stock | | |
| Series B Preferred | | |

Exhibit 2.5

PRELIMINARY COPY

PROXY
INTEGRATED MEDICAL SYSTEMS, INC.
PROXY SOLICITED BY THE BOARD OF DIRECTORS
FOR THE SPECIAL MEETING OF SHAREHOLDERS
TO BE HELD _____, 1995

The undersigned hereby constitutes and appoints Kevin R. Green, Charles I. Brown and each of them, the true and lawful attorneys and proxies of the undersigned with full power of substitution and appointment, for and in the name, place and stead of the undersigned, to act for and to vote all of the undersigned's shares of common stock of Integrated Medical Systems, Inc. at the Special Meeting of Shareholders to be held at _____ _____Colorado _____ on _____, 1995, at _____ a.m., Mountain Time, and at all adjournments thereof for the following purposes:

(1) Approval of the merger of Trans-IMS Corporation into the Company pursuant to the Agreement and Plan of Merger dated August 2, 1995, which approval also includes approval of the amendment to the Company's 1994 Employee Stock Option Plan and the amendment to the Company's articles of incorporation, all as described in the accompanying Proxy Statement -Prospectus.

[ ] FOR [ ] AGAINST [ ] ABSTAIN FROM VOTING

(2) In their discretion, the Proxies are authorized to vote upon such other business as lawfully may come before the meeting. The undersigned hereby revokes any proxies as to said shares heretofore given by the undersigned and ratifies and confirms all that said attorneys and proxies lawfully may do by virtue hereof.

THE SHARES REPRESENTED BY THIS PROXY WILL BE VOTED AS SPECIFIED. IF NO SPECIFICATION IS MADE, THEN THE SHARES REPRESENTED BY THIS PROXY WILL BE VOTED AT THE MEETING FOR APPROVAL OF THE MERGER.

It is understood that this proxy confers discretionary authority in respect to matters not known or determined at the time of the mailing of the Notice of Special Meeting of Shareholders to the undersigned. The proxies and attorneys intend to vote the shares represented by this proxy on such matters, if any, as determined by the Board of Directors.

The undersigned hereby acknowledges receipt of the Notice of Special Meeting of Shareholders and the Proxy Statement furnished therewith.

Dated and Signed:

_____, 1995

_____

_____
SIGNATURE(s) OF SHAREHOLDER(s)

Signature(s) should agree with the name(s) stenciled hereon. Executors, administrators, trustees, guardians and attorneys should so indicate when signing. Attorneys should submit powers of attorney.

---

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS. PLEASE SIGN AND RETURN THIS PROXY TO _____,_____ _____, _____, _____ _____. THE GIVING OF A PROXY WILL NOT AFFECT YOUR RIGHT TO VOTE IN PERSON IF YOU ATTEND THE MEETING. HOWEVER, ONLY RECORD OWNERS OF SHARES MAY VOTE IN PERSON AT THE MEETING.

EXHIBIT 4.2

# BYLAWS

# OF

# TRANS-IMS CORPORATION.

Adopted July 20, 1995

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OF
TRANS-IMS CORPORATION


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# BYLAWS

# OF

# TRANS-IMS CORPORATION

## ARTICLE I

## Offices

Section 1.01 Business Offices. The corporation may have such offices, either within or outside Colorado, as the board of directors may from time to time determine or as the business of the corporation may require.

Section 1.02 Registered Office. The registered office of the corporation required by the Colorado Business Corporation Act (the "Act") to be maintained in Colorado shall be as set forth in the articles of incorporation, unless changed as provided by law.

## ARTICLE II

## Shareholders

Section 2.01 Annual Meeting. An annual meeting of the shareholders shall be held on the second Monday in the month of April in each year, or on such other date as may be determined by the board of directors, beginning with the year 1996, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting is a legal holiday in Colorado, the meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the shareholders, or at any adjournment thereof, the board of directors shall cause the election to be held at a meeting of the shareholders as soon thereafter as conveniently may be. Failure to hold an annual meeting as required by these bylaws shall not invalidate any action taken by the board of directors or officers of the corporation.

Section 2.02 Special Meetings. Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the chief executive officer, the president or the board of directors, and shall be called by the chief executive officer, the president or the board of directors at the written, dated and executed, demand of the holders of not less than one-tenth of all the votes of the corporation entitled to be cast on any proposed issue to be considered. A written demand shall contain the purpose or purposes for which the meeting shall be held. Notice of the special meeting must be given within 30 days after the date of the call or demand in accordance with Section 2.04.

Section 2.03 Place of Meetings. Each meeting of the shareholders shall be held at such place, either within or outside Colorado, as may be designated in the notice of meeting, or, if no place is designated in the notice, at the principal office of the corporation if in Colorado or, if the principal office is not located in Colorado, at the registered office of the corporation in Colorado.

Section 2.04 Notice of Meetings. Except as otherwise required by law, written notice of each meeting of the shareholders stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called shall be given, either personally (including delivery by private courier) or by first class, certified or registered mail, to each shareholder of record entitled to notice of such meeting, not less than 10 nor more than 60 days before the date of the meeting, except that if the authorized shares of the corporation are to be increased, at least 30 days notice shall be given, and, if the sale, lease, exchange or other disposition of all or substantially all of the property and assets of the corporation not in the usual and regular course of business is to be voted on, at least 20 days notice shall be given. Such notice shall be deemed to be given in person when delivered to the shareholder by telephone, telegraph, teletype, electronically transmitted facsimile or other form of wire or wireless communication or by mail or private carrier. If mailed, such notice shall be deemed to be given as to each shareholder when deposited in the United States mail, addressed to the shareholder at the shareholder's address shown in the corporation's current record of shareholders, with postage thereon prepaid, but, if three successive notices mailed to the last-known address of any shareholder of record are returned as undeliverable, no further notices to such shareholder shall be necessary until another address for such shareholder is made known to the corporation. Written notice to the corporation may be addressed to its registered agent at its registered address or to the corporation or its secretary at its principal office. Notice is effective on the earliest of the date received, five days after mailing or the date shown on the return receipt, if applicable. If a meeting is adjourned to another time or place, notice need not be given if the time and place thereof are announced at the meeting, unless the adjournment is for more than 30 days or if after the adjournment a new record date is fixed, in either of which case notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting in accordance with the foregoing provisions of this Section 2.04.

Section 2.05 Waiver of Notice. Whenever notice is required by law, the articles of incorporation or these bylaws to be given to any shareholder, a waiver thereof in writing signed by the shareholder entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. By attending a meeting, a shareholder (a) waives objection to lack of notice or defective notice of such meeting unless the shareholder, at the beginning of the meeting, objects to the holding of the meeting or the transacting of business at the meeting because of lack of notice or defective notice, and (b) waives objection to consideration at such meeting of a particular matter not within the purpose or purposes described in the notice of such meeting unless the shareholder objects to considering the matter when it is presented.

Section 2.06 Fixing of Record Date. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of the shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than 70 days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. A record date fixed for the purpose of determining shareholders entitled to notice of a meeting of the shareholders shall be fixed not less than 10 days immediately preceding such meeting (30 days if the authorized stock is to be increased, 20 days if the sale, lease, exchange or other disposition of all or substantially all of the property and assets of the corporation not in the usual and regular course of business is to be considered). If no record date is so fixed, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring the dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of the shareholders has been made as provided in this Section, such determination shall apply to any adjournment thereof. Notwithstanding the foregoing provisions of this Section, the record date for determining shareholders entitled to take action without a meeting as provided in Section 2.14 below shall be the date specified in such Section.

Section 2.07 Shareholders' List. After fixing the record date, the officer or agent having charge of the stock transfer books for shares of the corporation shall make a complete record of the shareholders entitled to be given notice of the meeting or any adjournment thereof. The list shall be arranged by voting groups and within each voting group by class or series of shares, shall be alphabetical within each class or series, and shall show the address of, and the number of shares of each class and series that are held by, each shareholder. For a period of 10 days before such meeting or two business days after notice of the meeting is given, whichever is earlier, this record shall be kept on file at the principal office of the corporation, whether within or outside Colorado, and shall be subject to inspection by any shareholder or his agent or attorney for any purpose germane to the meeting at any time during usual business hours. Such record shall also be produced and kept open at the time and place of the meeting and any adjournment thereof and shall be subject to the inspection of any shareholder or his agent or attorney for any purpose germane to the meeting during the whole time of the meeting. The original stock transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such record or transfer books or to vote at any meeting of the shareholders.

Section 2.08 Proxies. At any meeting of the shareholders, a shareholder may vote by proxy. Without limiting the manner in which a shareholder may appoint a proxy to vote or otherwise act for the shareholder, the following shall constitute valid means of such appointment: (a) a shareholder may appoint a proxy by signing an appointment form, either personally or by the shareholder's attorney-in-fact; or (b) a shareholder may appoint a proxy by transmitting or authorizing the transmission of a telegram, teletype or other electronic transmission providing a written statement of the appointment to the proxy, to a proxy solicitor, proxy support service

organization or other person duly authorized by the proxy to receive appointments as agent for the proxy, or to the corporation; except that the transmitted appointment shall set forth or be transmitted with written evidence from which it can be determined that the shareholder transmitted or authorized the transmission of the appointment. Such appointment of a proxy shall be filed with the corporation before or at the time of the meeting. No appointment of a proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the appointment form.

Section 2.09 Quorum and Voting Rights. At all meetings of shareholders, a majority of the outstanding shares of the corporation entitled to vote on a matter, represented in person or by proxy, shall constitute a quorum with respect to each matter. If a quorum is present, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast within the voting group opposing the action, unless the vote of a greater proportion or number is otherwise required by the Act, the articles of incorporation or these bylaws. Notwithstanding the foregoing, an amendment to the articles of incorporation that adds, changes or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater. In the absence of a quorum on any matter, a majority of the shares so represented may adjourn the meeting with respect to such matter from time to time for a period not to exceed 60 days at any one adjournment. At any such adjourned meeting, at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting.

Section 2.10 Extraordinary Matters; Voting Rights. Notwithstanding the provisions of Section 2.09, the following actions shall be approved by each voting group entitled to vote separately on the subject matter by a majority of all of the votes entitled to be cast by such voting group: (a) adopting an amendment or amendments to the articles of incorporation which would create dissenters' rights; (b) authorizing the sale, lease, exchange or other disposition of all or substantially all of the property and assets of the corporation, with or without its goodwill, not in the usual and regular course of business; (c) approving a plan of merger, consolidation or exchange that is required to be approved by the shareholders; (d) adopting a resolution submitted by the board of directors to dissolve the corporation; and (e) adopting a resolution submitted by the board of directors to revoke voluntary dissolution proceedings.

Section 2.11 Conflicting Interest Transaction; Notice Rights. A conflicting interest transaction is any loan or other assistance by the corporation to a director or to an entity in which a director of the corporation is a director or officer or has a financial interest; a guaranty by the corporation of an obligation of a director or of an obligation of an entity in which a director of the corporation is a director or officer or has a financial interest; or a contract or transaction between the corporation and a director or between the corporation and an entity in which a director of the corporation is a director or officer or has a financial interest.

No conflicting interest transaction shall be void or voidable or be enjoined, set aside or give rise to an award of damages or other sanctions in a proceeding by a shareholder or by or in the right of the corporation, solely because the conflicting interest transaction involves a director of the corporation or an entity in which a director of the corporation is a director or officer or has a financial interest or solely because the director is present at or participates in the meeting of the corporation's board of directors or of the committee of the board of directors which authorizes, approves or ratifies the conflicting interest transaction or solely because the director's vote is counted for such purpose, if: (a) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the board of directors or the committee, and the board of directors or committee in good faith authorizes, approves or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum; or (b) the material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the shareholders entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved or ratified in good faith by a vote of the shareholders; or (c) the conflicting interest transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors, a committee thereof or the shareholders.

A board of directors or a committee thereof shall not authorize a loan, by the corporation to a director of the corporation or to an entity in which a director of the corporation is a director or officer or has a financial interest, or a guaranty, by the corporation of an obligation of a director of the corporation or of an obligation of an entity in which a director of the corporation is a director or officer or has a financial interest, pursuant to (a) until at least 10 days after written notice of the proposed authorization of the loan or guaranty has been given to the shareholders who would be entitled to vote thereon if the issue of the loan or guaranty were submitted to a vote of the shareholders.

Section 2.12 Voting of Shares. Subject to the provisions of Section 2.06, each outstanding share of record, regardless of class, is entitled to one vote, and each outstanding fractional share of record is entitled to a corresponding fractional vote, on each matter submitted to a vote of the shareholders either at a meeting thereof or pursuant to Section 2.14, except to the extent that the voting rights of the shares of any class or classes are limited, increased or denied by the articles of incorporation as permitted by the Act. In the election of directors, each record holder of stock entitled to vote at such election shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, and for whose election he has the right to vote. Cumulative voting shall not be allowed.

Section 2.13 Voting of Shares by Certain Holders.

(a) Shares Held or Controlled by the Corporation. No shares held by another corporation shall be voted at any meeting or counted in determining a quorum if a

majority of the shares entitled to vote for the election of directors of such other corporation is held by this corporation.

(b) Shares Held by Another Corporation. Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the bylaws of such corporation may prescribe or, in the absence of such provision, as the board of directors of such corporation may determine.

(c) Shares Held by More Than One Person. Shares standing of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety or otherwise, or if two or more persons have the same fiduciary relationship respecting the same shares, voting with respect to the shares shall have the following effects: (i) if only one person votes, his act binds all; (ii) if two or more persons vote, the act of the majority so voting binds all; (iii) if two or more persons vote, but the vote is evenly split on any particular matter, each faction may vote the shares in question proportionally, or any person voting the shares of a beneficiary, if any, may apply to any court of competent jurisdiction in Colorado to appoint an additional person to act with the persons so voting the shares, in which case the shares shall be voted as determined by a majority of such persons; and (iv) if a tenancy is held in unequal interests, a majority or even split for the purposes of subparagraph (iii) shall be a majority or even split in interest. The foregoing effects of voting shall not be applicable if the secretary of the corporation is given written notice of alternative voting provisions and is furnished with a copy of the instrument or order wherein the alternative voting provisions are stated.

(d) Shares Held in Trust or by a Personal Representative. Shares held by an administrator, executor, guardian, conservator or other personal representative may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

(e) Shares Held by a Receiver. Shares standing in the name of a receiver may be voted by such receiver and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do is contained in an appropriate order of the court by which such receiver was appointed.

(f) Pledged Shares. A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

(g) Redeemable Shares Called for Redemption. Redeemable shares that have been called for redemption shall not be entitled to vote on any matter and shall not be deemed outstanding shares on and after the date on which written notice of redemption has been

mailed to shareholders and a sum sufficient to redeem such shares has been deposited with a bank, trust company or other financial institution with irrevocable instruction and authority to pay the redemption price to the holders of the shares upon surrender of certificates therefor.

(h) Shares Held in a Fiduciary Capacity. The corporation may vote any shares, including its own shares, held by it in a fiduciary capacity.

Section 2.14 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the shareholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof. Such consent (which may be signed in counterparts) shall have the same force and effect as a unanimous vote of the shareholders and may be stated as such in any document. Unless the consent specifies a different effective date, action taken without a meeting pursuant to a consent in writing as provided herein shall be effective when all shareholders entitled to vote on the subject matter have signed the consent. The record date for determining shareholders entitled to take action without a meeting or entitled to be given notice is the date a writing upon which the action is taken is first received by the corporation. All consents signed pursuant to this Section 2.14 shall be either delivered to the corporation or received by the corporation by electronically transmitted facsimile or other form of wire or wireless communication providing the corporation with a complete copy thereof, including a copy of the signatures for inclusion in the minutes or for filing with the corporate records. Any shareholder who has signed a writing describing and consenting to action taken pursuant to this section may revoke such consent by a writing signed by the shareholder describing the action and stating that the shareholder's prior consent thereto is revoked, if such writing is received by the corporation before the corporation has actually received consents signed by all shareholders, regardless of the effective date reflected in the consents or at any time before a specified effective date if the date specified in the consent is subsequent to the date the signed consents are received. Unless otherwise provided by the articles of incorporation, one or more shareholders may participate in a meeting of the shareholders by, or the meeting may be conducted through the use of, any means of communication equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

## ARTICLE III

## Board of Directors

Section 3.01 General Powers. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation shall be managed under the direction of, the board of directors, except as otherwise provided in the Act, the articles of incorporation or these bylaws.

Section 3.02 Number, Tenure and Qualifications. The number of directors of the corporation shall be as fixed from time to time by resolution of the board of directors or shareholders. Except as provided in Sections 2.01 and 3.05, directors shall be elected at each annual meeting of the shareholders. Each director shall hold office until the next annual meeting of the shareholders and thereafter until his successor shall have been elected and qualified, or until his earlier death, resignation or removal. Directors must be natural persons at least 18 years old but need not be residents of Colorado or shareholders of the corporation.

Section 3.03 Resignation. Any director may resign at any time by giving written notice to the corporation. A director's resignation is effective when it is received by the corporation unless the notice specifies a later effective date, and the acceptance of such resignation shall not be necessary to make it effective.

Section 3.04 Removal. At a meeting of the shareholders called expressly for that purpose, the entire board of directors or any lesser number may be removed, with or without cause, only if the number of votes cast in favor of removal exceeds the number of votes cast against removal by those shares then entitled to vote at an election of directors; except that if the holders of shares of any class or series of stock are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this Section 3.04 shall apply, with respect to the removal of a director or directors so elected by such class or series, to the vote of the holders of the outstanding shares of that class or series and not to the vote of the outstanding shares as a whole. Any reduction in the authorized number of directors shall not have the effect of shortening the term of any incumbent director unless such director is also removed from office in accordance with this Section 3.04.

Section 3.05 Vacancies. Unless otherwise required in the articles of incorporation, any vacancy occurring in the board of directors, including vacancies due to an increase in the number of directors, may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum, or by the affirmative vote of two directors if there are only two directors remaining, or by a sole remaining director, or by the shareholders if there are no directors remaining. The term of a director elected by the directors in office to fill a vacancy expires at the next annual shareholders' meeting at which directors are elected. The term of a director elected by the shareholders to fill a vacancy shall be the unexpired term of his or her predecessor in office; except that, if the director's predecessor had been elected by the directors in office to fill a vacancy, the term of a director elected by the shareholders shall be the unexpired term of the last predecessor elected by the shareholders. If the vacant office was held by a director elected by a voting group of shareholders: (a) if one or more of the remaining directors were elected by the same voting group, only such directors are entitled to vote to fill the vacancy if it is filled by directors, and they may do so by the affirmative vote of a majority of such directors remaining in office; and (b) only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders.

Section 3.06 Regular Meetings. A regular meeting of the board of directors shall be held immediately after and at the same place as the annual meeting of the shareholders, or as soon thereafter as conveniently may be, at the time and place, either within or outside Colorado, determined by the board, for the purpose of electing officers and for the transaction of such other business as may come before the meeting. Failure to hold such meeting, however, shall not invalidate any action taken by any officer then or thereafter in office. The board of directors may provide, by resolution, the time and place, either within or outside Colorado, for the holding of additional regular meetings without other notice than such resolution.

Section 3.07 Special Meetings. Special meetings of the board of directors may be called by or at the request of the chief executive officer, the president or any two directors. The person or persons authorized to call special meetings of the board of directors may fix any convenient place, either within or outside Colorado, as the place for holding any special meeting of the board called by them.

Section 3.08 Meetings by Telephone. Unless otherwise provided by the articles of incorporation, one or more members of the board of directors may participate in a meeting of the board by, or the meeting may be conducted through the use of, any communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 3.09 Notice of Meetings. Notice of each meeting of the board of directors (except those regular meetings for which notice is not required) stating the place, day and hour of the meeting shall be given to each director at least two days prior thereto by the mailing of written notice by first class, certified or registered mail, or at least two days prior thereto by personal delivery (including delivery by private courier to the director or delivered to the last address of the director furnished by him to the corporation for such purpose) of written notice or by telephone, telegraph, teletype, electronically transmitted facsimile or other form of wire or wireless communication, except that, in the case of a meeting to be held pursuant to Section 3.08, notice may be given by telephone one day prior thereto. The method of notice need not be the same to each director. Notice shall be deemed to be given at the earliest of (a) the date received, but, if the director is no longer at the address of record, then the date delivery was attempted; (b) five days after mailing; or (c) the date shown on the return receipt, if mailed by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee. Neither the business to be transacted at nor the purpose of any meeting of the board of directors need be specified in the notice of such meeting unless otherwise required by statute.

Section 3.10 Waiver of Notice. Whenever notice is required by law, the articles of incorporation or these bylaws to be given to the directors, a waiver thereof in writing signed by the director entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice. Such waiver shall be delivered to the corporation for filing with the corporate records, but such delivery and filing shall not be conditions of the effectiveness of the waiver. A director's attendance at, or participation in a meeting, waives any

required notice to him or her of the meeting unless: (a) at the beginning of the meeting, or promptly upon his or her later arrival, the director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting; or (b) if special notice was required of a particular purpose, the director objects to transacting business with respect to the purpose for which such special notice was required and does not thereafter vote for or assent to action taken at the meeting with respect to such purpose. Neither the business to be transacted at nor the purpose of any meeting of the board of directors need be specified in the waiver of notice of such meeting unless otherwise required by statute.

Section 3.11 Presumption of Assent. A director of the corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the director: (a) objects at the beginning of the meeting, or promptly upon his or her arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting; (b) contemporaneously requests that his dissent or abstention as to any specific action taken be entered in the minutes of such meeting; or (c) causes written notice of his dissent or abstention as to any specific action to be received by the presiding officer of such meeting before its adjournment or by the corporation immediately after adjournment of such meeting. The right of dissent or abstention as to a specific action taken at a meeting of the board is not available to a director who votes in favor of such action.

Section 3.12 Quorum and Voting Rights. Except as otherwise may be required by law, the articles of incorporation or these bylaws, a majority of the number of directors fixed in accordance with these bylaws, present in person, shall constitute a quorum for the transaction of business at any meeting of the board of directors, and the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. If less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice other than an announcement at the meeting, until a quorum shall be present. No director may vote or act by proxy or power of attorney at any meeting of directors.

Section 3.13 Action Without a Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting and without prior notice if a consent in writing, setting forth the action so taken, shall be signed by all of the directors. Such consent (which may be signed in counterparts) shall have the same force and effect as a unanimous vote of the directors and may be stated as such in any document. Unless the consent specifies a different effective date, action taken without a meeting pursuant to a consent in writing as provided herein is effective when all directors have signed the consent; however, the consent shall not be effective if, before all of the directors have signed the consent, any director has revoked his or her consent by a writing signed by the director and received by the secretary or any other person authorized by the bylaws or the board of directors to receive such a

revocation. All consents signed pursuant to this Section 3.13 shall be delivered to the secretary of the corporation for inclusion in the minutes or for filing with the corporate records.

Section 3.14 Executive and Other Committees. The board of directors, by resolution adopted by a majority of the directors in office when the action is taken, may designate from among its members an executive committee and one or more other committees, each of which, to the extent provided in the resolution establishing such committee, shall have and may exercise all of the authority of the board of directors in the management of the business and affairs of the corporation, except that no such committee shall have the power or authority to (a) authorize distributions, (b) approve or propose to the shareholders actions or proposals required by law to be approved by the shareholders, (c) fill vacancies on the board of directors or any committee thereof, including any committee authorized by this Section 3.14, (d) adopt, amend or repeal the bylaws, (e) approve a plan of merger not requiring shareholder approval, (f) amend articles of incorporation to the extent permitted by law to be amended by the full board of directors, (g) authorize or approve reacquisition of shares of the corporation, except according to a formula or method prescribed by the board of directors, or (h) authorize or approve the issuance or sale of shares, or any contract for the sale of shares, or determine the designation and relative rights, preferences and limitations of a class or series of shares; except that the board of directors may authorize a committee or an officer to do so within limits specifically prescribed by the board of directors. The delegation of authority to any committee shall not operate to relieve the board of directors or any member of the board from any responsibility imposed by law. Subject to the foregoing, the board of directors may provide such powers, limitations and procedures for such committees as the board deems advisable; except that each committee shall be governed by the procedures set forth in Sections 3.06 (except as they relate to an annual meeting) and 3.07 through 3.13 as if the committee were the board of directors. Each committee shall keep regular minutes of its meetings, which shall be reported to the board of directors when required and submitted to the corporation for inclusion in the corporate records.

Section 3.15 Compensation. By resolution of the board of directors, notwithstanding the provisions of Section 2.11, a director may be paid his expenses, if any, of attendance at each meeting of the board of directors and each meeting of any committee of the board of which he is a member and may be paid a fixed sum for attendance at each such meeting or a stated salary, or both a fixed sum and a stated salary. Subject to Section 2.11, no such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

## ARTICLE IV

## Officers

Section 4.01 Number and Qualifications. The officers of the corporation shall consist of a chief executive officer, a president, a secretary, a treasurer and such other officers,

including a chairman of the board, one or more vice-presidents and a controller, as may from time to time be appointed by the board. In addition, the board of directors, the chief executive officer or the president may appoint such assistant and other subordinate officers, including assistant vice-presidents, assistant secretaries and assistant treasurers, as it or he shall deem necessary or appropriate. Any number of offices may be held by the same person. An officer shall be a natural person who is at least 18 years old.

Section 4.02 Appointment and Term of Office. Except as provided in Sections 4.01 and 4.06, the officers of the corporation shall be appointed by the board of directors annually at the first meeting of the board held after each annual meeting of the shareholders as provided in Section 3.06. If the appointment of officers shall not be held as provided herein, such appointment shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly appointed and shall have qualified, or until the expiration of his term in office if appointed for a specified period of time, or until his earlier death, resignation or removal.

Section 4.03 Compensation. Officers shall receive such compensation for their services as may be authorized or ratified by the board of directors and no officer shall be prevented from receiving compensation by reason of the fact that he is also a director of the corporation. Appointment as an officer shall not of itself create a contract or other right to compensation for services performed as such officer.

Section 4.04 Resignation. Any officer may resign at any time, subject to any rights or obligations under any existing contracts between the officer and the corporation, by giving written notice of resignation to the corporation. A resignation of an officer is effective when the notice is received by the corporation unless the notice specifies a later effective date. If a resignation is made effective at a later date, the board of directors may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date, or the board of directors may remove the officer at any time before the effective date and may fill the resulting vacancy. An officer's resignation shall take effect at the time specified in such notice and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

Section 4.05 Removal. Any officer may be removed with or without cause at any time by the board of directors or, in the case of assistant and other subordinate officers, by the board of directors, the chief executive officer or the president (whether or not such officer was appointed by the chief executive officer or the president) but such removal shall be without prejudice to the contract rights, if any, of the person so removed. The appointment of an officer shall not in itself create contract rights.

Section 4.06 Vacancies. A vacancy in any office, however occurring, may be filled by the board of directors or, if such office may be filled by the chief executive officer or the president as provided in Section 4.01, by the chief executive officer or the president for the unexpired portion of the term.

Section 4.07 Authority and Duties. The officers of the corporation shall have the authority and shall exercise the powers and perform the duties specified below and as may be additionally specified by the chief executive officer, the board of directors or these bylaws (and, in all cases where the duties of any officer are not prescribed by the bylaws or by the board of directors, such officer shall follow the orders and instructions of the chief executive officer), except that in any event each officer shall exercise such powers and perform such duties as may be required by law:

(a) Chief Executive Officer. The chief executive officer shall, subject to the direction and supervision of the board of directors, (i) have general and active control of its affairs and business and general supervision of its officers, agents and employees; (ii) unless there is a chairman of the board, preside at all meetings of the stockholders and the board of directors; (iii) see that all orders and resolutions of the board of directors are carried into effect; and (iv) perform all other duties incident to the office of chief executive officer and as from time to time may be assigned to him by the board of directors.

(b) President. The president shall, subject to the direction and supervision of the board of directors and chief executive officer, (i) be the chief operating officer of the corporation; (ii) supervises the day to day operations of the corporation; (iii) in the event of the chief executive officer's absence, refusal or inability to act or during a vacancy in the office of chief executive officer, perform the duties of the chief executive officer and when so acting shall have all the powers of and be subject to all the restrictions upon the chief executive officer; and (iv) perform all other duties incident to the office of president and as from time to time may be assigned to him by the board of directors.

(c) Vice-Presidents. The vice-president, if any (or, if there is more than one, then each vice-president), shall assist the president and shall perform such duties as may be assigned to him by the chief executive officer, president or by the board of directors. The vice-president, if there is one (or, if there is more than one, then the vice-president designated by the board of directors, or, if there be no such designation, then the vice-presidents in order of their election), shall, at the request of the president or, in his absence or inability or refusal to act, perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president. Assistant vice-presidents, if any, shall have such powers and perform such duties as may be assigned to them by the chief executive officer, president or by the board of directors.

(d) Secretary. The secretary shall: (i) prepare and maintain the minutes of the proceedings of the shareholders, the board of directors and any committees of the board;

(ii) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (iii) be custodian of the corporate records and of the seal of the corporation; (iv) keep at the corporation's registered office or principal place of business within or outside Colorado a record containing the names and addresses of all shareholders and the number and class of shares held by each, unless such a record shall be kept at the office of the corporation's transfer agent or registrar; (v) have general charge of the stock books of the corporation, unless the corporation has a transfer agent; (vi) authenticate records of the corporation; and (vii) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the chief executive officer, president or by the board of directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

(e) Treasurer. The treasurer shall: (i) be the principal financial officer of the corporation and have the care and custody of all its funds, securities, evidences of indebtedness and other personal property and deposit the same in accordance with the instructions of the board of directors; (ii) receive and give receipts and acquittances for moneys paid in on account of the corporation, and pay out of the funds on hand all bills, payrolls and other just debts of the corporation of whatever nature upon maturity; (iii) unless there is a controller, be the principal accounting officer of the corporation and as such prescribe and maintain the methods and systems of accounting to be followed, keep complete books and records of account, prepare and file all local, state and federal tax returns, prescribe and maintain an adequate system of internal audit and prepare and furnish to the president and the board of directors statements of account showing the financial position of the corporation and the results of its operations; (iv) upon request of the board, make such reports to it as may be required at any time; and (v) perform all other duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the board of directors, chief executive officer, or the president. Assistant treasurers, if any, shall have the same powers and duties, subject to the supervision by the treasurer.

Section 4.08 Surety Bonds. The board of directors may require any officer or agent of the corporation to execute to the corporation a bond in such sums and with such sureties as shall be satisfactory to the board, conditioned upon the faithful performance of his duties and for the restoration to the corporation of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

## ARTICLE V

## Stock

Section 5.01 Issuance of Shares. The issuance or sale by the corporation of any shares of its authorized capital stock of any class shall be made only upon authorization by the board of directors, except as otherwise may be provided by law. No shares shall be issued until

full consideration has been received therefor. Every issuance of shares shall be recorded on the books maintained for such purpose by or on behalf of the corporation.

Section 5.02 Stock Certificates; Uncertificated Shares. The shares of stock of the corporation shall be represented by certificates, except that the board of directors may authorize the issuance of any class or series of stock of the corporation without certificates as provided by law. If shares are represented by certificates, such certificates shall be signed either manually or in facsimile in the name of the corporation by one or more officers designated in the bylaws or by the board of directors and sealed with the seal of the corporation or with a facsimile thereof. If the issuing corporation is authorized to issue different classes of shares or different series within a class, the share certificate shall contain a summary, on the front or the back, of the designations, preferences, limitations and relative rights applicable to each class, the variations in preferences, limitations and rights determined for each series, and the authority of the board of directors to determine variations for future classes or series. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish to the shareholder this information on request in writing and without charge. If the person who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate is nevertheless valid. Certificates of stock shall be in such form consistent with law as shall be prescribed by the board of directors.

Section 5.03 Consideration for Shares. Shares shall be issued for such consideration expressed in dollars as shall be fixed from time to time by the board of directors. Such consideration shall consist of any tangible or intangible property or benefit to the corporation, including cash, promissory notes, services performed and other securities of the corporation; however, the promissory note of a subscriber or an affiliate of the subscriber for shares shall not constitute consideration for the shares unless the note is negotiable and is secured by collateral, other than the shares, having a fair market value at least equal to the principal amount of the note. For the purposes of this Section, "promissory note" means a negotiable instrument on which there is an obligation to pay independent of collateral and does not include a nonrecourse note.

Section 5.04 Lost Certificates. In case of the alleged loss, destruction or mutilation of a certificate of stock, the board of directors may direct the issuance of a new certificate in lieu thereof upon such terms and conditions in conformity with law as it may prescribe. The board of directors may in its discretion require a bond in such form and amount and with such surety as it may determine before issuing a new certificate.

Section 5.05 Transfer of Shares. Upon presentation and surrender to the corporation or to the corporation's transfer agent of a certificate of stock duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, payment of all transfer taxes, if any, and the satisfaction of any other requirements of law, including inquiry into and discharge of any adverse claims of which the corporation has notice, the corporation or the transfer agent shall issue a new certificate to the person entitled thereto, cancel the old

certificate and record the transfer on the books maintained for such purpose by or on behalf of the corporation. No transfer of shares shall be effective until it has been entered on such books. The corporation or the corporation's transfer agent may require a signature guaranty or other reasonable evidence that any signature is genuine and effective before making any transfer. Transfers of uncertificated shares shall be made in accordance with applicable provisions of law.

Section 5.06 Holders of Record. The corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such share on the part of any other person whether or not it shall have express or other notice thereof, except as may be required by the laws of Colorado.

Section 5.07 Shares Held for Account of Another. The board of directors, in the manner provided by the Act, may adopt a procedure whereby a shareholder of the corporation may certify in writing to the corporation that all or a portion of the shares registered in the name of such shareholder are held for the account of a specified person or persons. Upon receipt by the corporation of a certification complying with such procedure, the persons specified in the certification shall be deemed, for the purpose or purposes set forth therein, to be the holders of record of the number of shares specified in place of the shareholder making the certification.

Section 5.08 Transfer Agents, Registrars and Paying Agents. The board of directors may at its discretion appoint one or more transfer agents, registrars or agents for making payment upon any class of stock, bond, debenture or other security of the corporation. Such agents and registrars may be located either within or outside Colorado. They shall have such rights and duties and shall be entitled to such compensation as may be agreed.

## ARTICLE VI

## Indemnification

Section 6.01 Definitions. For purposes of this Article, the following terms shall have the meanings set forth below:

(a) "Corporation" includes any domestic or foreign entity that is a predecessor of the Corporation by reason of a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

(b) "Director" means an individual who is or was a director of the Corporation or an individual who, while a director of the Corporation, is or was serving at the Corporation's request as a director, officer, partner, trustee, employee, fiduciary or agent of another domestic or foreign corporation or other person or of an employee benefit plan. A director is considered to be serving an employee benefit plan at the Corporation's request if his or

her duties to the Corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a director.

(c) "Expenses" includes counsel fees.

(d) "Liability" means the obligation incurred with respect to a proceeding to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable Expenses.

(e) "Official Capacity" means, when used with respect to a Director, the office of Director in the Corporation and, when used with respect to a person other than a Director as contemplated in section 7-109-107 of the Act (an officer, employee, fiduciary and agent), the office in the Corporation held by the officer or the employment, fiduciary or agency relationship undertaken by the employee, fiduciary or agent on behalf of the Corporation. "Official Capacity" does not include service for any other domestic or foreign corporation or other person or employee benefit plan.

(f) "Party" includes a person who was, is or is threatened to be made a named defendant or respondent in a proceeding.

(g) "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative and whether formal or informal.

Section 6.02 Right to Indemnification. Subject to Section 6.04, the Corporation shall indemnify any person made a Party because the person is or was a Director to a Proceeding against Liability incurred in, relating to, or as a result of, the Proceeding to the fullest extent permitted by law, including without limitation in circumstances in which, in the absence of this Section 6.02, indemnification would be discretionary under the Act if: (a) the person conducted himself or herself in good faith; (b) the person reasonably believed: (I) in the case of conduct in an Official Capacity with the Corporation, that his or her conduct was in the Corporation's best interests; and (II) in all other cases, that his or her conduct was at least not opposed to the Corporation's best interests; and (c) in the case of any criminal Proceeding, the person had no reasonable cause to believe his or her conduct was unlawful. A Director's conduct with respect to an employee benefit plan for a purpose the Director reasonably believed to be in the interests of the participants in or beneficiaries of the plan is conduct that satisfies the requirement of (b)(II) above. A Director's conduct with respect to an employee benefit plan for a purpose that the Director did not reasonably believe to be in the interests of the participants in or beneficiaries of the plan shall be deemed not to satisfy the requirements of (a) above. The termination of a Proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Director did not meet the standard of conduct described in this section. However, the Corporation may not indemnify a Director under this

section: (a) in connection with a Proceeding by or in the right of the Corporation in which the Director was adjudged liable to the Corporation; or (b) in connection with any other Proceeding charging that the Director derived an improper personal benefit, whether or not involving action in an Official Capacity, in which Proceeding the Director was adjudged liable on the basis that he or she derived an improper personal benefit. Indemnification permitted under this section in connection with a Proceeding by or in the right of the Corporation is limited to reasonable Expenses incurred in connection with the Proceeding.

In addition to the foregoing, the Corporation shall indemnify a person who was wholly successful, on the merits or otherwise, in the defense of any Proceeding to which the person was a Party because the person is or was a Director, against reasonable Expenses incurred by him or her in connection with the Proceeding.

Section 6.03 Advancement of Expenses. The Corporation may pay for or reimburse the reasonable Expenses incurred by a Director who is a Party to a Proceeding in advance of final disposition of the Proceeding if: (a) the Director furnishes to the Corporation a written affirmation of the Director's good faith belief that he or she has met the standard of conduct described in section 6.02; (b) the Director furnishes to the Corporation a written undertaking, executed personally or on the Director's behalf, to repay the advance if it is ultimately determined that he or she did not meet the standard of conduct; and (c) a determination is made that the facts then known to those making the determination would not preclude indemnification under this article. The undertaking required by (b) of this section shall be an unlimited general obligation of the Director but need not be secured and may be accepted without reference to financial ability to make repayment.

Section 6.04 Burden of Proof. The Corporation may not indemnify a Director under Section 6.02 unless authorized in the specific case after a determination has been made that indemnification of the Director is permissible in the circumstances because the Director has met the standard of conduct set forth in Section 6.02. The Corporation shall not advance Expenses to a Director under Section 6.03 unless authorized in the specific case after the written affirmation and undertaking are received and the determination required by Section 6.03 has been made. The determinations required by this section shall be made: (a) by the board of directors by a majority vote of those present at a meeting at which a quorum is present, and only those Directors not parties to the Proceeding shall be counted in satisfying the quorum; or (b) if a quorum cannot be obtained, by a majority vote of a committee of the board of directors designated by the board of directors, which committee shall consist of two or more Directors not parties to the Proceeding; except that Directors who are parties to the Proceeding may participate in the designation of Directors for the committee. If a quorum cannot be obtained as contemplated in (a) above, and a committee cannot be established under (b) above, or, even if a quorum is obtained or a committee is designated, if a majority of the Directors constituting such quorum or such committee so directs, the determination required to be made by this section shall be made: by independent legal counsel selected by a vote of the board of directors or the committee or, if a quorum of the full board cannot be obtained and a committee cannot be established, by

independent legal counsel selected by a majority vote of the full board of directors; or by the shareholders. Authorization for indemnification and advance of Expenses shall be made in the same manner as the determination that indemnification or advance of Expenses is permissible; except that, if the determination that indemnification or advance of Expenses is permissible is made by independent legal counsel, authorization of indemnification and advance of Expenses shall be made by the body that selected such counsel.

Section 6.05 Notification and Defense of Claim. Promptly after receipt by a Party of notice of the commencement of any Proceeding, the Party shall, if a claim in respect thereof is to be made against the Corporation under this Article, notify the Corporation in writing of the commencement thereof; provided, however, that delay in so notifying the Corporation shall not constitute a waiver or release by the Party of any rights under this Article. With respect to any such Proceeding: (a) the Corporation shall be entitled to participate therein at its own expense; (b) any counsel representing the Party to be indemnified in connection with the defense or settlement thereof shall be counsel mutually agreeable to the Party and to the Corporation; and (c) the Corporation shall have the right, at its option, to assume and control the defense or settlement thereof, with counsel satisfactory to the Party. If the Corporation assumes the defense of the Proceeding, the Party shall have the right to employ its own counsel, but the fees and Expenses of such counsel incurred after notice from the Corporation of its assumption of the defense of such Proceeding shall be at the expense of the Party unless (i) the employment of such counsel has been specifically authorized by the Corporation, (ii) the Party shall have reasonably concluded that there may be a conflict of interest between the Corporation and the Party in the conduct of the defense of such Proceeding or that there are defenses available to the Party not raised by or available to the Corporation or others for whom the Corporation has assumed the defense; or (iii) the Corporation shall not in fact have employed counsel to assume the defense of such Proceeding. Notwithstanding the foregoing, if an insurance carrier has supplied directors' and officers' liability insurance covering a Proceeding and is entitled to retain counsel for the defense of such Proceeding, then the insurance carrier shall retain counsel to conduct the defense of such Proceeding unless the Party and the Corporation concur in writing that the insurance carrier's doing so is undesirable. The Corporation shall not be liable under this Article for any amounts paid in settlement of any Proceeding effected without its written consent. The Corporation shall not settle any Proceeding in any manner that would impose any penalty or limitation on a Party without the Party's written consent. Consent to a proposed settlement of any Proceeding shall not be unreasonably withheld by either the Corporation or the Party.

Section 6.06 Notice to Shareholders of Indemnification of Director. If the Corporation indemnifies or advances Expenses to a Director under this Article in connection with a Proceeding by or in the right of the Corporation, the Corporation shall give written notice of the indemnification or advance to the shareholders with or before the notice of the next shareholders' meeting. If the next shareholder action is taken without a meeting at the instigation of the board of directors, such notice shall be given to the shareholders at or before the time the first shareholder signs a writing consenting to such action.

Section 6.07 Enforcement. The right to indemnification and advancement of Expenses granted by this Article shall be enforceable in any court of competent jurisdiction if the Corporation denies the claim, in whole or in part, or if no disposition of such claim is made within 90 days after the written request for indemnification or advancement of Expenses is received. If successful in whole or in part in such suit, the Party's Expenses incurred in bringing and prosecuting such claim shall also be paid by the Corporation. Whether or not the Party has met any applicable standard of conduct, been adjudged liable to the Corporation or derived improper personal benefit, the court in such suit may order indemnification or the advancement of Expenses as the court deems proper (subject to any express limitation of the Act). Further, the Corporation shall indemnify a Party from and against any and all Expenses and, if requested by the Party, shall (within 10 business days of such request) advance such Expenses to the Party which are incurred by the Party in connection with any claim asserted against or suit brought by the Party for recovery under any directors' and officers' liability insurance policies maintained by the Corporation, regardless of whether the Party is unsuccessful in whole or in part in such claim or suit.

Section 6.08 Proceedings by a Party. The Corporation shall indemnify, advance or reimburse Expenses incurred by a Director in connection with an appearance as a witness in a Proceeding at a time when he or she has not been made a named defendant or respondent in the Proceeding.

Section 6.09 Subrogation. In the event of any payment under this Article, the Corporation shall be subrogated to the extent of such payment to all of the rights of recovery of the indemnified Party, who shall execute all papers and do everything that may be necessary to assure such rights of subrogation to the Corporation.

Section 6.10 Other Payments. The Corporation shall not be liable under this Article to make any payment in connection with any Proceeding against or involving a Party to the extent the Party has otherwise actually received payment (under any insurance policy, agreement or otherwise) of the amounts otherwise indemnifiable hereunder. A Party shall repay to the Corporation the amount of any payment the Corporation makes to the Party under this Article in connection with any Proceeding against or involving the Party, to the extent the Party has otherwise actually received payment (under any insurance policy, agreement or otherwise) of such amount.

Section 6.11 Insurance. The Corporation may purchase and maintain insurance on behalf of a person who is or was a Director, officer, employee, fiduciary or agent of the Corporation, or who, while a Director, officer, employee, fiduciary or agent of the Corporation, is or was serving at the request of the Corporation as a Director, officer, partner, trustee, employee, fiduciary or agent of another domestic or foreign corporation or other person or of an employee benefit plan, against liability asserted against or incurred by the person in that capacity or arising from his or her status as a Director, officer, employee, fiduciary or agent, whether or not the Corporation would have power to indemnify the person against the same liability under

Section 6.02 or 6.12. Any such insurance may be procured from any insurance company designated by the board of directors, whether such insurance company is formed under the laws of Colorado or any other jurisdiction of the United States or elsewhere, including any insurance company in which the Corporation has an equity or any other interest through stock ownership or otherwise.

Section 6.12 Indemnification of Officers, Employees, Fiduciaries and Agents. An officer is entitled to mandatory indemnification and to apply for court-ordered indemnification under the Act, in each case to the same extent as a Director. The Corporation shall indemnify and advance expenses to an officer, employee, fiduciary or agent of the Corporation to the same extent as to a Director. In addition, the Corporation may also indemnify and advance expenses to an officer, employee, fiduciary or agent who is not a Director to a greater extent than provided to a Director, if not inconsistent with public policy, and if provided for by general or specific action of its board of directors or shareholders, or contract.

Section 6.13 Other Rights and Remedies. The rights to indemnification and advancement of Expenses provided in this Article shall be in addition to any other rights to which a Party may have or hereafter acquire under any law, provision of the articles of incorporation, any other or further provision of these bylaws, vote of the shareholders or Directors, agreement or otherwise. The Corporation shall have the right, but shall not be obligated, to indemnify or advance Expenses to any agent of the Corporation not otherwise covered by this Article in accordance with and to the fullest extent permitted by the Act.

Section 6.14 Applicability; Effect. The rights to indemnification and advancement of Expenses provided in this Article shall be applicable to acts or omissions that occurred prior to the adoption of this Article, shall continue as to any Party during the period such Party serves in any one or more of the capacities covered by this Article, shall continue thereafter so long as the Party may be subject to any possible Proceeding by reason of the fact that he served in any one or more of the capacities covered by this Article, and shall inure to the benefit of the estate and personal representatives of each such person. Any repeal or modification of this Article or of any section or provision hereof shall not affect any rights or obligations then existing. All rights to indemnification under this Article shall be deemed to be provided by a contract between the Corporation and each Party covered hereby.

Section 6.15 Severability. If any provision of this Article shall be held to be invalid, illegal or unenforceable for any reason whatsoever (a) the validity, legality and enforceability of the remaining provisions of this Article (including without limitation, all portions of any sections of this Article containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the provisions of this Article (including, without limitation, all portions of any section of this Article containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or

unenforceable) shall be construed so as to give effect to the intent of this Article that each Party covered hereby is entitled to the fullest protection permitted by law.

## ARTICLE VII

## Miscellaneous

Section 7.01 Voting of Securities by the Corporation. Unless otherwise provided by resolution of the board of directors, on behalf of the corporation the president or any vice-president shall attend in person or by substitute appointed by him, or shall execute written instruments appointing a proxy or proxies to represent the corporation at, all meetings of the shareholders of any other corporation, association or other entity in which the corporation holds any stock or other securities, and may execute written waivers of notice with respect to any such meetings. At all such meetings and otherwise, the president or any vice-president, in person or by substitute or proxy as aforesaid, may vote the stock or other securities so held by the corporation and may execute written consents and any other instruments with respect to such stock or securities and may exercise any and all rights and powers incident to the ownership of said stock or securities, subject, however, to the instructions, if any, of the board of directors.

Section 7.02 Seal. The corporate seal of the corporation shall be in such form as adopted by the board of directors, and any officer of the corporation may, when and as required, affix or impress the seal, or a facsimile thereof, to or on any instrument or document of the corporation.

Section 7.03 Fiscal Year. The fiscal year of the corporation shall be as established by the board of directors.

Section 7.04 Amendments. The directors may amend or repeal these bylaws unless the articles of incorporation reserve such power exclusively to the shareholders in whole or in part or the shareholders, in amending or repealing a particular bylaw provision, provide expressly that the directors may not amend or repeal such bylaw. The shareholders may amend or repeal the bylaws even though the bylaws may also be amended or repealed by the directors.

(END)

EXHIBIT 4.3

CERTIFICATE OF CORRECTION OF ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Pursuant to the Colorado Business Corporation Act, Section 7-101-205, C.R.S., the undersigned hereby executes the following certificate of correction:

FIRST: The name of the corporation is Integrated Medical Systems, Inc. organized under the laws of the State of Colorado.

SECOND: The Document being corrected is the Articles of Amendment to the Articles of Incorporation, a copy of which is attached hereto.

THIRD: Date document was filed: May 23, 1994.

FOURTH: Statement of incorrect information:

Reference to "Paragraph A" was omitted in connection with the amendment to Article V of the Articles of Incorporation. Insertion of a reference to "Paragraph A" makes it clear that the other paragraphs of Article V of the Articles of Incorporation were not intended to be deleted or otherwise amended.

FIFTH: Statement of Corrected information:

The second paragraph of the Articles of Amendment to the Articles of Incorporation of Integrated Medical Systems, Inc. should read in pertinent part:

"SECOND: The following amendments to the Articles of Incorporation were adopted by the shareholders of the corporation on April 22, 1994, in the manner prescribed by the Colorado Corporation Code:

(1) ARTICLE V, PARAGRAPH A, CAPITAL STOCK, IS AMENDED TO READ AS FOLLOWS:"

Dated: April 25, 1995.

INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado Corporation

By: /s/ Charles I. Brown,
Charles I. Brown,
Sr. Vice President

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Pursuant to the provisions of the Colorado Corporation Code, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Integrated Medical Systems, Inc.

SECOND: The following amendments to the Articles of Incorporation were adopted by the shareholders of the corporation on April 22, 1994, in the manner prescribed by the Colorado Corporation Code:

(1) ARTICLE V, CAPITAL STOCK, IS AMENDED TO READ AS FOLLOWS:

A. Authorized Stock. The aggregate number of shares of capital stock the corporation is authorized to issue is: Two Million (2,000,000) shares of Series B Preferred Stock, par value One Dollar ($1.00) per share (the "Series B Preferred"); Five Million (5,000,000) shares of Series C Preferred Stock, par value One Dollar ($1.00) per share (the "Series C Preferred"); and Twenty-Five Million (25,000,000) shares of Common Stock, without par value (the "Common Stock"); and the relative rights of the shares of each class are as follows:

1. Series B Preferred Stock. The corporation may issue up to two million (2,000,000) shares of Series B Preferred Stock from time to time upon such terms and conditions as the Board of Directors shall determine. The Board of Directors is hereby expressly vested with authority to fix and determine the relative rights and preferences of the Series B Preferred Stock so issued to the full extent permitted by these Articles of Incorporation and the laws of the State of Colorado in respect of the following:

(a) The number of shares of Series B Preferred Stock to be issued from time to time;

(b) The rate and preference of any dividends and the time of payment of any dividends, whether dividends are cumulative and the date from which any dividend will accrue;

(c) Whether the Series B Preferred Stock may be redeemed, and, if so, the redemption price and the terms and conditions of redemption;

(d) The par value and the amount payable upon the Series B Preferred Stock in the event of voluntary or involuntary liquidation;

(e) Sinking fund or other provisions, if any, for the redemption or purchase of Series B Preferred Stock;

(f) The terms and conditions upon which the Series B Preferred Stock may be converted, if the Series B Preferred Stock is issued with the privilege of conversion;

(g) Voting rights, if any;

(h) Whether the holders of the Series B Preferred Stock shall be entitled to elect any of the directors of the corporation; and

(i) Any other relative rights and preferences of the Series B Preferred Stock issued, including, but without limitation, any restriction on an increase in the number of shares of Series B Preferred Stock of any series theretofore authorized and any limitation or restriction of rights or powers to which any of the Series B Preferred Stock shall be subject.

2. Series C Preferred Stock. The Corporation may issue up to Five Million (5,000,000) shares of Series C Preferred Stock from time to time upon such terms and conditions as the Board of Directors shall determine. The Board of Directors is hereby expressly vested with authority to fix and determine the relative rights and preferences of the Series C Preferred Stock so issued to the full extent permitted by these Articles of Incorporation and the laws of the State of Colorado in respect of the following:

(a) The number of shares of Series C Preferred Stock to be issued from time to time;

(b) The rate and preference of any dividends and the time of payment of any dividends, whether dividends are cumulative and the date from which any dividend will accrue;

(c) Whether the Series C Preferred Stock may be redeemed, and, if so, the redemption price and the terms and conditions of redemption;

(d) The amount payable upon issuance of the Series C Preferred Stock in the event of voluntary or involuntary liquidation, provided that the rights of holders of the Series C Preferred Stock shall be subject to the prior right of holders of the Series B Preferred Stock;

(e) Sinking fund or other provisions, if any, for the redemption or purchase of Series C Preferred Stock;

(f) The terms and conditions upon which the Series C Preferred Stock may be converted, if the Series C Preferred Stock is issued with the privilege of conversion;

(g) Voting rights, if any;

(h) Whether the holders of the Series C Preferred Stock shall be entitled to elect any of the directors of the Corporation; and

(i) Any other relative rights and preferences of the Series C Preferred Stock issued, including but without limitation, any restriction on an increase in the number of shares of Series C Preferred Stock of any series theretofore authorized and any limitation or restriction of rights or powers to which any of the Series C Preferred Stock shall be subject.

3. Common Stock.
---

(a) The rights of the holders of Common Stock to receive dividends, or to share in the distribution of assets in the event of liquidation, dissolution or winding up of the affairs of the Corporation shall be subject to the preferences, limitations and rights given to the holders of the Series B Preferred Stock and the Series C Preferred Stock.

(b) The holders of the Common Stock shall be entitled to vote for each common share held by them of record at the time of determining the holders thereof entitled to vote.

(2) NEW ARTICLE XIV IS ADDED TO READ AS FOLLOWS:

ARTICLE XIV
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DIRECTOR LIABILITY
---

A director of this corporation shall not be personally liable to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director except that this provision shall not limit the liability of a director to the corporation or to its shareholders for monetary damages for: (i) any breach of the director's duty of loyalty to the corporation or to its shareholders; (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) acts specified in Section 7-5-114 of the Colorado Corporation Code as the same may be amended from time to time; (iv) any transaction from which the director derived an improper personal benefit. If the Colorado Corporation Code as the same may be amended to authorize corporation actions further limiting or eliminating the personal liability of directors, then the liability of a director of the corporation shall be limited or eliminated to the fullest extent permitted by the Colorado Corporation Code, as so amended.

THIRD: The number of shares voted for the above amendment was sufficient for approval.

FOURTH: The amendment does not provide for an exchange, reclassification or cancellation of issued shares as the Series A Preferred Stock was converted to Common Stock.

FIFTH: The amendment does not effect a change in the amount of stated capital of the corporation.

DATED: MAY 18, 1994.

INTEGRATED MEDICAL SYSTEMS, INC.
a Colorado corporation

By: /s/ Charles I. Brown
Charles I. Brown
Sr. Vice President

By: /s/ James A. Larson
James A. Larson
Sercretary

STATE OF COLORADO )
) ss:
CITY AND COUNTY OF DENVER )

I, Sharon H. Lewis, a Notary Public, do hereby certify that on this 18th day of May, 1994, personally appeared before me, Charles I. Brown and James A. Larson, who being by me first duly sworn declare that they are the Sr. Vice President and Secretary respectively, of Integrated Medical Systems, Inc. and that they read the foregoing document and that the statements contained therein are true.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: April 19, 1998

S E A L

/s/ Sharon H. Lewis
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Notary Public

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Pursuant to the provisions of the Colorado Corporation Code, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Integrated Medical Systems, Inc.

SECOND: The following amendments to the Articles of Incorporation were adopted by the shareholders of the corporation on October 22, 1993, in the manner prescribed by the Colorado Corporation Code:

(1) Article V, Section A, Authorized Stock, is amended to read as follows:

"Authorized Stock. The aggregate number of shares of capital stock the corporation is authorized to issue is: Five Hundred Thousand (500,000) shares of Series A Preferred Stock, par value One Dollar ($1.00) per share (the "Series A Preferred"); Two Million (2,000,000) shares of Series B Preferred Stock, par value One Dollar ($1.00) per share (the "Series B Preferred"); Five Million (5,000,000) shares of Series C Preferred Stock, par value One Dollar ($1.00) per share (the "Series C Preferred"); and Twenty-Five Million (25,000,000) shares of Common Stock, without par value (the "Common Stock"); and the relative rights of the shares of each class are as follows:"

(2) A new Subparagraph 3. to Article V, Section A, is adopted as follows:

"3. Series C Preferred Stock. The Corporation may issue up to Five Million (5,000,000) shares of Series C Preferred Stock from time to time upon such terms and conditions as the Board of Directors shall determine. The Board of Directors is hereby expressly vested with authority to fix and determine the relative rights and preferences of the Series C Preferred Stock so issue to the full extent permitted by these Articles of Incorporation and the laws of the State of Colorado in respect of the following:

(a) The number of shares of Series C Preferred Stock to be issued from time to time;

(b) The rate and preference of any dividends and the time of payment of any dividends, whether dividends are cumulative and the date from which any dividend will accrue;

(c) Whether the Series C Preferred Stock may be redeemed, and, if so, the redemption price and the terms and conditions of redemption;

(d) The amount payable upon issuance of the Series C Preferred Stock in the event of voluntary or involuntary liquidation, provided that the rights of holders of the Series C Preferred Stock shall be subject to the prior right of holders of the Series B Preferred Stock;

(e) Sinking fund or other provisions, if any, for the redemption or purchase of Series C Preferred Stock;

(f) The terms and conditions upon which the Series C Preferred Stock may be converted, if the Series C Preferred Stock is issued with the privilege of conversion;

(g) Voting rights, if any;

(h) Whether the holders of the Series C Preferred Stock shall be entitled to elect any of the directors of the Corporation; and

(i) Any other relative rights and preferences of the Series C Preferred Stock issued, including but without limitation, any restriction on an increase in the number of shares of Series C Preferred Stock of any series theretofore authorized and any limitation or restriction of rights or powers to which any of the Series C Preferred Stock shall be subject."

(3) A new Subparagraph 4. to Article V, Section A, is adopted as follows:

"4. Common Stock.
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(a) The rights of the holders of Common Stock to receive dividends, or to share in the distribution of assets in the event of liquidation, dissolution or winding up of the affairs of the Corporation shall be subject to the preferences, limitations and rights given to the holders of the Series A Preferred Stock, the Series B Preferred Stock and the Series C Preferred stock.

(b) The holders of the Common Stock shall be entitled to vote for each common share held by them of record at the time of determining the holders thereof entitled to vote."

THIRD: The number of shares voted for the above amendment was sufficient for approval.

FOURTH: The amendment does not provide for an exchange, reclassification or cancellation of issued shares.

FIFTH: The amendment does not effect a change in the amount of stated capital of the corporation.

Dated: November 30, 1993.

INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado corporation

By: /s/ Charles Brown
Charles Brown,
Senior Vice President

By: /s/ Donald S. Chenoweth
Donald S. Chenoweth,
Assistant Secretary

STATE OF COLORADO )
CITY AND ) ss.
COUNTY OF DENVER )

I, Geraldine A. Kenney, a Notary Public, do hereby certify that on this 30th day of November , 1993, personally appeared before me Charles Brown and Donald S. Chenoweth, who being by me first duly sworn declare that they are the Senior Vice President and Assistant Secretary, respectively, of Integrated Medical Systems, Inc. and that they read the foregoing document and that the statements contained therein are true.

Witness my hand and official seal.

My commission expires: October 4, 1995

S E A L

/s/ Geraldine A. Kenney
Notary Public

ARTICLES OF AMENDMENT TO THE
ARTICLES OF INCORPORATION
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Pursuant to the provisions of the Colorado Corporation Code, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

I. The name of the corporation is Integrated Medical Systems, Inc.

II. The following amendment to the Articles of Incorporation was adopted by the shareholders of the corporation effective June 2, 1986, in the manner prescribed by the Colorado Corporation Code:

Paragraph A of Article V to the Articles of Incorporation shall be amended to read in its entirety as follows:

ARTICLE V

CAPITAL STOCK

A. Authorized Stock. The aggregate number of shares of capital stock the corporation is authorized to issue is: five hundred thousand (500,000) shares of Series A Preferred Stock, par value One Dollar ($1.00) per share (the "Series A Preferred"); two million (2,000,000) shares of Series B Preferred Stock, (the "Series B Preferred"); and ten million (10,000,000) shares of Common Stock, without par value (the "Common Stock"); and the relative rights of the shares of each class are as follows:

1. Series A Preferred Stock

(a) Convertibility. The five hundred thousand (500,000) shares of Series A Preferred Stock, shall be convertible, on a share-for-share basis, into five hundred thousand (500,000) shares of Common Stock, at the option of the holder and in whole or in part, at any time on or before December 31, 1992.

(b) Liquidation Value. The Series A Preferred Stock shall have a value on liquidation of One Dollar ($1.00) per share plus accrued and unpaid dividends (the "Liquidation Value").

(c) Dividends. The Series A Preferred Stock will earn cumulative dividends at a rate of twelve per cent (12%) per annum on Liquidation Value. The dividends shall be paid quarterly on the dates of October 31, January 31, April 30 and July 31 during each year that the Series A Preferred Stock remains outstanding.

(d) Voting Rights. Each share of the Series A Preferred Stock shall have the same voting rights as each share of Common Stock.

(e) Liquidation. Upon any liquidation, dissolution or winding up of the corporation, the holders of the Series A Preferred Stock will be entitled to be paid, before any distribution or payment is made to the holders of the Common Stock, an amount in cash equal to the aggregate Liquidation Value of all the Series A Preferred Stock then outstanding and the holders of the Series A Preferred Stock will not be entitled to any further or additional payment.

(f) Dilution and Other Provisions. The corporation may enter into appropriate agreements with the purchasers and holders of the Series A Preferred Stock so as to protect the holders of the Series A Preferred Stock from dilution and to provide for such other conditions as may be agreed to between such purchasers and holders and the corporation.

2. Series B Preferred Stock

The corporation may issue up to two million (2,000,000) shares of Series B Preferred Stock from time to time upon such terms and conditions as the Board of Directors shall determine. The Board of Directors is hereby expressly vested with authority to fix and determine the relative rights and preferences of the Series B Preferred Stock so issued to the full extent permitted by these Articles of Incorporation and the laws of the State of Colorado in respect of the following:

a) The number of shares of Series B Preferred Stock to be issued from time to time;

b) The rate and preference of any dividends and the time of payment of any dividends, whether dividends are cumulative and the date from which any dividend will accrue;

c) Whether the Series B Preferred Stock may be redeemed, and, if so, the redemption price and the terms and conditions of redemption;

d) The par value and the amount payable upon the Series B Preferred Stock in the event of voluntary or involuntary liquidation;

e) Sinking fund or other provisions, if any, for the redemption or purchase of Series B Preferred Stock;

f) The terms and conditions upon which the Series B Preferred Stock may be converted, if the Series B Preferred Stock is issued with the privilege of conversion;

g) Voting rights, if any;

h) Whether the holders of the Series B Preferred Stock shall be entitled to elect any of the directors of the corporation; and

i) Any other relative rights and preferences of the Series B Preferred Stock issued, including, but without limitation, any restriction on an increase in the number of shares of Series B Preferred Stock of any series theretofore authorized and any limitation or restriction of rights or powers to which any of the Series B Preferred Stock shall be subject.

3. Common Stock
---

a) The rights of the holders of Common Stock to receive dividends, or to share in the distribution of assets in the event of liquidation, dissolution or winding up of the affairs of the corporation shall be subject to the preferences, limitations and rights given to the holders of the Series A Preferred Stock and the Series B Preferred Stock.

b) The holders of the Common Stock shall be entitled to one vote for each common share held by them of record at the time of determining the holders thereof entitled to vote.

III. The date upon which the above Articles of Amendment were unanimously adopted by the shareholders of the corporation and by its Board of Directors was effective June 2, 1986. The number of shares of the corporation outstanding at the time such amendment was adopted was five hundred thousand (500,000) shares of preferred stock and two million twenty nine thousand and forty six (2,029,046) shares of Common

Stock and the number of shares entitled to vote thereon was five hundred thousand (500,000) shares of preferred stock and two million twenty nine thousand and forty six (2,029,046) shares of Common Stock. Such vote was sufficient to approve and adopt the Amendment.

IV. Prior to the foregoing Amendment to Paragraph A of Article V of the corporation's Articles of Incorporation, the corporation had only two classes of capital stock outstanding, consisting of the Common Stock, as above defined, and preferred stock, all outstanding shares of which were entitled to and did vote on the Amendment.

V. The Amendment of the Articles of Incorporation was adopted by the unanimous consent of the Directors and the unanimous consent of all of the holders of the Common and preferred shares of the corporation effective June 2, 1986, in accordance with Section 7-4-122 (2) of the Colorado Corporation Code.

VI. The Amendment does not effect a change in the amount of stated capital of the corporation.

Dated: June 2, 1986

INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado corporation

By: /s/ John A. McChesney
---
John A. McChesney, President

S E A L

ATTEST:

/s/ James A. Larson
---
James A. Larson, Secretary

STATE OF COLORADO )
CITY AND COUNTY OF JEFFERSON )

Before me, Ruth Hanna, a Notary Public in and for such County and State

personally appeared John A. McChesney and James A. Larson, who acknowledged before me that they are the President and Secretary, respectively, of Integrated Medical Systems, Inc., and that they signed the foregoing Articles of Amendment to the Articles of Incorporation as their free and voluntary act and deed for the use and purpose therein stated and that the facts therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 7th day of July , 1986.

/s/ Ruth Hanna
Notary Public

S E A L

My commission expires: February 21, 1989

ARTICLES OF AMENDMENT TO THE
ARTICLES OF INCORPORATION
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Pursuant to the provisions of the Colorado Corporation Code the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

I. The name of the corporation is Integrated Medical Systems, Inc.

II. The following amendment to the Articles of Incorporation was adopted by the shareholders of the corporation effective July 29, 1985, in the manner prescribed by the Colorado Corporation Code:

Paragraph A of Article V to the Articles of Incorporation shall be amended to read in its entirety as follows:

ARTICLE V

CAPITAL STOCK

A. Authorized Stock. The aggregate number of shares of stock the corporation is authorized to issue is five hundred thousand (500,000) shares of preferred stock, par value One Dollar ($1.00) per share, and ten million (10,000,000) shares of common stock, without par value, and the relative rights of the shares of each class are as follows:

1. Preferred Stock:

(a) Convertibility. The 500,000 shares of preferred stock, par value $1.00 per share, shall be convertible, on a share-for-share basis, into 500,000 shares of common stock, without par value, at the option of the holder and at any time before the redemptions specified in Subparagraph V-A-1(c) below.

(b) Dividends. The preferred stock shall have a value on liquidation of One Dollar ($1.00) per share plus accrued and unpaid dividends (the "Liquidation Value") and such preferred stock will earn cumulative dividends at a rate of twelve percent (12%) per annum of Liquidation Value. The dividends shall be paid quarterly on the dates of October 31, January 31, April 30 and July 31 during each year that the preferred stock remains outstanding.

(c) Redemption. Unless previously converted, the corporation must redeem all 500,000 shares of the preferred stock at the Liquidation Value and

the number of shares of preferred stock to be so redeemed and the dates for each such redemption shall be as follows:

| Date of Redemption | Number of Shares to be Redeemed |
|---|---|
| December 31, 1990 | 166,666 |
| December 31, 1991 | 166,667 |
| December 31, 1992 | 166,667 |

(d) Sinking Fund. The corporation shall have no obligation to establish a sinking fund for the redemption of the preferred stock.

(e) Voting Rights. Each share of preferred stock shall have the same voting rights as each share of common stock.

(f) Liquidation. Upon any liquidation, dissolution or winding up of the corporation, the holders of the preferred stock will be entitled to be paid, before any distribution or payment is made to the holders of common stock, an amount in cash equal to the aggregate Liquidation Value of all preferred stock then outstanding and the holders of the preferred stock will not be entitled to any further or additional payment.

(g) Dilution. The corporation will protect the holders of the preferred stock from dilution. The conversion price will be reduced and the number of shares increased in the event the corporation sells or issues common stock, warrants, options or other rights to purchase common stock at a price of less than One Dollar ($1.00) per share; provided however, that this provision shall not apply to shares reserved for issuance to key employees of the corporation who receive or purchase shares of common stock pursuant to stock bonus, stock option or other incentive-type stock purchase programs approved by the corporation's Board of Directors.

2. Common Stock:

(a) The rights of the holders of common stock to receive dividends, or to share in the distribution of assets in the event of liquidation, dissolution or winding up of the affairs of the corporation shall be subject to the preferences, limitations and rights given to the holders of the preferred stock.

(b) The holders of the common stock shall be entitled to one vote for each common share held by them of record at the time of determining the holders thereof entitled to vote.

III. The date upon which the above Articles of Amendment were adopted unanimously by the shareholders of the corporation and by its Board of Directors was effective July 29, 1985. The number of shares of the corporation outstanding at the time such amendment was adopted was 2,256,000 and the number of shares entitled to vote thereon was 2,256,000.

IV. Prior to the foregoing Amendment to Paragraph A of Article V, the corporation had only one class of stock outstanding, it being no par value common stock, all outstanding shares of which were entitled to vote on the amendment.

V. The Amendment to the Articles of Incorporation was adopted by the Unanimous Consent of the Directors and Shareholders of the corporation effective July 29, 1985, in accordance with Section 7-4-122(2) of the Colorado Corporation Code.

VI. The amendment does not effect a change in the amount of stated capital of the corporation.

Dated: August 28, 1985.
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INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado corporation

By: /s/ John A. McChesney
---
John A. McChesney, President

S E A L

ATTEST:

/s/ James A. Larson
---
James A. Larson, Secretary

STATE OF COLORADO ) ss.
CITY AND COUNTY OF DENVER )

Before me, Nancy J. Morrison , a Notary Public in and for such County and State personally appeared John A. McChesney and James A. Larson, who acknowledged before me that they are the President and Secretary, respectively, of Integrated Medical Systems, Inc., and that they signed the foregoing Articles of Amendment to the Articles of Incorporation as their free and voluntary act and deed for the use and purpose therein stated and that the facts therein contained are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 28th day of August, 1985.

/s/ Nancy J. Morrison
Notary Public

S E A L

My Commission Expires: August 16, 1988

# ARTICLES OF INCORPORATION

OF

# INTEGRATED MEDICAL SYSTEMS, INC.

I, the undersigned natural person of the age of eighteen years or more, acting as incorporator in order to organize and establish a corporation under and pursuant to the Colorado Corporation Code, hereby adopt the following Articles of Incorporation for said corporation:

## ARTICLE I

## NAME

The name of the corporation is INTEGRATED MEDICAL SYSTEMS, INC.

## ARTICLE II

## TERM OF EXISTENCE

The period of duration of the corporation shall be perpetual.

## ARTICLE III

## PURPOSE

This corporation is organized for the purpose of transacting any and all lawful business for which corporations may be incorporated pursuant to the Colorado Corporation Code, including, but not limited to, the following:

A. To create, develop, design, manufacture, assemble, distribute, sell and market products, systems and services of whatever kind and character; to assess, rate, appraise and evaluate corporations, partnerships, joint ventures and business ventures and organizations of whatever kind and character; to arrange for and participate in the acquisition, sale, consolidation, merger, financing, management and development of such business ventures and organizations or the assets of such ventures or organizations; and to otherwise own, hold, operate, manage, finance, develop, sell, acquire and deal in and with business ventures of all types, including the assets of such ventures or organizations;

B. To acquire by purchase, exchange, lease or otherwise, and to own, hold, use, manage, develop, repair, demolish, operate, sell, assign, lease, transfer, convey, exchange, mortgage, grant security interests in, pledge or otherwise encumber, dispose of or deal in and with, real and personal property, tangible and intangible, of every

class or description whatsoever and all rights and privileges therein wheresoever situate, and including, but not limited to, stock, stock rights, options or warrants, debentures, bonds and other obligations and securities of corporations or other entities, whether in connection with or incident or related to the foregoing purposes or otherwise;

C. To invest, on behalf of itself or others, in any form, any part of its capital and such additional funds as it may obtain, in any corporation, association, partnership, organization, venture or entity of any kind or character and otherwise acquire such interests therein as the Board of Directors may from time to time deem convenient or proper and actively engage in, promote, manage and otherwise protect and develop any investment or interest so acquired, whether in connection with or incident or related to the foregoing purposes or otherwise;

D. To provide services and to act as agent, factor or employee for any entity or individual, whether in connection with or incident to the foregoing purposes or otherwise;

E. In general, to do any and all things herein set forth, together with any act or thing reasonably to be implied from or connected in any way therewith, and

F. In general, to carry on any other lawful business or activity whatsoever, whether or not connected with any of the foregoing purposes, which is calculated directly or indirectly to promote the interests of the corporation and to enhance the value of its property.

## ARTICLE IV

## POWERS

The corporation shall have and may exercise, either as principal or agent and either alone or in connection with other corporations, partnerships, firms, businesses, associations or individuals, any and all of the powers, rights and privileges now or hereafter permitted, given or granted by the laws of the State of Colorado. In addition, the corporation may do everything necessary, suitable or proper for the accomplishment of any of its corporate purposes. The corporation may conduct its business in any part of the United States or of the world and it may hold, purchase, mortgage, lease, convey and otherwise deal in any way with real and personal property in such places. With-

out in any manner limiting the generality of the foregoing, the corporation shall have the following additional powers:

A. To borrow money for any and all corporate purposes from corporate officers or directors, or from shareholders of the corporation;

B. To lend money to, to guarantee the obligations of and to otherwise assist its employees (other than employees who are also directors of the corporation) and, upon the affirmative vote of the holders of two-thirds (2/3) of the outstanding shares of the corporation which are entitled to vote for directors, to lend money to, to guarantee the obligations of and to otherwise assist the directors of the corporation or of any other corporation, the majority of whose voting capital stock is owned by the corporation; and

C. To aid in any manner any corporation, partnership, firm, business, association, individual or issuer of which any stocks, bonds, debentures or other securities or evidences of indebtedness are held by the corporation; and to do all acts or things designed to protect, improve or enhance the value of any such stocks, bonds, debentures or other securities or evidences of indebtedness.

## ARTICLE V

## CAPITAL STOCK

A. Authorized Stock. The aggregate number of shares of stock the corporation is authorized to issue is ten million (10,000,000) shares of common stock without par value.

B. Issuance and Disposition. The corporation, in the discretion and upon resolution of the Board of Directors, may at any time and from time to time issue and dispose of any of the unissued stock or treasury stock of the corporation and may create optional rights to purchase or subscribe for shares of stock of the corporation. Such stock may be issued and disposed of for such kind and amount of consideration and to such persons, firms and corporations, and such optional rights may be created, and warrants or other evidence of such rights issued, on such terms, at such prices and in such manner as may be determined by resolution adopted by the Board of Directors, subject to any provisions of law then applicable and subject to any other provisions of these Articles of Incorporation and any provisions of the Bylaws of the corporation.

C. Voting Rights and Cumulative Voting. Each shareholder of record shall have one vote for each share of stock standing in his/her name on the books of the corporation. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

D. Dividends. Dividends may be paid upon the common stock as and when declared by the Board of Directors out of funds of the corporation legally available therefor.

E. Transfer Restrictions. The corporation shall have the right by appropriate action to impose restrictions upon the transfer of any shares of its common stock, or any interest therein, from time to time issued, provided that such restrictions as may from time to time be so imposed or notice of the substance thereof shall be set forth upon the face or back of the certificate representing such shares of common stock.

F. Preemptive Rights. No shareholder of this corporation shall, because of his/her ownership of stock, have a preemptive right to purchase, subscribe for or take any part of any stock or any part of the notes, debentures, bonds or other securities convertible into, or carrying options or warrants to purchase stock of this corporation issued, optioned or sold by it after its incorporation. Any part of the common stock and any part of the notes, debentures, bonds or other securities convertible into, or carrying options or warrants to purchase stock of this corporation authorized by these Articles of Incorporation or any amendment thereto duly filed, may at any time be issued, optioned for sale and sold or disposed of by this corporation pursuant to resolution of its Board of Directors to such persons and upon such terms as may to such Board of Directors seem proper without first offering such stock or security or any part thereof to existing shareholders.

G. Registered Shareholders. Prior to due presentment for registration or transfer of shares of stock, the corporation may treat the person registered on its books as the absolute owner of such shares of stock for all purposes, and accordingly, shall not be bound to recognize any legal, equitable or other claim or interest in such shares on the part of any other person, whether or not it shall have

express or other notice thereof, except as otherwise expressly provided by statute; provided however, that whenever any transfer of shares shall be made for collateral security and not absolute, it shall be so expressed in the entry of the transfer if, when the certificates are presented to the corporation for transfer, both the transferor and transferee request the corporation to do so.

## ARTICLE VI

## RIGHTS OF DIRECTORS AND OFFICERS TO CONTRACT WITH THE CORPORATION AND CONFLICTS OF INTEREST

No contract or other transaction between this corporation and one or more of its directors or officers or any corporation, firm, association or entity in which one or more of its directors or officers is a director or officer or is financially interested shall be either void or voidable solely because of such relationship or interest or solely because any such director or officer is present at the meeting of the Board of Directors or a committee thereof which authorizes, approves or ratifies such contract or transaction or solely because their votes are counted for such purpose if:

A. The fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of any interested director or officer;

B. The fact of such relationship or interest is disclosed or known to the shareholders entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or

C. The contract or transaction is fair and reasonable to the corporation.

## ARTICLE VII

## PARTIAL LIQUIDATION

In addition to the other powers now or hereafter conferred upon the Board of Directors by these Articles of Incorporation, the Bylaws of the corporation or by the laws of the State of Colorado, the Board of Directors may from time to time distribute to the shareholders in

partial liquidation, out of the stated capital or the capital surplus of the corporation, a portion of the corporate assets, in cash or in kind; subject, however, to the limitations contained in the Colorado Corporation Code.

## ARTICLE VIII

## INDEMNIFICATION - DIRECTORS, OFFICERS AND EMPLOYEES

In addition to and in no way limiting the powers or authority now or hereafter conferred upon the corporation by these Articles of Incorporation, the Bylaws of the corporation or by the laws of the State of Colorado, the corporation shall possess and may exercise all powers of indemnification of directors, officers, employees, agents and other persons and all powers and authority incidental thereto (including without limitation the power and authority to advance expenses and to purchase and maintain insurance with respect thereto), without regard to whether or not such powers and authority are provided for by the Colorado Corporation Code. The Board of Directors of the corporation is hereby authorized and empowered on behalf of the corporation and without shareholder action to exercise all of the corporation's authority and powers of indemnification.

## ARTICLE IX

## REGISTERED OFFICE

The address of the initial registered office of the corporation is Suite 820, 165 South Union Boulevard, Lakewood, Colorado 80228, and the name of the initial registered agent of the corporation at such address is John A. McChesney.

## ARTICLE X

## BOARD OF DIRECTORS

The initial Board of Directors of the corporation shall consist of three (3) members who need not be shareholders of the corporation or residents of the State of Colorado.

The names and addresses of the persons who are to serve as directors of the corporation until the first annual meeting of shareholders, and until their successors shall be elected and shall qualify, are as follows:

| Name | Address |
|---|---|
| James A. Larson | 10 Vista Road<br>Englewood, CO 80110 |
| John A. McChesney | 1334 Lupine Way<br>Golden, CO 80401 |
| Jens H. Mueller | 10700 E. Dartmouth, #AA-101<br>Aurora, CO 80014 |

ARTICLE XI

INCORPORATOR

The name and address of the incorporator of the corporation is as follows:

| Name | Address |
|---|---|
| Nancy J. Morrison | 9272 East Mansfield Avenue<br>Denver, Colorado 80237 |

ARTICLE XII

BYLAWS

The Board of Directors of this corporation shall have the power to adopt such prudential Bylaws as may be deemed necessary or convenient for the proper government and management of the business and affairs of this corporation, and to amend, alter or repeal the same at any regular meeting or at any special meeting called for that purpose.

ARTICLE XIII

AMENDMENTS

The corporation reserves the right to amend, alter, change or repeal any provision contained in, or to add any provision to, its Articles of Incorporation from time to time, in any manner now or hereafter prescribed or permitted by the Colorado Corporation Code, and all rights and powers conferred upon directors and shareholders hereby are granted subject to this reservation.

IN WITNESS WHEREOF, I, the undersigned, being the incorporator designated in Article XI of the annexed and foregoing Articles of Incorporation, have executed said Articles of Incorporation as of this 14th day of January, 1985.

/s/ Nancy J. Morrison
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Nancy J. Morrison

STATE OF COLORADO ) ss
CITY AND COUNTY OF DENVER )

I, Ann M. Bedard , a Notary Public, hereby certify that Nancy J. Morrison known to me to be the person whose name is subscribed to the annexed and foregoing Articles of Incorporation, appeared before me this day in person and being by me first duly sworn, acknowledged and declared that she signed said Articles of Incorporation as her free and voluntary act and deed for the uses and purposes therein set forth and that the statements therein contained are true.

My Commission Expires: June 16, 1987 .

Witness my hand and official seal this 14th day of January, 1985.

/s/ Ann M. Bedard
Notary Public

CERTIFICATION OF DESIGNATION, VOTING POWERS,
PREFERENCES AND RIGHTS
OF THE 1993 SERIES C CONVERTIBLE PREFERRED STOCK
OF
INTEGRATED MEDICAL SYSTEMS, INC.

Integrated Medical Systems, Inc., a Colorado corporation (the "Corporation"), pursuant to Article V of its Articles of Incorporation as amended effective October 22, 1993, and Section 74-102 of the Colorado Corporation Act, certifies that on December 21, 1993, the Board of Directors of the Corporation duly adopted the following resolutions providing for the issuance of up to a maximum of 3,500,000 shares of Series C Convertible Preferred Stock to be designated as 1993 Series C Convertible Preferred Stock (the "1993 Series C Preferred Stock"):

RESOLVED, that a series of the Series C Preferred Stock, par value $0.01 per share, of the Corporation be hereby created, and that the designation and amount thereof and the voting powers, preferences and relative, participating, optional and other special rights of the shares of such series, and the qualifications, limitations or restrictions thereof shall be as follows:

1. DESIGNATION AND AMOUNTS

The shares of such series shall be designated as the 1993 Series C Convertible Preferred Stock (the "1993 Series C Preferred Stock") and the number of shares initially constituting such series shall be 3,500,000 which number may be decreased (but not increased) by the Board of Directors without a vote of the stockholders; provided, however, that such number may not be decreased below the number of then currently outstanding shares of 1993 Series C Preferred Stock.

2. DIVIDENDS AND DISTRIBUTIONS

2.1. Dividends on Common Stock. If the Corporation shall at any time or from time to time declare, order, pay or make a dividend or other distribution (including, without limitation, any distribution of capital stock or other securities or property of the Corporation on its Common Stock, then, and in each such case (a "Triggering Distribution"), the holders of shares of 1993 Series C Preferred Stock shall be entitled to receive from the Corporation, with respect to each shares of 1993 Series C Preferred Stock held, the same dividend or distribution received by a holder of the number of shares of Common Stock into which such shares of 1993 Series C Preferred Stock is convertible on the record date for such dividend or distribution. Any such dividend or distribution shall be declared, ordered, paid or made on the 1993 Series C Preferred Stock at the same time such

dividend or distribution is declared, ordered, paid or made on the Common Stock.

2.2. Rights Distributed on Common Stock. In the event that (i) the Corporation shall issue rights or warrants to holders of Common Stock entitling them to subscribe for shares of capital stock or (ii) the Corporation shall distribute to all holders of Common Stock evidence of indebtedness or other assets (other than pursuant to Section 2.1) the Corporation shall issue or distribute to the holders of 1993 Series C Preferred Stock the same such rights, warrants, evidence of indebtedness or assets received by a holder of the number of shares of Common Stock into which such holder's shares of 1993 Series C Preferred Stock is convertible on the record date for such issuance or distribution.

2.3. Limitations on Dividends. The holders of shares of 1993 Series C Preferred Stock shall not be entitled to receive any dividends or other distributions except as provided in Sections 2.1 and 2.2 of this Certificate of Designation of 1993 Series C Convertible Preferred Stock. No dividend shall be paid on the Common Stock or any other Junior Stock unless all dividends payable with respect to the 1993 Series C Preferred Stock have been paid in full.

3. VOTING RIGHT

In addition to any voting rights provided elsewhere herein and in the Corporation's Articles of Incorporation, as it may be amended or restated from time to time (the "Articles of Incorporation"), and any voting rights provided by law, the holders of shares of 1993 Series C Preferred Stock shall have the following voting rights:

3.1. General. Each share of 1993 Series C Preferred Stock shall entitle the holder thereof to one vote for each share of Common Stock into which such share of 1993 Series C Preferred Stock is convertible as of the date of such vote (or the record date, if any, for such vote) on all matters submitted to a vote of the stockholders of the Corporation, with fractional votes cumulated for any holder of more than one share of 1993 Series C Preferred Stock. Except as otherwise provided herein, or by the Articles of Incorporation or by law, the shares of 1993 Series C Preferred Stock and the shares of Common Stock (and any other shares of capital stock of the Corporation at the time entitled thereto) shall vote together as one class on all matters submitted to a vote of stockholders of the Corporation.

3.2. Series Vote. So long as any shares of 1993 Series C Preferred Stock shall be outstanding and unless the consent or approval of a greater number of shares shall then be required by law, without first obtaining the consent or approval of the

holders of a majority of the then-outstanding shares of 1993 Series C Preferred Stock, voting as a single class, given in person or by proxy at a meeting at which the holders of such shares shall be entitled to vote separately as a class, or by written consent, the Corporation shall not: (i) authorize or create any class or series, or any shares of any class or series, of stock having any preference or priority as to dividends or upon redemption, liquidation, dissolution or winding up over the 1993 Series C Preferred Stock ("Senior Stock"); (ii) authorize or create any class or series, or any shares of any class or series, of stock ranking on a parity (either as to dividends or upon liquidation, dissolution or winding up) with the 1993 Series C Preferred Stock ("Parity Stock"); (iii) reclassify any shares of stock of the corporation into shares of Senior Stock or Parity Stock; (iv) authorize any security exchangeable for, convertible into, or evidencing the right to purchase any shares of Senior Stock or Parity Stock; or (v) amend, alter or repeals the Articles of Incorporation to alter or change the preferences, rights or powers of the 1993 Series C Preferred Stock or to increase the authorized number of shares 1993 Series C Preferred Stock.

4. REDEMPTION

4.1. No Redemption Obligations or Rights. The Corporation shall have neither the right nor obligation at any time to redeem all or any portion of the 1993 Series c Preferred Stock and any

redemption shall be only with the written consent of both the Corporation and the holder of the 1993 Series C Preferred Stock to be redeemed.

5. REACQUIRED SHARES

Any shares of 1993 Series C Preferred Stock converted, redeemed, purchased or otherwise acquired by the Corporation in any manner whatsoever shall be retired and canceled promptly after the acquisition thereof, and, if necessary to provide for the lawful redemption or purchase of such shares, the capital represented by such shares shall be reduced in accordance with the law of the state of Colorado. All such shares shall upon their cancellation become authorized but unissued shares of 1993 Series C Preferred Stock, $0.01 par value, of the Corporation and may be reissued as part of another series of preferred stock of the Corporation subject to the conditions or restrictions on authorizing or creating any class or series, or any shares of any class or series, set forth herein.

6. LIQUIDATION, DISSOLUTION OR WINDING.

6.1. General. The liquidation, dissolution and winding up preference of each share of 1993 Series C Preferred Stock shall be $4.00 per share for the first 1,250,000 shares of 1993 Series C Preferred Stock issued and $5.00 per share for each additional share of 1993 Series C Preferred Stock issued thereafter to be paid in full prior to any distribution on IMS' Common Stock or

other classes or series of preferred stock except the Series B Preferred Stock of the Corporation which shall have a preference upon liquidation to the 1993 Series C Preferred Stock equal to $1.00 per share of Series B Preferred Stock plus all accrued unpaid dividends due to holds of Series B Preferred Stock.

6.2 Mergers, Etc. Not Liquidations. Neither the consolidation, merger or other business combination of the Corporation with or into any other Person or Persons nor the sale, lease, exchange or conveyance of all or any part of the property assets or business of the Corporation shall be deemed to be a liquidation, dissolution or winding up of the Corporation for purposes of this Section 6.

7. CONVERSION

7.1 Conversion Rights. Each share of 1993 Series C Preferred Stock, including any shares issued pursuant to warrants granted to McKesson Corporation, is convertible into one share of Common Stock for each share of 1993 Series C Preferred Stock upon the occurrence of the first to occur of the conditions described in Section 7.2, 7.3 and 7.4 below.

7.2 Achievement of Profits. The 1993 Series C Preferred Stock shall be deemed to have been converted automatically as of the beginning of any fiscal year of the Corporation following the first year during which the Corporation shall have achieved a

pre-tax profit margin of 5.00% of gross revenues, or greater, determined in accordance with Generally Accepted Accounting Principles, consistently applied, which shall be established by an audit by the Corporation's regular independent outside auditors.

7.3 Completion of Public Offering by Corporation. Each share of 1993 Series C Preferred Stock shall automatically convert into Common Stock at the effective date of a Registration Statement filed under the Securities Act of 1933, as amended, pursuant to which the Corporation makes its initial public offering of equity securities.

7.4 Optional Conversion. Each share of 1993 Series C Preferred Stock shall be converted into Common Stock on the second business day following receipt by the Corporation of written notice from any holder of the 1993 Series C Preferred Stock then outstanding and compliance with Section 7.7 below.

7.5 Adjustment of Conversion Rate. The conversion rate of one share of Common Stock for each share of 1993 Series C Preferred Stock upon conversion described in Section 7.1 above (the "Conversion Rate") shall be subject to adjustment from time to time as follows:

7.5.1. Adjustment for Stock Dividends and Splits. If the Corporation:

a) pays a dividend or makes a distribution on its Common Stock in shares of its Common Stock or any shares of its other capital stock;

(b) subdivides its outstanding shares of Common Stock into a greater number of shares;

(c) combines its outstanding shares of Common Stock into a smaller number of shares; or

d) issues by reclassification of its Common Stock any shares of its capital stock;

then the Conversion Rate with respect to the 1993 Series C Preferred Stock in effect immediately prior to such action shall be adjusted so that the holder of 1993 Series C Preferred Stock thereafter converted may receive the number of shares of capital stock of the Corporation which such holder would have owned immediately following such action if such holder had converted the 1993 Series C Preferred Stock immediately prior to such action. For a dividend or distribution, the adjustment shall become effective immediately on the record date for the dividend or distribution. For a subdivision, combination or reclassification, the adjustment shall become effective immediately after the effective date of the subdivision,

combination or reclassification. If after an adjustment a holder of 1993 Series C Preferred Stock upon conversion may receive shares of two or more classes of capital stock of the Corporation, the Board of Directors of the Corporation shall determine the allocation of the adjusted Conversion Rate with respect to the 1993 Series C Preferred Stock between or among the classes of capital stock. After such allocation, the Conversion Rate of each class of capital stock shall thereafter be subject to adjustment on terms comparable to those applicable to Common Stock in this resolution.

7.5.2. Certificates as to Adjustments. Upon the occurrence of each adjustment or readjustment of any Conversion Rate pursuant to this Section 7, the Corporation at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of 1993 Series C Convertible Preferred Stock a certificate executed by the Corporation's President or Chief Financial Officer setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any holder of 1993 Series C Convertible Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (i) such adjustments and readjustments, (ii) the Conversion Rate for 1993 Series C Convertible Preferred Stock at the time in effect, and (iii) the number of shares of Common Stock and the amount, if any, of other property which at

the time would be received upon the conversion of the 1993 Series C Convertible Preferred Stock.

7.6. Adjustment for Mergers. In case the Corporation shall be a party to any transaction (including, without limitation, a merger, consolidation, sale or all or substantially all of the Corporation's assets, liquidation or recapitalization of the Common Stock in which the previously outstanding Common Stock shall be changed into or, pursuant to the operation of law or the terms of the transaction to which the Corporation is a party, exchanged for different securities of the Corporation or common stock or other securities of another corporation or interests in a combination of any of the foregoing) then, as a condition of the consummation of such transaction, lawful and adequate provisions shall be made so that each holder of shares of 1993 Series C Preferred Stock shall be entitled, upon conversion, to an amount per share equal to (A) the aggregate amount of stock, securities, cash and/or any other property (payable in kind), as the case may be, into which or for which each share of Common Stock is changed or exchanged, multiplied by (B) the number of shares of Common Stock into which a share of 1993 Series C Preferred Stock is convertible immediately prior to the consummation of such transaction.

7.7. Conversion Procedures. The holder of any shares of 1993 Series C Preferred Stock may exercise such holder's optional right to convert such shares into shares of common Stock by

surrendering for such purpose to the Corporation, at its principal office or at such other office or agency maintained by the Corporation for that purpose, a certificate or certificates representing the shares of 1993 Series C Preferred Stock to be converted accompanied by a written notice stating that such holder elects to convert all or a specified whole number of such shares in accordance with the provisions of this Section 7 and specifying the number or names in which such holder wishes the certificate or certificates for shares of Common Stock to be issued. In case such notice shall specify a name or names other than that of such holder, such notice shall be accompanied by payment of all transfer taxes payable upon the issuance of shares of Common Stock in such name or names. Other than such taxes, the Corporation will pay any and all issue and other taxes (other than taxes based on income) that may be payable in respect to any issue or delivery of shares of Common Stock on conversion of 1993 Series C Preferred Stock pursuant hereto. As promptly as practicable, and in any event within five business days after the surrender of such certificate or certificates and the receipt of such notice relating thereto and, if applicable, payment of all transfer taxes (or the demonstration to the satisfaction of the Corporation that such taxes have been paid), the Corporation shall deliver or cause to be delivered (i) certificates representing the number of validly issued, fully paid and nonassessable full shares of Common Stock to which the holder of such shares of 1993 Series C Preferred Stock so converted shall be entitled and (ii) if less than the full number of shares of

1993 Series C Preferred Stock evidenced by the surrendered certificate or certificates are being converted, a new certificate or certificates, of like tenor, for the number of shares evidenced by such surrendered certificate or certificates less the number of shares converted. Such conversion shall be deemed to have been made at the close of business on the date of giving of such notice and of such surrender of the certificate or certificates representing the shares of 1993 Series C Preferred Stock to be converted so that the rights of the holder thereof as to the shares being converted shall cease except for the right to receive shares of Common Stock and accrued dividends in accordance herewith, and the person entitled to receive the shares of Common Stock shall be treated for all purposes as having become the record holder of such shares of Common Stock at such time. The Corporation shall not be required to convert, and no surrender of shares of 1993 Series C Preferred Stock shall be effective for that purpose, while the transfer books of the Corporation for the Common stock are closed or any purpose (but not for any period in excess of 15 calendar days); but the surrender of shares of 1993 Series C Preferred Stock for conversion during any period while such books are so closed shall become effective for conversion immediately upon the reopening of such books, as if the conversion had been made on the date such shares of 1993 Series C Preferred Stock were surrendered, and at the conversion rate in effect at the date of such surrender.

7.8. Payment of Accrued Dividends Upon Conversion. Upon conversion of any shares of 1993 Series C Preferred Stock, the holder thereof shall be entitled to receive any accrued but unpaid dividends in respect of the shares so converted to the date of conversion.

7.9. No Fractional Shares. In connection with the conversion of any shares of 1993 Series C Preferred Stock, no fractional shares of Common stock shall be issued, and the number of shares of Common Stock to be issued shall be rounded to the nearest whole share.

8. RESERVATION OF COMMON STOCK

The Corporation shall take all corporate action necessary (including seeking stockholder approval) to increase the authorized capital of the Corporation in order to, and shall at all times thereafter, reserve and keep available out of its authorized and unissued Common Stock, solely for the purpose of effecting the conversion of the 1993 Series C Preferred Stock, such number of shares of Common Stock as shall from time to time be sufficient to effect the conversion of all then outstanding shares of 1993 Series C Preferred Stock. The Corporation shall from time to time, subject to and in accordance with the law of the state of Colorado, increase the authorized amount of Common Stock if at any time the number of authorized shares of Common Stock remaining unissued shall not be sufficient to permit the

conversion at such time of all then outstanding shares of 1993 Series C Preferred Stock.

9. CANCELLATION OF CONVERTED SHARES

All shares of 1993 Series C Preferred Stock converted pursuant to Section 7 shall be canceled and shall not be issuable by the Corporation, and the Articles of Incorporation shall be appropriately amended, if required, to effect the corresponding reduction in the Corporation's authorized capital.

10. NOTICES OF RECORD DATE

In the event of any taking by the Corporation of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, the Corporation shall mail to each holder of 1993 Series C Preferred Stock, at least twenty (20) days prior to the date specified herein, a notice specifying the date on which any such record is to be taken for the purposes of such dividend or distribution.

11. PROTECTIVE PROVISIONS

So long as any of the 1993 Series C Preferred Stock shall be outstanding, the Corporation shall not, without first obtaining the approval (by vote or written consent, as provided by law) of

the holders of at least 51% of the outstanding shares o~ 1993 Series C Preferred Stock, alter or change the rights, preferences or privileges of the 1993 Series C Preferred Stock. Amendments, modifications or waivers of any of the terms hereof will be binding and effective if the prior written consent of holders of at least 51% of the 1993 Series C Preferred Stock outstanding at the time such action is taken is obtained; provided that no such action will change (a) the rate at which or the manner in which dividends on the 1993 Series C Preferred Stock accrue or the times at which such dividends become payable, unless the prior written consent of the holders of 1009~ of the 1993 Series C Preferred Stock then outstanding is obtained, (b) the Conversion Rate of the 1993 Series C Preferred Stock or the number of shares or class of stock into which the 1993 Series C Preferred Stock is convertible, unless the prior written consent of the holders of 100% of the Series B Preferred Stock then outstanding is obtained or (c) the percentage required to approve any change described in clauses (a) and (b) above, unless the prior written consent of the holders of at least 100% of the 1993 Series C Preferred Stock then outstanding is obtained.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Designation of Series C Convertible Preferred Stock to be duly executed by its Vice President and attested to by its Secretary and has caused its corporate seal to be affixed hereto, this 23rd day of December, 1993.

INTEGRATED MEDICAL SYSTEMS, INC.

By
---
Senior Vice President

Attest:

---
Assistant Secretary

STATE OF COLORADO )
) ss.
City and County of Denver )

Before me Kathleen K. McCracken, a Notary Public in and for such County and State personally appeared Charles I. Brown and Donald S. Chenowith, who acknowledged before me that they are the Senior Vice President and Assistant Secretary, respectively, of Integrated Medical Systems, Inc. and that they signed the foregoing Statement of Designation, Voting Powers, Preferences and Rights of the Series C Preferred Stock of Integrated Medical Systems, Inc. as their free and voluntary act and deed and that the facts stated therein are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this

23rd day of December, 1993.

Witness my hand and official seal.

My Commission Expires: 11-16-96

[Seal of
NOTARY PUBLIC
KATHLEEN K. McCRACKEN
STATE OF COLORADO]

/s/ Kathleen K. McCracken
---
Notary Public

1610 WYNKOOP St. No. 200
---
Address

Denver, CO 80202
---

STATEMENT OF DESIGNATION, VOTING POWERS, PREFERENCES
AND RIGHTS OF THE SERIES B PREFERRED STOCK
OF INTEGRATED MEDICAL SYSTEMS, INC.

Integrated Medical Systems, Inc., a Colorado Corporation (the "Company"), pursuant to Article V of its Articles of Incorporation and Section 7-4-102 of the Colorado Corporation Act, certifies that on October 22, 1986, the Board of Directors of the Company duly adopted the following resolutions by unanimous written consent providing for the issuance of up to a maximum of 2,000,000 shares of Preferred Stock to be designated as Series B Preferred Stock (the "Series B Preferred Stock"):

RESOLVED, that the Company is hereby authorized and empowered to issue up to a maximum of 2,000,000 shares of Series B Preferred Stock; and

BE IT FURTHER RESOLVED, that the powers and designations, preferences and rights, qualifi-cations, limitations, and restrictions on the shares of Series B Preferred Stock shall be as follows:

1. Par Value and Liquidation Value. The Series B Preferred Stock shall have a par value of One Dollar ($ 00) pe,r share and a value on liquidation of One Dollar, ($1.00) per share plus accrued and unpaid dividends (the "Liquidation Value").

2. Dividends. The Series B Preferred Stock shall earn cumulative dividends at a rate of ten percent (10%) of the Liquidation Value (i.e., ten cents ($.10) per share annually) beginning July 1, 1988, which shall be payable quarterly each September 30, December 31, March 31 and June 30 thereafter until and unless converted into the Company's no par value common stock (the "Common Stock"). No interest shall be earned or paid on the Series B Preferred Stock prior to July 1, 1988. Once dividends accrue on the Series B Preferred Stock, all payments of dividends on the Series B Preferred Stock and the outstanding Series A Preferred Stock (the "Series A Preferred Stock") shall be made in pari passu among the holders of the Series A Preferred Stock and the holders of the Series B Preferred Stock and no holder of Series A Preferred Stock or holder of Series B Preferred Stock shall he preferred over the other.

3. Voting Rights. Each share of the outstanding Series B Preferred Stock shall have identical and equal voting rights with each share of the Company's outstanding Series A Preferred Stock and each share of its outstanding Common Stock.

4. Preemptive or Purchase Rights. No holder of a share or shares of Series B Preferred Stock shall, because of his or her ownership of such Stock, have a preemptive right to purchase, subscribe for or take any part of any capital stock of the Company nor shall any such holder have a preemptive right to purchase, subscribe for or take any part of notes, debentures, bonds or any other securities of the Company, including, limited to, securities convertible into or carrying options or warrants to purchase capital stock of the Company.

5. Rights on Liquidation, Dissolution and Winding-up of the Company. Upon any liquidation, dissolution or winding-up of the Company, the holders of the Series B Preferred Stock will be entitled to be paid, before any distribution or payment is made to the holders of the Series A Preferred Stock or the holders of the Common Stock, an amount in cash equal to the aggregate Liquidation Value of all the Series B Preferred Stock then outstanding, and the holders of the Series B Preferred Stock will not be entitled to any further or additional payment.

6. Conversion of Series B Preferred Stock into Common Stock. The holders of the series s Preferred Stock shall have conversion rights as follows (the "Conversion Rights"):

6.1 Right to Convert. Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the issuance of such shares, at the office of the Company or any transfer agent for the Series B Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing one dollar ($1.00) by the conversion price (as defined in Section 6.2 below) in effect at the time of the conversion.

6.2 Series B Conversion Price. The price for converting each share of Series B Preferred Stock into a share of Common Stock (the "Series B Conversion Price") shall initially be one dollar and fifty cents ($1.50) and the Series B Conversion Price shall be subject to adjustment as provided in Section 6.6 below.

6.3 Automatic Conversion. Each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at its then effective Series B Conversion Price immediately upon the closing of a firm commitment to underwrite a public offering pursuant to an effective registration statement under the Securities Act of 1933, as amended, covering the offer and sale of shares of Common Stock of the Company, in an aggregate amount of at least Three Million Dollars ($3,000,000) at a price to the public of at least 200% of the Series B Conversion Price as adjusted only for stock splits, dividends and combinations.

6.4 Mechanics of Conversion. Before any holders of Series B Preferred Stock shall be entitled to convert the same into shares of Common Stock, such holder shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for the Series B Preferred Stock, and shall give written notice to the Company at such office that such elects to convert the same. The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series B Preferred Stock a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series B Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock on such date.

6.5 Fractional Shares. No fractional shares of Common Stock shall be issued upon conversion of the Series B Preferred Stock. Fractional shares shall not be issued; and in lieu of fractional shares to which the holder would otherwise be entitled, the Company shall pay cash equal to said fraction multiplied by the then applicable Series B Conversion Price.

6.6 Adjustment of Series B Conversion Price. The Series B Conversion Price for each share of Series B Preferred Stock, whether or not issued, shall be subject to adjustment from time to time as follows:

6.6.1 If the Company shall issue any Common Stock (or other securities referred to in Sections 6.6.1.3(i) and 6.6.1.3(ii) below) other than "Excluded Stock" (as defined in Section 6.6.2 below) for a consideration per share less than the Series B Conversion Price in effect immediately prior to the issuance of such Common Stock or other securities, then the Series B Conversion Price in effect immediately after such issuance shall be reduced to a price (calculated to the nearest cent) determined by dividing (a) an amount equal to the sum of (1) the number of shares of Common Stock or such other securities outstanding immediately prior to such issue multiplied by the then existing Series B Conversion Price, and (2) the consideration, if any, received by the Company upon said issue, by (b) the total number of shares of Common Stock or such other securities outstanding immediately after such issue.

For the purposes of any adjustment of the Series B Conversion Price pursuant to this Section 6.6.1, the following provisions shall be applicable:

6.6.1.1 In the case of the issuance of Common Stock for cash, the consideration shall be deemed to be the amount of cash paid therefor without deducting any discounts or commissions paid or incurred by the Company in connection with the issuance and sale thereof.

6.6.1.2 In the case of the issuance of Common Stock for a consideration in whole or in part other than cash, the consideration other than cash shall be deemed to be the fair value thereof. The fair value of any consideration other than cash will be determined jointly by the Company and the holders of a majority of the outstanding Series B Preferred Stock. If such parties are unable to reach agreement within a reasonable period of time, the fair value of such consideration will be determined by an appraiser jointly selected by the Company and the holders of a majority of the outstanding Series B Preferred Stock. The cost of such appraisers shall be borne by the Company.

6.6.1.3 In the case of the issuance of (a) options to purchase or rights to subscribe for Common Stock (other than Excluded Stock), (b) securities by their terms convertible into or exchangeable for Common Stock (other than Excluded Stock), or (c) options to purchase or rights to subscribe for such convertible or exchangeable securities:

(i) The aggregate maximum number of shares of Common Stock deliverable upon exercise of such options to purchase or rights to subscribe upon exercise of such options to purchase or rights to subscribe for Common Stock shall be deemed to have been issued at the time such options or rights were issued and for a consideration equal to the consideration (determined in the manner provided in Sections 6.6.1.1 and 6.6.1.2 above), if any, received by the Company upon the issuance of such options, or rights plus the minimum purchase price provided in such options or rights for the Common Stock covered thereby;

(ii) The aggregate maximum number of shares of Common Stock deliverable upon conversion of or in exchange for any such convertible or exchangeable securities, or upon the exercise of options to purchase or rights to subscribe for such convertible or exchangeable securities and subsequent conversion or exchange thereof, shall be deemed to have been issued at the time such securities were issued or such options or rights were issued and for a consideration equal to the consideration received by the Company for any such securities and related options of rights (excluding any cash received on account of accrued interest, or accrued dividends), plus the additional consideration, if any, to be received by the Company upon the conversion or exchange of such securities or the exercise of any related options or rights (the consideration in each case to be determined in the manner provided in Sections 6.6.1.1 and 6.6.1.2

6.6.2 "Excluded Stock" shall mean:

6.6.2.1 All shares of Common Stock issued and outstanding as of the date hereof;

6.6.2.2 All shares of Common Stock that may be issued pursuant to the conversion of three convertible notes dated April 30, 1986, in the aggregate principal amount of One hundred Fifty Thousand Dollars ($150,000) (the "Convertible Notes");

6.6.2.3 All shares of Common Stock into which the Series A Preferred Stock and this Series s Preferred Stock are convertible;

6.6.2.4 All shares of Common Stock that may be issued pursuant to the exercise of warrants held by the limited partners of IMS Rental Partners, Ltd., a Colorado Limited Partnership;

6.6.2.5 An aggregate of 50,000 shares of Common Stock that may be issued to Columbia Group, Ltd. pursuant to an agreement dated August 11, 1986; and

6.6.2.6 An aggregate of 450,000 shares of Common Stock issued or to be issued under any employee, consultant or director incentive arrangement or plan adopted by the Company's Board of Directors for an exercise price of not less than $1.00 per share, including, without limitation, the Company "1986 Incentive Stock Option Plan."

6.6.2.7 An aggregate of 240,000 shares of Common Stock issued or to be issued to Welsh, Carson, Anderson & Stowe IV and affiliated purchasers for consideration of $1.25 per share.

All shares of Excluded Stock specified in paragraphs 6.6.2.1 through 6.6.2.3 inclusive, and 6.6.2.7 shall be deemed to be outstanding for all purposes of the computations of Section 6.6.1 above.

6.6.3 If the number of shares of Common Stock outstanding at any time after the date hereof is increased by a stock dividend payable in shares of Common Stock or by a subdivision or split-up of shares of Common Stock, then on the date such payment is made or such change is effective, the Series B Conversion Price shall be appropriately decreased so that the number of shares of Common Stock issuable upon conversion of any shares of Series B Preferred Stock shall be increased in proportion to such increase of outstanding shares.

6.6.4 It the number of shares of Common Stock outstanding at any time after the date hereof is decreased by a combination of the outstanding shares of Common Stock, then on the effective date of such combination, the Series B Conversion Price shall be appropriately increased so that the number of shares of Common Stock issuable upon conversion of any shares of Series B Preferred Stock shall in decreased in proportion to such decrease of outstanding shares.

6.6.5 The Company shall comply with the provisions of Section 6.6.1 above if the Company shall declare a cash dividend upon its Common Stock payable otherwise than out of retained earnings or shall propose to distribute to holders of its Common Stock shares of its capital stock (other than Common Stock), stock or other securities of other persons, evidences of indebtedness issued by the Company or other persons, assets (excluding cash dividends) or options or rights (excluding options to purchase and rights to subscribe for Common Stock or other securities of the Company convertible into or exchangeable for Common Stock).

6.6.6 If at any time after the date hereof there occurs any capital reorganization, or any reclassification of the capital stock of the Company (other than a change in par value or as a result of a stock dividend or subdivision, split-up or combination of shares), or the consolidation or merger of the Company with or into another person (other than a consolidation or merger in which the Company is the continuing entity and which does not result in any change in the Common Stock), or the sale or other disposition of all or substantially all of the properties and assets of the Company as an entity to any other person, the shares of Series B Preferred Stock shall, after such reorganization, reclassification, consolidation, merger, sale or other disposition, be convertible into the kind and number of shares of stock or other securities or property of the Company or of the entity resulting from such consolidation or surviving such merger or to which such properties and assets shall have been sold or otherwise disposed to which such holder would have been entitled if, immediately prior to such reorganization, reclassification, consolidation, merger, sale or other disposition, such holder had converted his shares of Series B Preferred Stock into Common Stock. The provisions of this Section 6.6.6 shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or other dispositions.

6.6.7 All calculations under this Section 6 shall be made to the nearest cent or to the nearest one hundredth (1/100) of a share, as the case may be.

7. Minimal Adjustments. No adjustment in the Series B Conversion Price need be made if such adjustment would result in a change in the Series B Conversion Price of less than $.0001 per

share. Any adjustment of less than $.001 that is not made shall be carried forward and shall be made at the time of and together with any subsequent adjustment which, on a cumulative basis, amounts to an adjustment of $.001 or more in the Series B Conversion Price.

8. No Impairment. The Company shall not, by amendment of its Articles of Incorporation or through any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities, or any other voluntary action, avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, but shall at all times in good faith assist in the carrying out of all the provisions of this Section 8 and in the taking of all such action as may be necessary or appropriate in order to protect the Conversion Rights of the holders of Series B Preferred Stock against impairment.

9. Certificate as to Adjustment. Upon the occurrence of each adjustment or readjustment of the Series B Conversion Price pursuant to this Section 9, the Company at its expense shall promptly compute such adjustment or readjustment in accordance with the terms hereof and prepare and furnish to each holder of affected Series B Preferred Stock a certificate, which shall be certified by the Company's accountants if requested by such holder, setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon written request at any time of any holder of Series B Preferred Stock, furnish or cause to be furnished to such holder a like certificate setting forth (a) such adjustments and readjustments, (b) the Series B Conversion Price at the time in effect, and (c) the number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the conversion of the Series B Preferred Stock.

10. Notices of Record Date. In the event of any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend (other than a cash dividend) or other distribution, the Company shall mail to each holder of Series B Preferred Stock, at least twenty (20) days prior to the date specified herein, a notice specifying the date on which any such record is to be taken for the purpose of such dividend or distribution.

11. Reservation of Stock Issuable upon Conversion. The Company shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock solely for the purpose of effecting the conversion of the shares of Series B Preferred Stock such number of its shares of Common Stock as shall from time to time be sufficient to effect the conversion of all outstanding shares of the Series B Preferred Stock; and if at

any time the number of authorized but unissued shares of Common Stock shall not be sufficient to effect the conversion of all then outstanding shares of the Series B Preferred Stock, the Company shall take such corporate action as may, in the opinion of its counsel, be necessary to increase its authorized but unissued shares of Common Stock to such number of shares as shall be sufficient for such purpose.

12. Notices. Any notice required to be given to the holder of shares of Series B Preferred Stock shall be deemed given if deposited in the United States mail, postage prepaid, and addressed to each holder of record at his address appearing on the books of the Company.

13. Protective Provisions. So long as any of the Series B Preferred Stock shall be outstanding, the Company shall not, without first obtaining the approval (by vote or written consent, as provided by law) of the holders of at least fifty one percent (51%) of the outstanding shares of Series B Preferred Stock, alter or change the rights, preferences or privileges of the Series B Preferred Stock.

14. No Reissuance of Preferred Stock. No share or shares of Series B Preferred Stock acquired by the Company by reason of redemption, purchase, conversion or otherwise shall be reissued, and all such shares shall be cancelled, retired and eliminated from the shares that the Company shall be authorized to issue.

15. Amendment and Waiver. Amendments, modifications or waivers of any of the terms hereof will be binding and effective if the prior written consent of holders of at least 51% of the Series B Preferred Stock outstanding at the time such action is taken is obtained; provided that no such action will change (a) the rate at which or the manner in which dividends on the Series B Preferred Stock accrue or the times at which such dividends become payable, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained, (b) the Conversion Price of the Series B Preferred Stock or the number of shares or class of stock into which the Series B Preferred Stock is convertible, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained or (c) the percentage required to approve any change described in clauses (a) and (b) above, unless the prior written consent of the holders of at least 91% of the Series B Preferred Stock then outstanding is obtained.

Dated: October 22, 1986

INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado corporation

By: /s/ John A. McChesney
---
John A. McChesney
President

S E A L

ATTEST:

/s/ James A. Larson
---
James A. Larson
Secretary

STATE OF COLORADO )
CITY AND COUNTY OF JEFFERSON )

Before me, Ruth Hanna, a Notary Public in and for such County and State personally appeared John A. McChesney and James A. Larson, who acknowledged before me that they are the President and Secretary, respectively, of Integrated Medical Systems, Inc., and that they signed the foregoing Statement of Designation, Voting Powers, Preferences and Rights of the Series B Preferred Stock of Integrated Medical Systems, Inc. as their free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of October, 1986.

/s/ Ruth Hanna
---
Notary Public

S E A L

My commission expires: My Commission expires February 21, 1989

Exhibit 4.4

# BYLAWS

# OF

# INTEGRATED MEDICAL SYSTEMS, INC.

## OFFICES

SECTION 1. PRINCIPAL OFFICE. The principal office of the corporation in the state of Colorado shall be located at Golden, Colorado. The corporation may have such other offices, either within or without the state of Colorado, as the Board of Directors may designate or as the business of the corporation may require from time to time.

## SHAREHOLDERS

SECTION 2. ANNUAL MEETINGS. The annual meeting of the shareholders shall be held during the three months of the second fiscal quarter of each fiscal year of the corporation at such time and place as the President or Secretary shall designate, for the purpose of electing directors and for the transaction of such other business as may come before the meeting.

SECTION 3. SPECIAL MEETINGS. Special meetings of the shareholders, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors, and shall be called by the President at the request of the holders of not less than one-tenth of all of the outstanding shares of the corporation entitled to vote at the meeting.

SECTION 4. PLACE OF MEETING. The Board of Directors may designate any place, either within or without the state of Colorado, as the place of meeting for any annual meeting or for any special meeting called by the Board of Directors. A waiver of notice signed by all shareholders entitled to vote at a meeting may designate any place, either within or without the state of Colorado, as the place for the holding of such meeting. If no designation is made, or if a special meeting be otherwise called, the place of meeting shall be the registered office of the corporation in the state of Colorado.

SECTION 5. NOTICE OF MEETING. Written notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten days nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the President or the Secretary, or the officer or person calling the meeting, to each shareholder of record entitled to vote at such meeting; except that; if the authorized shares are to be increased, at least thirty (30) days

notice shall be given. If mailed, such notice shall be deemed delivered as to any shareholder of record when deposited in the United States mail, addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage thereon prepaid, but if three successive letters mailed to the last-known address of any shareholder of record are returned as undeliverable, no further notices to such shareholder shall be necessary until another address for such share holder is made known to the corporation. A waiver of notice to a share holder in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice. By attending a meeting, a shareholder (a) waives objection to lack of notice or effective notice of such meeting unless the shareholder, at the beginning of the meeting, objects to the holding of the meeting or the transacting of business at the meeting; and (b) waives objection to consideration at such meeting of a particular matter not within the purpose or purposes described in the meeting notice unless the shareholder objects to considering the matter when it is presented.

When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the ad journed meeting a corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given for each shareholder of record entitled to vote at the meeting.

SECTION 6. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. For the purpose of determining shareholders entitled to notice of or to vote at any meeting of shareholders or any adjournment thereof, or shareholders entitled to receive payment of any dividend or in order to make a determination of shareholders for any other proper purpose, the Board of Directors of the corporation may provide that the stock transfer books shall be closed for a stated period but not to exceed, in any case, fifty days. If the stock transfer books shall be closed for the purpose of determining shareholders entitled to notice of or to vote at a meeting of shareholders, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing the stock transfer books, the Board of Directors may fix in advance a date as the record date for any such determination of shareholders, such date in any case to be not more than fifty days and, in case of a meeting of shareholders, not less than ten days prior to the date on which the particular action, requiring such determination of shareholders, is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive

payment of a dividend, the date on which notice of the meeting is mailed or the resolution of the Board of Directors declaring such dividend is adopted, as the case may be, shall be the record date for such determination of shareholders. When a determination of shareholders entitled to vote at any meeting of shareholders has been made as provided in this section, such determination shall apply to any adjournment thereof.

SECTION 7. QUORUM. A majority of the outstanding shares of the corporation entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of shareholders. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter (including, but not limited to, the adoption of an incentive stock option plan) shall be the act of the shareholders, unless the vote of a greater proportion or number or voting by classes is required by the Colorado Corporation Code or the Articles of Incorporation. If a quorum is not represented at any meeting of the shareholders, such meeting may be adjourned for a period not to exceed sixty (60) days at any one adjournment.

SECTION 8. PROXIES. At all meetings of shareholders, a shareholder may vote by proxy executed in writing by the shareholder or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the corporation before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

SECTION 9. VOTING OF SHARES BY CERTAIN HOLDERS. Shares standing in the name of another corporation may be voted by such officer, agent or proxy as the Bylaws of such corporation may prescribe, or in the absence of such provision, as the Board of Directors of such corporation may determine.

If shares or other securities having voting power stand of record in the name or two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants-in-common, tenants by the entirety, or otherwise, or if two or more persons have the same fiduciary relationship respecting the same shares, voting with respect to the shares shall have the following effect: (a) if only one person votes, his act binds all; (b) if two or more persons vote, the act of the majority so voting binds all; and (c) if two or more persons vote, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or any person voting the shares of a beneficiary, if any, may apply to any court of competent jurisdiction in the state of Colorado to appoint an additional person to act with the person so voting the shares. The shares shall then be voted as determined by a majority of such persons and the person appointed by the court. If a tenancy is held in equal interests, a majority or even split for the purpose of this

subsection (c) shall be a majority or even split in interest. The effects of voting stated above in this paragraph shall not be applicable if the Secretary of the corporation is given written notice of alternative voting provisions and is furnished with a copy of the instrument or order wherein the alternative voting provisions are stated.

Shares held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such shares into his name. Shares standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote shares held by him without a transfer of such shares into his name.

Shares standing in the name of a receiver may be voted by such receiver, and shares held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority so to do be contained in an appropriate order of the court by which such receiver was appointed.

A shareholder whose shares are pledged shall be entitled to vote such shares until the shares have been transferred into the name of the pledgee, and thereafter the pledgee shall be entitled to vote the shares so transferred.

Shares of its own stock belonging to the corporation shall not be voted, directly or indirectly, at any meeting, and shall not be counted in determining the total number of outstanding shares at any given time.

SECTION 10. CUMULATIVE VOTING. Cumulative voting of shares shall not be permitted in the election of directors.

SECTION 11. INFORMAL ACTION BY SHAREHOLDERS. Any action required or permitted by the Colorado Corporation Code to be taken at a shareholders' meeting may be taken without a meeting if the action is evidenced by one or more written consents describing the action taken, signed by each shareholder entitled to vote and delivered to the Secretary of the corporation for inclusion in the minutes or for filing with the corporate records. Action thus taken is effective when all shareholders entitled to vote have signed the consent, unless the consent specifies a different effective date. Written consent of the shareholders entitled to vote has the same force and effect as a unanimous vote of such shareholders and may be stated as such in any document. The record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent.

## BOARD OF DIRECTORS

SECTION 12. GENERAL POWERS. The business and affairs of the corporation shall be managed by its Board of Directors, except as otherwise may be provided in the Articles of Incorporation. One member of the Board of Directors may be appointed by the directors to the position of Chairman of the Board. If the position is filled, the Chairman of the Board, when present, shall preside at all meetings of the stockholders and of the Board of Directors and shall perform all duties incident to the office of Chairman of the Board and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 13. NUMBER, TENURE AND QUALIFICATION. Subject to such limitations imposed by law or the Articles of Incorporation, the number of directors of the corporation shall be fixed by resolution of the Board of Directors. Each director shall hold office until the next annual or special meeting of shareholders at which a new Board of Directors is elected and until his successor shall have been elected and qualified. Directors need not be residents of Colorado or shareholders of the corporation.

SECTION 14. REGULAR MEETINGS. A regular meeting of the Board of Directors shall be held without notice other than this Bylaw immediately after, and at the same place as, the annual meeting of shareholders. The Board of Directors may provide, by resolution, the time and place, either within or without Colorado, for the holding of additional regular meetings without other notice than such resolution.

SECTION 15. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the President or any director. The person or persons authorized to call special meetings of the Board of Directors may fix any place, either within or without the state of Colorado, as the place for holding any special meeting of the Board of Directors called by them.

SECTION 16. NOTICE. Notice of any special meeting shall be given at least two days previous thereto by written notice delivered personally or mailed to each director at his business address, by telegram, or by electronic facsimile transmission. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting whether before, at or after the meeting. The attendance of a director at a meeting constitutes a waiver of notice of such meeting, except in cases in which a director attends a meeting for the express purposes of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any

regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

SECTION 17. QUORUM. A majority of the number of directors fixed by Section 13 shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

SECTION 18. MANNER OF ACTING. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

SECTION 19. VACANCIES. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by the affirmative vote of a majority of the directors then in office or by an election at an annual meeting or at a special meeting of shareholders called for that purpose.

SECTION 20. COMPENSATION. By resolution of the Board of Directors, the directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors, and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

SECTION 21. PRESUMPTION OF ASSENT. A director of the corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken is deemed to have assented to the action taken unless: (a) he objects at the beginning of such meeting to the holding of the meeting or the transacting of business at the meeting; (b) he contemporaneously requests that his dissent from the action be entered in the minutes of such meeting; or (c) he gives written notice of his dissent to the presiding officer of such meeting before its adjournment or to the Secretary of the corporation immediately after adjournment of such meeting. The right of dissent as to a specific action taken in a meeting of a board or a committee is not available to a director who votes in favor of such action.

SECTION 22. INFORMAL ACTION BY DIRECTORS. Any action required or permitted to be taken at a meeting of the Board of Directors or any Committee designated by said Board, or any other action which may be taken at a meeting of the Board of Directors or designated Committee, may be taken without a meeting if the

action is evidenced by one or more written consents describing the action taken, signed by each director or committee member, and delivered to the Secretary for inclusion in the minutes or for filing with the corporate records. Action thus taken is effective when all directors or committee members have signed the consent, unless the consent specifies a different effective date. Such consent has the same force and effect as a unanimous vote of the directors or committee members and may be stated as such in any document.

SECTION 23. TELEPHONE BOARD MEETINGS. One or more members of the Board of Directors or any committee designated by such Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

SECTION 24. COMMITTEES. The Board of Directors, by resolution adopted by a majority of the full Board of Directors, may designate from among its members an executive committee and one or more other committees each of which, to the extent provided in the resolution, shall have and may exercise such powers as shall be conferred or authorized by the resolution appointing it so long as such powers are consistent with Section 7-5-107 of the Colorado Corporation Code. A majority of any such committee may determine its action and may fix the time and place of its meetings, unless provided otherwise by the Board of Directors. The Board of Directors shall have the power at any time to fill vacancies and, to change the size or membership of, and to discharge any such committee.

Each such committee shall keep a written record of its acts and proceedings and shall submit such record to the Board of Directors at each regular meeting thereof and at such other times as requested by the Board of Directors. Failure to submit such record, or failure of the Board to approve any action indicated therein will not, however, invalidate such action to the extent it has been carried out by the corporation prior to the time the record of such action was, or should have been, submitted to the Board of Directors as herein provided.

## OFFICERS

SECTION 25. NUMBER AND AGE REQUIREMENT. The officers of the corporation shall be a President, a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. A Chairman of the Board, one or more Vice Presidents and such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of

President and Secretary. The officers of a Corporation shall be natural persons of the age of eighteen years or older.

SECTION 26. ELECTION AND TERM OF OFFICE. The officers of the corporation to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the shareholders. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

SECTION 27. REMOVAL. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

SECTION 28. VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 29. CHAIRMAN OF THE BOARD. The Chairman of the Board of Directors, if elected, or failing his election, the President, shall preside at all meetings of the stockholders and the Board of Directors and shall perform such other duties as may be prescribed from time to time by the Board of Directors or by the Bylaws. If a Chairman of the Board is elected, the Chairman shall possess the same power as the President to act on behalf of the corporation, to sign all certificates, contracts and other instruments of the corporation which may be authorized by the Board of Directors or required by laws or otherwise necessary.

SECTION 30. PRESIDENT. The President shall be the chief operating officer of the corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the corporation. He shall, when present, preside at all meetings of the shareholders and of the Board of Directors unless a Chairman of the Board has been appointed in which case the President shall preside at such meetings only in the absence of the Chairman of the Board. He may sign, with the Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, or any other proper officer of the corporation thereunto authorized by the Board of Directors, certificates for shares of the corporation, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board of

Directors or by these bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties as may be prescribed by the Board of Directors from time to time.

SECTION 31. VICE PRESIDENT. The Vice President, if one is named, or, if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors, shall be the officer(s) next in seniority after the President. Each Vice President shall also perform such duties and exercise such powers as are appropriate and as are prescribed by the Board of Directors or President. Upon the death, absence, or disability of the President, the Vice President, or, if there shall be more than one, the Vice Presidents in the order determined by the Board of Directors, shall perform the duties and exercise the powers of the President.

SECTION 32. SECRETARY. The Secretary shall give, or cause to be given, notice of all meetings of the shareholders and special meetings of the Board of Directors, keep the minutes of such meetings, have charge of the corporate seal and stock records, be responsible for the maintenance of all corporate records and files and the preparation and filing of reports to governmental agencies, other than tax returns, have authority to affix the corporate seal to any instrument requiring it (and, when so affixed, it may be attested by his signature), and perform such other functions and duties as are appropriate and customary for the office of Secretary as the Board of Directors or the President may prescribe from time to time.

SECTION 33. TREASURER. The Treasurer shall have control of the funds and the care and custody of all stocks, bonds and other securities owned by the corporation and shall be responsible for the preparation and filing of tax returns. He shall receive all moneys paid to the corporation and shall have the authority to give receipts and vouchers, to sign and endorse checks and warrants in its name and on its behalf, and give full discharge for the same. He shall also have charge of disbursement of the funds of the corporation, shall keep full and accurate records of the receipts and disbursements, and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as shall be designated by the Board of Directors. He shall perform such other duties and have such other powers as are appropriate and customary for the office of treasurer as the Board of Directors or President may prescribe from time to time.

SECTION 34. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The Assistant Secretaries, when authorized by the Board of Directors, may sign with the President or a Vice President certificates for shares of the corporation the issuance of which shall have been authorized by a resolution of the Board of Directors.

The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively or by the President or the Board of Directors.

SECTION 35. SALARIES. The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the corporation.

## STOCK

SECTION 36. REGULATIONS. The Board of Directors may make such rules and regulations as it may deem appropriate concerning the issuance, transfer and registration of certificates for shares of the corporation, or the issuance of shares without certificates, including the appointment of transfer agents and registrars.

SECTION 37. CERTIFICATES. Unless any class or series of shares is to be issued without certificates, certificates representing shares of the capital stock of the corporation shall be delivered to each shareholder of record. Such certificates shall be in such form as may be determined by the Board of Directors and shall be signed by the Chairman of the Board of Directors or by the President or any Vice President and by the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer, and may be sealed with the seal of the corporation, or with a facsimile thereof. The names and addresses of the owners, with the number of the shares and date of issue, shall be entered on the stock transfer books of the corporation. Each certificate representing shares shall state upon its face: (a) the name of the corporation; (b) that the corporation is organized under the laws of the State of Colorado; (c) the name of the person to whom issued; (d) the number and class of shares and the designation of the series, if any, which the certificate represents; and (e) the par value, if any, of each share represented by the certificate or a statement that the shares are without par value. A statement of the designations, preferences, qualifications, limitations, restrictions, and special or relative rights of the shares of each class shall be set forth in full or summarized on the face or back of each certificate, or in lieu thereof, the certificate may set forth that such a statement or summary will be furnished to any shareholder upon request without charge.

SECTION 38. SHARES WITHOUT CERTIFICATES. The Board of Directors may authorize the issuance of any classes or series of shares of the corporation without certificates. Such authoriza-

tion shall not affect shares already represented by certificates until they are surrendered to the corporation. Upon the issuance or transfer of shares without certificates, the corporation shall send the shareholder a written statement setting forth those items set forth in Section 37 above for certificates.

SECTION 39. CONSIDERATION FOR SHARES. Shares shall be issued for such consideration, expressed in dollars, but not less than the par value thereof, as shall be fixed from time to time by the Board of Directors. Treasury shares shall be disposed of for such consideration expressed in dollars as may be fixed from time to time by the Board of Directors. Such consideration may consist, in whole or in part, of money, other property, tangible or intangible, or labor or services actually performed for the corporation. Neither the promise of future services of any person, the promissory note of a subscriber or direct purchaser of shares from the corporation, nor the unsecured or non-negotiable promissory note of any other person shall constitute payment or part payment for shares of the corporation.

SECTION 40. TRANSFERS OF SHARES. Transfers of shares shall be made on the stock transfer books of the corporation only upon presentation of the certificate or certificates, or the written statement or statements if no certificates are issued, endorsed by the person or persons appearing upon the face of such certificate or statement to be the owner, or accompanied by a proper transfer or assignment separate from the certificate or statement, except as may otherwise be expressly provided by the statutes of the State of Colorado or by order of a court of competent jurisdiction. The Board of Directors may, in their discretion, require a signature guaranty before making any transfer. Upon such transfers of shares being recorded on the stock transfer books of the corporation, the corporation shall issue a new certificate to the person entitled thereto and cancel the old certificate. The corporation shall be entitled to treat the person in whose name any shares of stock are registered on its books as the owner of those shares for all purposes.

SECTION 41. LOST CERTIFICATES. In case of the alleged loss, destruction, theft, or mutilation of a certificate representing shares of the corporation, the Board of Directors may direct the issuance of a new certificate in lieu thereof upon such terms and indemnity to the corporation as the Board of Directors may prescribe.

SECTION 42. DIVIDENDS. The Board of Directors may from time to time declare, and the corporation may pay, dividends in the manner and upon the terms and conditions provided by law and its Articles of Incorporation.

## CONTRACTS, LOANS, CHECKS AND DEPOSITS

SECTION 43. CONTRACTS. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

SECTION 44. LOANS. No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

SECTION 45. CHECKS, DRAFTS, ETC. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

SECTION 46. DEPOSITS. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

## MISCELLANEOUS

SECTION 47. RULES OF ORDER. At any meeting of shareholders or directors of the corporation at which a question of procedure arises, the person presiding at the meeting may rely upon the Roberts Rules of Order as then in effect to resolve any such question.

SECTION 48. SEAL. The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation and the state of incorporation and the words, "Corporate Seal."

SECTION 49. EMERGENCY BYLAWS. Subject to repeal or change by action of the shareholders, and in accordance with the Colorado Corporation Code, the Board of Directors of the corporation may adopt emergency bylaws which shall, notwithstanding any different provision elsewhere in the bylaws or in the articles of incorporation, be operative during any national emergency as described in the Colorado Corporation Code.

SECTION 50. CORPORATE RECORDS, INSPECTION. Any books, accounts, and records required by these Bylaws or by the laws of the State of Colorado to be maintained by the corporation may be in written form or in any form capable of being converted into written form within a reasonable time. The books, accounts, and

records of the corporation shall be open to inspection by any member of the Board of Directors at all times; and open to inspection by the stockholders at such time, and subject to such regulations as the Board of Directors may prescribe, except as otherwise provided by statute of Colorado or of the United States of America.

SECTION 51. AMENDMENTS. These Bylaws, or any part thereof, may be altered, amended or repealed and new Bylaws may be adopted, at any time and from time to time, by the shareholders or by the Board of Directors, unless the shareholders, in amending or repealing these Bylaws, or any part thereof, expressly provide that the directors may not amend or repeal such Bylaws, or part thereof.

SECTION 52. HEADINGS. The headings are for organization, convenience and clarity. In interpreting these Bylaws, they shall be subordinated in importance to the other written material.

# STOCK PURCHASE AGREEMENT

THIS STOCK PURCHASE AGREEMENT (this "Agreement") is dated as of the 6th day of January 1994, by and between INTEGRATED MEDICAL SYSTEMS, INC., a Colorado corporation ("IMS") and McKESSON CORPORATION, a Delaware corporation ("McKesson").

WHEREAS, McKesson previously has invested in IMS through (i) a $250,000 purchase of 50,000 shares of IMS common stock and (ii) the purchase of a note dated September 22, 1993 ln the principal amount of $500,000 convertible into IMS common stock (the "Common Note");

WHEREAS, McKesson and IMS have entered into a Network Sponsorship and Participation Agreement dated November 17, 1993 (the "Sponsorship Agreement");

NOW, THEREFORE, McKesson and IMS hereby agree as follows:

## 1. PURCHASE AND SALE OF STOCK

1.1. SALE AND ISSUANCE OF PREFERRED STOCK. Subject to the terms and conditions of this Agreement, McKesson agrees to purchase at the Closing and IMS agrees to sell and issue to McKesson at the Closing: (i) 1,250,000 shares of IMS 1993 Series C Convertible Preferred Stock (par value $0.01 per share), at a price of $4.00 per share (the "First Tranche Shares"); and (ii) 1,000,000 shares of IMS 1993 Series C Convertible Preferred Stock

(par value $0.01 per share), at a price or $5.00 per share (the "Second Tranche Shares"). The First Tranche Shares and the Second Tranche Shares shall be referred to collectively as the "Shares."

1.2. CLOSING. The purchase and sale of the Shares shall take place at the offices of McKesson at 10:00 p.m., on January 14, 1994, or at such other time and place as McKesson and IMS shall mutually agree, either orally or in writing (which time and place are designated as the "Closing"), provided, however, that, if the Closing does not take place on or before January 31, 1994, this Agreement shall terminate and be without further effect. At the Closing, IMS shall deliver to McKesson a certificate representing the First Tranche Shares and shall deliver to the Escrow Agent a certificate representing the Second Tranche Shares against payment of the aggregate purchase price of $10,000,000.

1.3. PAYMENT OF PURCHASE PRICE.

1.3.1. McKesson shall pay IMS at the Closing $4,500,000, less the amount of the Accrued Interest defined below, for the purchase of the First Tranche Shares by federal funds, wire transfer, or such other form of immediate funds as shall be mutually agreed upon by McKesson and IMS. As further consideration for the First Tranche Shares, McKesson shall cancel the Common Note, representing IMS' indebtedness of $500,000 plus

accrued interest under the Note as of the Closing (the "Accrued Interest") to McKesson.

1.3.2. MS acknowledges receipt, prior to the Closing, of $1,000,000 toward the purchase of the Second Tranche Shares under the terms of the Sponsorship Agreement. As the remaining payment for the Second Tranche Shares, McKesson shall deposit with the Escrow Agent the sum of $4,000,000, such deposit to constitute an escrow fund (the "Escrow Fund") to be governed by the terms set forth in Section 1.4 and in the Escrow Agreement.

1.4. ESCROW PROVISIONS.

1.4.1. ESCROW PERIOD. The Escrow Fund shall remain in existence until October 31, 1994 (the "Escrow Period"), except as provided in Section 1.4.3.

1.4.2. PERFORMANCE STANDARDS. If McKesson determines that IMS has met the Performance Standards set forth in Schedule 1, McKesson shall instruct the Escrow Agent to deliver the Escrow Fund to IMS as set forth in Section 1.4.3 and upon such delivery the Escrow Agent shall deliver to McKesson the certificate for the Escrow Shares.

1.4.3. INSTRUCTIONS FOR DELIVERY OF ESCROW FUNDS. Upon receipt by the Escrow Agent on or before the last day of the

Escrow Period of an Officer's Certificate instructing the Escrow Agent to pay the Escrow Fund to IMS, the Escrow Agent shall deliver to IMS, as promptly as practicable, the amount of money or other assets held in the Escrow Fund and shall deliver to McKesson the Escrow Shares.

1.4.4. DISTRIBUTION OF THE ESCROW FUNDS. Promptly following termination of the Escrow Period, the Escrow Agent shall deliver to McKesson all of the funds in the Escrow Fund unless there has been an Officer's Certificate theretofore properly delivered to the Escrow Agent under Section 1.4.3.

1.4.5. RETURN OF SHARES. At such time, if any, as the Escrow Agent delivers to McKesson the funds in the Escrow Fund, the Escrow Agent shall return to IMS the certificate representing the Escrow Shares.

## 2. REPRESENTATIONS AND WARRANTIES OF IMS

IMS hereby represents and warrants to McKesson the following, except as set forth in the schedule of exceptions attached hereto as Schedule 2, specifically identifying the relevant subparagraph(s) hereof, which exceptions shall be deemed to be representations and warranties as if made hereunder:

2.1. ORGANIZATION: GOOD STANDING; QUALIFICATION. IMS is a corporation duly organized, validly existing, and in good

standing under the laws of the State of Colorado, has ail requisite corporate power and authority to own and operate its properties and assets and to carry on its business as now conducted and as proposed to be conducted, to execute and deliver this Agreement, the Stockholder's Rights Agreement, the Escrow Agreement, the Certification of Designation, the Warrants and any other document to which IMS is a party, the execution and delivery or which is contemplated hereby (collectively, the "Alliance Documents"), to issue and sell the Shares, the Common Stock issuable upon conversion of the Shares and the Preferred Stock issuable upon exercise of the Warrants, and to carry out the provisions of this Agreement, the Warrants, the Stockholder's Rights Agreement and each Alliance Document. IMS is duly qualified to transact business and is in good standing in each jurisdiction in which the failure so to qualify would have a material adverse effect on its business, properties, prospects or financial condition.

2.2. AUTHORIZATION. All corporate action on the part of IMS, its officers, directors and stockholders necessary for the authorization, execution and delivery of this Agreement, and each Alliance Document, the performance of all obligations of IMS hereunder and thereunder at the Closing and the authorization, issuance (or reservation for issuance), sale, and delivery of the Shares, the Common Stock issuable upon conversion of the Shares and the Preferred Stock issuable upon exercise of the Warrants has been taken or will be taken prior to the Closing, and this

Agreement and each Alliance Document constitute valid and legally binding obligations of IMS, enforceable in accordance with their respective terms except; (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally; or (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies.

2.3. VALID ISSUANCE OF SERIES C PREFERRED STOCK. The Shares, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid, and nonassessable, and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and under applicable state and federal securities laws. The Common Stock issuable upon conversion of the Shares and Preferred Stock issuable upon exercise of the Warrants purchased under this Agreement have been duly and validly reserved for issuance and, upon issuance in accordance with the terms of this Agreement, will be duly and validly issued, fully paid and nonassessable and will be free of restrictions on transfer other than restrictions on transfer under this Agreement and under applicable state and federal securities laws.

2.4. GOVERNMENTAL CONSENTS. No consent, approval, qualification, order or authorization of, or filing with, any

local, state or federal governmental authority, is required on the part or IMS in connection with IMS' valid execution, delivery or performance or this Agreement, the offer, sale or issuance of the Shares by IMS, the issuance of Common Stock upon conversion of the Shares or the issuance of Preferred Stock upon exercise of the Warrants, except that any notices of sale required to be filed with the Securities and Exchange Commission under Regulation D of the Securities Act of 1933, as amended (the "Securities Act"), or such post-closing filings as may be required under applicable state securities laws, which will be timely filed within the applicable periods therefor.

2.5. CAPITALIZATION AND VOTING RIGHTS. The authorized capital of IMS consists, or will consist prior to the Closing, of:

2.5.1. PREFERRED STOCK. 500,000 shares of Series A Preferred Stock, par value 51.00 per share, none outstanding and none available for issuance. 2,000,000 shares of Series B Preferred Stock, par value $1.00 (the "Series B Preferred Stock"), all of which are issued and outstanding and are convertible into 1,333,333 shares of Common Stock. The rights, privileges and preferences of the Series B Preferred Stock are as stated in IMS' Certificate of Incorporation. 5,000,000 shares of Series C Preferred Stock, $.01 par value, of which none are issued or outstanding.

2.5.2. COMMON STOCK. 20,000,000 shares or common stock ("Common Stock"), no par value, of which 5,973,369 shares are issued and outstanding, 1,333,333 shares are reserved for issuance upon exercise of outstanding warrants, and 1,600,000 shares are reserved for issuance to holders of employee options upon exercise.

2.5.3. STOCKHOLDERS. The outstanding Series B Preferred Stock, Common Stock, Warrants and employee options are owned by the stockholders and employees and in the amounts specified in Schedule 3 hereto.

2.5.4. REGISTRATION. The outstanding shares of Series B Preferred Stock and Common Stock have been issued in accordance with the registration or qualification provisions of the Securities Act of 1933 and any relevant state securities laws or pursuant to valid exemptions therefrom.

2.5.5. OUTSTANDING OPTIONS. Except as described on Schedule 2, there are not outstanding any options, warrants, rights (including conversion or preemptive rights and rights of first refusal) or agreements for the purchase or acquisition from IMS of any shares of its capital stock. IMS is not a party or subject to any agreement or understanding, and, to the best of IMS' knowledge, there is no agreement or understanding between any persons that affects or relates to the voting or giving of

written consents with respect to any security or the voting by a director of IMS.

2.6. SUBSIDIARIES. IMS does not own or control, directly or indirectly, any interest or investment (whether equity or debt) in any corporation, association, partnership, business, trust or other entity, except as listed in Schedule 2 (each a "Present Subsidiary"). Each Present Subsidiary is a corporation duly organized, validly existing, and in good standing under the laws of the state of its incorporation, and has all necessary corporate power an authority to own, lease, and operate its properties and to carry on its business as it is now conducted. All issued and outstanding shares of capital stock of each Present Subsidiary are duly authorized, validly issued, fully paid and nonassessable, and are owned by IMS free and clear of all liens, encumbrances, security agreements, equities, options, claims, charges, and restrictions. IMS has full power to transfer these shares without obtaining the consent or approval of any other person or governmental authority except for obtaining a consent to transfer from the proper state authority of the state in which the Present Subsidiary is incorporated. There are not outstanding rights, options, warrants, subscriptions, calls, convertible securities or agreements of any kind under which a Present Subsidiary is or may become obligated to issue or to transfer any shares of its capital stock of any kind.

2.7. CONTRACTS AND OTHER COMMITMENTS. IMS does not have any contract, agreement, lease, commitment or proposed transaction, written or oral, absolute or contingent, other than (i) contracts for the purchase or supplies and services that were entered into in the ordinary course of business and that do not involve more than $50,000, and do not extend for more than one (1) year beyond the date hereof, (ii) sales contracts entered into in the ordinary course of business, and (iii) contracts terminable at will by IMS on no more than thirty (30) days' notice without cost or liability to IMS and that do not involve any employment or consulting arrangement and are not material to the conduct of IMS' business. For the purpose of this paragraph, employment and consulting contracts and contracts with labor unions, and license agreements and any other agreements relating to the acquisition or disposition of IMS' technology, shall not be considered to be contracts entered into in the ordinary course of business.

2.8. RELATED-PARTY TRANSACTIONS. No employee, officer, or director of IMS or member of his or her immediate family thereof is indebted to IMS, nor is IMS indebted (or committed to make loans or extend or guarantee credit) to any of them. To the best of IMS' knowledge, none of such persons has any direct or indirect ownership interest in any firm or corporation with which IMS is affiliated or with which IMS has a business relationship, or any firm or corporation that competes with IMS. To the best of IMS' knowledge, no officer or director or any member of their

immediate families is, directly or indirectly, interested in any material contract with IMS.

2.9. REGISTRATION RIGHTS. IMS is not obligated to register under the Securities Act any of its presently outstanding securities or any of its securities that may subsequently be issued.

2.10. PERMITS. IMS has all governmental franchises, permits, licenses, and any similar authority necessary for the conduct of its business as now being conducted by it, the lack of which could materially and adversely affect the business, properties, prospects or financial condition of IMS and believes it can obtain, without undue burden or expense, any similar authority for the conduct of its business as planned to be conducted. IMS is not in default in any material respect under any of such franchises, permits, licenses or other similar authority.

2.11. COMPLIANCE WITH OTHER INSTRUMENTS. IMS is not in violation or default in any material respect of any provision of its Certificate of Incorporation or Bylaws or in any material respect of any provision of any mortgage, indenture, agreement, instrument or contract to which it is a party or by which it is bound or of any federal or state judgment, order, writ, decree, statute, rule or regulation applicable to IMS. The execution, delivery and performance by IMS of this Agreement, and each

Alliance Document, and the consummation of the transactions contemplated hereby and thereby will not result in any such violation or be in material conflict with or constitute, with or without the passage of time or giving of notice, either a material default under any such provision or an event that results in the creation of any material lien, charge or encumbrance upon any assets of IMS or the suspension, revocation, impairment, forfeiture, or non-renewal of any material permit, license, authorization or approval applicable to IMS, its business or operations, or any of its assets or properties.

2.12. LITIGATION. There is no action, suit, proceeding or investigation pending or currently threatened against IMS that questions the validity of this Agreement, or any of the Alliance Documents or the right of IMS to enter into such agreements, or to consummate the transactions contemplated hereby or thereby, or that might result, either individually or in the aggregate, in any material adverse change in the assets, business properties, prospects or financial condition of IMS, or in any material change in the current equity ownership of IMS. The foregoing includes, without limitation, any action, suit, proceeding or investigation pending or currently threatened involving the prior employment of any of IMS' employees, their use in connection with IMS' business of any information or techniques allegedly proprietary, to any of their former employers, their obligations under any agreements with prior employers, or negotiations by IMS with potential backers of, or investors in, IMS or its proposed

business. IMS is not a party to, or to the best of its knowledge, named in any order, writ, injunction, judgment or decree of any court of government agency or instrumentality. There is no action, suit or proceeding by IMS currently pending or that IMS currently intends to initiate.

2.13. RETURNS AND COMPLAINTS. IMS has received no customer complaints concerning its products or services that, if true, would materially adversely affect the operations or financial condition of IMS.

2.14. DISCLOSURE. IMS has provided McKesson with all the information that McKesson has requested for deciding whether to purchase the Shares and to enter into the transactions contemplated by this Agreement and the Alliance Documents, and all information which IMS believes is reasonably necessary to enable McKesson to make such decision. To the best of IMS' knowledge after reasonable investigation, neither this Agreement nor any other written statements or certificates made or delivered in connection herewith contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements herein or therein not misleading.

2.15. MANAGEMENT PLAN. The Management Plan, dated August 28, 1993, previously delivered to McKesson (the "Management Plan") was prepared in good faith by IMS and does not, to the best of IMS' knowledge after reasonable investigation, contain

any untrue statement of a material fact nor does it omit to state a material fact necessary to make the statements therein not misleading, except that with respect to projections and expressions of opinion or predictions contained in the Management Plan, IMS represents only that such projections and expressions of opinion and predictions were made in good faith and that IMS believes there is a reasonable basis therefor.

2.16. OFFERING. The offer, sale and issuance of the Shares as contemplated by this Agreement are exempt from the registration requirements of the Securities Act, and neither IMS nor any authorized agent acting on its behalf will take any action hereafter that would cause the loss of such exemption.

2.17. TITLE TO PROPERTY AND ASSETS; LEASES. Except (a) as reflected in the Financial Statements (defined in Section 2.18), (b) for liens for current taxes not yet delinquent, (c) for liens imposed by law and incurred in the ordinary course of business for obligations not past due to carriers, warehousemen, laborers, materialmen and the like, (d) for liens with respect to pledges or deposits underwriters' compensation laws or similar legislation, or (e) for minor defects in title, none of which, individually or in the aggregate materially interferes with the use of such property, IMS owns its property and assets free and clear of all mortgages, liens, claims and encumbrances. With respect to the property and assets it leases, IMS is in compliance with such leases and, to the best of its knowledge,

holds a valid leasehold interest free or any liens, claims or encumbrances, subject to clauses (a)-(e) above.

2.18. FINANCIAL STATEMENTS. MS has delivered to McKesson its audited financial statements (balance sheet and profit and loss statement, statement of stockholders' equity and statement of changes in financial position including any notes thereto) at December 31, 1992 and for the fiscal year then ended and its unaudited financial statements (balance sheet and profit and loss statement including any notes thereto) as at and for the nine-month period ended September 30, 1993 ("Financial Statements"). The Financial Statements have been prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods indicated and with each other, except that unaudited Financial Statements may not contain all footnotes required by generally accepted accounting principles. The Financial Statements fairly present the financial condition and operating results of IMS as of the dates, and for the periods, indicated therein, subject in the case of unaudited Financial Statements to normal year-end audit adjustments. Except as set forth in the Financial Statements, IMS has no material liabilities, contingent or otherwise, other than (i) liabilities incurred in the ordinary course of business subsequent to September 30, 1993 and (ii) obligations under contracts and commitments incurred in the ordinary course of business and not required under generally accepted accounting principles to be reflected in the Financial Statements, which, in

both cases, individually or in the aggregate, are not material to the financial condition or operating results or IMS. Except as disclosed in the Financial Statements, IMS is not a guarantor or indemnitor of any indebtedness of any other person, firm or corporation. IMS maintains and will continue to maintain a standard system of accounting established and administered in accordance with generally accepted accounting principles.

2.19. CHANGES To the best of IMS' knowledge, since September 30, 1993, none or the following has occurred which remain in effect at the date of Closing:

2.19.1. any change in the assets, liabilities, financial condition or operating results of IMS from that reflected in the Financial Statements, except changes in the ordinary course of business that have not been, in the aggregate, materially adverse;

2.19.2. any damage, destruction or loss, whether or not covered by insurance, materially and adversely affecting the business, properties, prospects or financial condition of IMS (as such business is presently conducted and as it is proposed to be conducted);

2.19.3. any waiver or compromise by IMS of a valuable right or of a material debt owed to it;

2.19.4. any satisfaction or discharge of any lien, claim or encumbrance or payment of any obligation by IMS, except in the ordinary course or business and which is not material to the business, properties, prospects or financial condition of IMS (as such business is presently conducted and as it is proposed to be conducted);

2.19.5. any material change to a material contract or arrangement by which IMS or any of its assets is bound or subject;

2.19.6. any material change in any compensation arrangement or agreement with any employee, officer, director, or stockholder;

2.19.7. any sale, assignment or transfer of any patents, trademarks, copyrights, trade secrets or other intangible assets;

2.19.8. any resignation or termination of employment of any key officer of IMS; and IMS, to the best of its knowledge, does not know of the impending resignation or termination of employment of any such officer;

2.19.9. receipt of notice that there has been a loss of, or material order cancellation by, any major customer of IMS;

2.19.10. any mortgage, pledge, transfer of a security interest in, or lien, created by IMS, with respect to any of its material properties or assets, except liens for taxes not yet due or payable;

2.19.11. any loans or guarantees made by IMS to or for the benefit of its employees, officers or directors, or any members of their immediate families, other than travel advances and other advances made in the ordinary course of its business;

2.19.12. any declaration, setting aside or payment or other distribution in respect of any of IMS' capital stock, or any direct or indirect redemption, purchase or other acquisition of any of such stock by IMS; or

2.19.13. to the best of IMS' knowledge, any other event or condition of any character that might materially and adversely affect the business, properties, prospects or financial condition of IMS (as such business is presently conducted and as it is proposed to be conducted); or

2.19.14. any agreement or commitment by IMS to do any of the things described in this Section 2.19.

2.20. PATENTS AND TRADEMARKS. IMS owns or possesses sufficient legal
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rights to all patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses,

information, proprietary rights and processes necessary for its business as now conducted and as proposed to be conducted without any conflict with or infringement of the rights of others. Except for agreements with its own employees or consultants, substantially in the form referenced in paragraph 2.23 below, there are no outstanding options, licenses, or agreements of any kind relating to the foregoing, nor is IMS bound by or a party to any options, licenses or agreements of any kind with respect to the patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, proprietary rights and processes of any other person or entity. IMS has not received any communications alleging that IMS has violated or, by conducting its business as proposed, would violate any of the patents, trademarks, service marks, trade names, copyrights, trade secrets or other proprietary rights of any other person or entity. IMS is not aware that any of it employees is obligated under any contract (including licenses, covenants or commitments of any nature) or other agreement, or subject to any judgment, decree or order of any court or administrative agency, that would interfere with the use of such employee's best efforts to promote the interests of IMS or that would conflict with IMS' business as proposed to be conducted. Neither the execution nor delivery of this Agreement, nor the carrying on of IMS' business by the employees of IMS, nor the conduct of IMS' business as proposed, will, to the best of IMS' knowledge, conflict with or result in a breach of the terms, conditions or provisions of, or constitute a default under, any contract, covenant or instrument under which

any or such employees is now obligated. IMS does not believe it is or will be necessary to use any inventions or any of its employees (or persons it currently intends to hire) made prior to their employment by IMS.

2.21. LICENSING AND DISTRIBUTION RIGHTS. IMS has not granted rights to license, market, distribute, or sell its products to any other person and is not bound by any agreement that affects IMS' exclusive right to develop, distribute, market, or sell its products.

2.22. EMPLOYEES; EMPLOYEE COMPENSATION. There is no strike, or labor dispute or union organization activities pending or threatened between it and its employees. None of IMS' employees belongs to any union or collective bargaining unit. IMS has complied in all material respects with all applicable state and federal equal employment opportunity and other laws related to employment. No employee of IMS is or will be in violation of any judgment, decree or order, or any term of any employment contract, patent disclosure agreement or other contract or agreement relating to the relationship of any such employee with IMS or any other party because of the nature of the business conducted or to be conducted by IMS or to the utilization by the employee of his best efforts with respect to such business. IMS is not party to or bound by any currently effective employment contract, deferred compensation agreement, bonus plan, incentive plan, profit sharing plan, retirement

agreement, or other employee compensation agreement. IMS is not aware that any officer or key employee, or that any group of key employees, intends to terminate their employment with IMS, nor does IMS have a present intention to terminate the employment of any of the foregoing. Subject to general principles related to wrongful termination of employees, the employment of each officer and employee of IMS is terminable at the will of IMS.

2.23. CONFIDENTIALITY AGREEMENTS. Each director and officer of IMS has executed and each employee will execute by January 31, 1994 a Confidentiality Agreement substantially in one of the forms attached as Schedule 4 hereto.

2.24. TAX RETURNS, PAYMENTS, AND ELECTIONS. IMS has filed all tax returns and reports as required by law. These returns and reports are true and correct in all material respects. IMS has paid all taxes and other assessments due, except those contested by it in good faith. The provision for taxes of IMS as shown in the Financial Statements is adequate for taxes due or accrued as of the date thereof. IMS has not elected pursuant to the Internal Revenue Code of 1986, as amended ("Code"), to be treated as an S corporation or a collapsible corporation pursuant to Section 341(f) of Section 1362(a) of the Code, nor has it made any other elections pursuant to the Code (other than elections that relate solely to methods of accounting, depreciation or amortization) that would have a material effect on the business, properties, prospects or financial condition of IMS. IMS has

never had any tax deficiency proposed or assessed against it and has not executed any waiver of any statute or limitations on the assessment or collection of any tax or governmental charge. None of IMS' federal income tax returns and none or its state income or franchise tax or sales or use tax returns has ever been audited by governmental authorities. Since the date of the Financial Statements, IMS has made adequate provisions on its books or account for all taxes, assessments and governmental charges with respect to its business, properties and operations for such period. IMS has withheld or collected from each payment made to each of its employees, the amount of all taxes (including, but not limited to, federal income taxes, Federal Insurance Contribution Act taxes and Federal Unemployment Tax Act taxes) required to be withheld or collected therefrom, and has paid the same to the proper tax receiving officers or authorized depositaries.

2.25. INSURANCE. IMS has in full force and effect fire and casualty insurance policies, with extended coverage, sufficient in amount (subject to reasonable deductibles) to allow it to replace any of its properties that might be damaged or destroyed. IMS has in full force and effect products liability insurance in amounts customary for companies similarly situated.

2.26. ENVIRONMENTAL AND SAFETY LAWS. IMS is not in violation of any applicable statute, law, or regulation relating to the environment or occupational health and safety, and to the

best of its knowledge, no material expenditures are or will be required in order to comply with any such existing statute, law, or regulation.

2.27. MINUTE BOOKS. The copy of the minute books of IMS provided to McKesson contain minutes of all meetings of directors and stockholders and all actions by written consent without a meeting by the directors and stockholders since the time of incorporation and reflect all actions by the directors (and any committee of directors) and stockholders with respect to all transactions referred to in such minutes accurately in all material respects.

2.28. REAL PROPERTY HOLDING CORPORATION. IMS is not a real property holding corporation within the meaning of Internal Revenue Code Section 897(c)(2) and any regulations promulgated thereunder.

2.29. REVIEW BY COUNSEL. This Agreement, as well as all of the Alliance Documents, have been reviewed by counsel for IMS.

## 3. REPRESENTATIONS AND WARRANTIES OF McKESSON

McKesson hereby represents and warrants that:

3.1. AUTHORIZATION. It has full power and authority to enter into this Agreement and that this Agreement constitutes a valid and legally binding obligation of McKesson.

3.2. PURCHASE ENTIRELY FOR OWN ACCOUNT. This Agreement is made to McKesson in reliance upon McKesson's representation to IMS, which by McKesson's execution of this Agreement McKesson hereby confirms, that the Shares, the Common Stock issuable upon conversion of the Shares and the Preferred Stock issuable upon exercise or the Warrants (collectively, the "Securities") will be acquired for investment for McKesson's own account, not as a nominee or agents and not with a view to the resale or distribution of any part thereof, and that McKesson has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, McKesson further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to such person or to any third person, with respect to any of the Securities.

3.3. RELIANCE UPON McKESSON'S REPRESENTATIONS. McKesson understands that the Shares are not, and any Common Stock acquired on conversion thereof at the time of issuance may not be, registered under the 1933 Act on the ground that the sale provided for in this Agreement and the issuance of securities hereunder is exempt from registration under the 1933 Act pursuant to Section 4(2) thereof, and that IMS' reliance on such exemption

is predicated on McKesson's representations set forth herein. McKesson realizes that the basis for the exemption may not be present if, notwithstanding such representations, McKesson has in mind merely acquiring the Shares or Common Stock issuable upon conversion thereof for a fixed or determinable period in the future, or for a market rise, or for sale if the market does not rise. McKesson has no such intention.

3.4. RESTRICTED SECURITIES. McKesson understands that the Securities may not be sold, transferred, or otherwise disposed of without registration under the 1933 Act or an exemption therefrom, and that in the absence of an effective registration statement covering the Securities or an available exemption from registration under the 1933 Act, the Securities must be held indefinitely. In particular, McKesson is aware that the Securities may not be sold pursuant to Rule 144 promulgated under the 1933 Act unless the conditions of that Rule are met.

3.5. LEGENDS. To the extent applicable, each certificate or other document evidencing any of the Securities shall be endorsed with the legends set forth below, and McKesson covenants that, except to the extent such restrictions are waived by IMS, McKesson shall not transfer the shares represented by any such certificate without complying with the restrictions on transfer described in the legends endorsed on such certificate:

3.5.1. "THE SHARES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED, OR HYPOTHECATED ABSENT AN EFFECTIVE REGISTRATION THEREOF UNDER SUCH ACT OR COMPLIANCE WITH RULE 144 PROMULGATED UNDER SUCH ACT, OR UNLESS IMS HAS RECEIVED AN OPINION OF COUNSEL, SATISFACTORY TO THE CORPORATION AND ITS COUNSEL, THAT SUCH REGISTRATION IS NOT REQUIRED."

3.5.2. "THE SHARES REPRESENTED HEREBY ARE SUBJECT TO AN AGREEMENT BETWEEN THE HOLDER HEREOF AND THE CORPORATION DATED AS OF JANUARY 6, 1994, THAT RESTRICTS THE SALE, ASSIGNMENT AND TRANSFER OF THE SHARES REPRESENTED HEREBY. A COPY OF SUCH AGREEMENT IS AVAILABLE, WITHOUT CHARGE, FROM THE SECRETARY OF THE CORPORATION."

## 4. CONDITIONS OF McKESSON'S OBLIGATIONS AT CLOSING

The obligations of McKesson under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions:

4.1. REPRESENTATIONS AND WARRANTIES. The representations and warranties of IMS contained in Section 2 shall be true on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the date of such Closing.

4.2. PERFORMANCE. IMS shall have performed and complied with all agreements, obligations and conditions contained in this Agreement that are required to be performed or complied with by it on or before the Closing.

4.3. COMPLIANCE CERTIFICATE. The President of IMS shall deliver to McKesson at the Closing a certificate certifying that the conditions specified in paragraphs (4.1, 4.2, 4.4, 4.6, 4.7, 4.9, 4.10, 4.11 and 4.12) have been fulfilled.

4.4. QUALIFICATIONS. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Shares pursuant to this Agreement shall be duly obtained and effective as of the Closing.

4.5. PROCEEDINGS AND DOCUMENTS. All corporate and other proceedings in connection with the transactions contemplated at the Closing and all documents incident thereto shall be reasonably satisfactory in form and substance to McKesson's counsel, which shall have received all such counterpart original and certified or other copies of such documents as it may reasonably request.

4.6. OPINION OF COMPANY COUNSEL. McKesson shall have received from Hopper and Kanouff, counsel for IMS, an opinion,

dated the date or the Closing, in form and substance satisfactory to McKesson's counsel, to the effect that:

4.6.1. IMS has been duly incorporated and organized and is a validly existing corporation in good standing under the laws of the State of Colorado.

4.6.2. IMS has the requisite corporate power to own its property and assets and to conduct its business as it is currently being conducted and, to the best of our knowledge, is qualified as a foreign corporation to do business and is in good standing in each jurisdiction in the United States in which the ownership of its property or the conduct of its business requires such qualification and where any statutory fines or penalties or any corporate disability imposed for the failure to qualify would materially and adversely affect IMS, its assets, financial condition or operations.

4.6.3. This Agreement, the Escrow Agreement, the Warrants and the Stockholders' Rights Agreement have been duly and validly authorized, executed and delivered by IMS and constitute valid and binding agreements of IMS enforceable against IMS in accordance with their respective terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, arrangement, moratorium or other similar laws affecting creditors' rights, and subject to general equity

principles and to limitations on availability or equitable relief, including specific performance.

4.6.4. The authorized and outstanding capital stock of IMS is as follows:

4.6.4.1. PREFERRED STOCK. 2,000,000 shares of Series B Preferred Stock (the "Series B Preferred Stock"). Such shares of Series B Preferred Stock have been duly authorized issued and delivered, are validly outstanding, fully paid and nonassessable. The respective rights, privileges and preferences of the Series B Preferred Stock are as stated in IMS' Certificate of Incorporation. The Common Stock issuable upon the conversion of the Series B Preferred Stock purchased under this Agreement has been duly and validly reserved for issuance and, when issued in accordance with IMS' Articles of Incorporation as amended to date, will be validly issued, fully paid and nonassessable. 500,000 shares of Series A Preferred Stock have been duly authorized, reacquired by IMS and are not available for reissuance.

4.6.4.2. COMMON STOCK. 20,000,000 shares of Common Stock, of which 5,979,369 shares have been duly authorized, issued and delivered and are validly outstanding, fully paid and nonassessable.

4.6.4.3. OUTSTANDING RIGHTS. Except as set forth on Schedule 2, there are no preemptive rights or, to the best of counsel's knowledge, options, warrants, conversion privileges, or other rights (or agreements for any such rights) outstanding to purchase or otherwise obtain any of IMS' securities.

4.6.5. The outstanding shares of Preferred Stock and Common Stock have been issued in accordance with the registration or qualification provisions or the Securities Act of 1933 and any relevant state securities laws or pursuant to valid exemptions therefrom.

4.6.6. The execution, delivery and performance of this Agreement, the Escrow Agreement, the Warrants and the Stockholders' Rights Agreement by IMS on or prior to the Closing and the issuance of the Shares pursuant thereto do not violate any provision of IMS' Articles of Incorporation or Bylaws, and do not constitute a material default under the provisions of any material agreement known to us to which IMS is a party or by which it is bound, and do not violate or contravene (a) any governmental statute, rule or regulation applicable to IMS or (b) any order, writ, judgment, injunction, decree, determination or award which has been entered against IMS and of which we are aware, the violation or contravention of which would materially and adversely affect IMS, its assets, financial condition or operations.

4.6.7. To the best of our knowledge, there is no action, proceeding or investigation pending or overtly threatened against IMS before any court or administrative agency that questions the validity of this Agreement, the Escrow Agreement, the Warrants or the Stockholders' Rights Agreement or might result, either individually or in the aggregate, in any material adverse change in the assets, financial condition, or operations of IMS.

4.6.8. All consents, approvals, authorizations, or orders of, and filings, registrations, and qualifications with any regulatory authority or governmental body in the United States required for the consummation by IMS of the transactions contemplated by the Agreement, have been made or obtained, except (a) for the filing of a Notice of Transaction Pursuant To Section 2501(f) of the California Corporate Securities Law of 1968, and (b) for the filing of a Form D pursuant to; Securities and Exchange Commission Regulation D.

4.6.9. The offer and sale of the Shares is, the issuance of the Common Stock upon conversion of the Shares and the issuance of the Preferred Stock upon exercise of the Warrants would be, exempt from the registration requirements of the Securities Act of 1933, as amended to date.

4.6.10. Upon issuance as described in this Agreement, the Shares will have been duly authorized and issued,

and upon release of the Escrow Fund to IMS, all such Shares will be fully paid and non-assessable.

4.7. ESCROW AGREEMENT. IMS, McKesson, and First Interstate Bank of California shall have entered into the Escrow Agreement in the form attached as EXHIBIT A.

4.8. STOCKHOLDER'S RIGHTS AGREEMENT. IMS and McKesson shall have entered into the Stockholder's Rights Agreement in the form attached as EXHIBIT B.

4.9. CERTIFICATION OF DESIGNATION. IMS shall have executed and filed with the Colorado Secretary of State a Certification of Designation, Voting Powers, Preferences and Rights of the 1993 Series C Convertible Preferred Stock in the form attached as EXHIBIT C.

4.10. WARRANTS. IMS shall have approved, executed and delivered to McKesson Warrant A in the form attached as EXHIBIT D; Warrant B in the form attached as EXHIBIT E; and Warrant C in the form attached as EXHIBIT F.

4.11. LITIGATION.

4.11.1. For purposes of this Section 4.11, "Litigation" shall mean the following lawsuits: INTEGRATED MEDICAL SYSTEMS V. NEWHEALTH GROUP ET AL., No. 525054 (Cal. Sup.

Ct.); NEWHEALTH GROUP, HEALTHCARE COMMUNICATIONS TECHNOLOGIES, ET AL. V. INTEGRATED MEDICAL SYSTEMS, INC., No. 93-3757R (Central D. Cal.); HEALTHCARE COMMUNICATIONS TECHNOLOGIES INC. V. INTEGRATED MEDICAL SYSTEMS, INC., ET AL.; No. BC090637 (Cal. Sup. Ct.); and IN RE THE NEWHEALTH GROUP, INC. V. INTEGRATED MEDICAL SYSTEMS, INC. ET AL., No. LA 93-40166-ER (U.S. Bankruptcy Court, Central D. Cal.); and any other lawsuits brought after the date of this Agreement between IMS and NewHealth Group or any of its principals or affiliated parties.

4.11.2. IMS, McKesson, John McChesney ("McChesney") and David Holbrooke ("Holbrooke") shall have entered into an agreement as follows: Holbrooke and McChesney shall be jointly (but not severally) liable to IMS for all attorneys' fees and court costs (but not including any judgment against IMS) beyond $250,000 (net of any insurance recoveries by IMS for costs of the Litigation incurred after the Closing) that are incurred by IMS in the Litigation after January 1, 1994 up to a maximum obligation of Holbrooke and McChesney of $200,000 each, or $400,000 in the aggregate. Payment of such obligations by Holbrooke and McChesney shall be effected either (i) by delivery to IMS for surrender of one share of IMS common stock for each $4.00 of obligation incurred or (ii) by cash payments. Such agreement shall also provide that in the event IMS ultimately recovers, or receives in settlement, the outstanding stock of IMS-Net of Northern California, Inc. not held by IMS which is a subject of a portion of the Litigation (the "Stock"), and if the

Board of Directors or TMS other than McChesney and Holbrooke reasonably determines that the value of the Stock to IMS is at least equal to the amount advanced by Holbrooke and McChesney, then IMS shall reimburse, on a share-for-share basis or for cash payments advanced, Holbrooke and McChesney for all shares previously surrendered by them or for cash advanced to IMS under this Agreement.

4.12. MODIFICATION OF CERTAIN AGREEMENTS.

4.12.1. The Software License and Services Agreement dated March 22, 1991 between IMS and Medical Communication Networks, Inc. shall be amended to the reasonable satisfaction of McKesson to limit the scope of the License (as defined therein) to the Exclusive Territory (as defined therein).

4.12.2. The Shareholders' Agreement dated March 22, 1991 between IMS and UniHealth America Ventures ("UniHealth") shall be amended to the reasonable satisfaction of McKesson to delete the buy-sell provisions contained therein.

4.12.3. The Software License and Services Agreement dated March 22, 1991 between IMS and UniHealth shall be amended to the reasonable satisfaction of McKesson to limit the License (as defined therein) to current Approved UHA Organizations (as defined therein) and to future Approved UHA Organizations located in Ventura, Los Angeles, San Bernadino, Riverside and Orange Counties.

## 5. CONDITIONS OF IMS' OBLIGATIONS AT CLOSING

The obligations of IMS to McKesson under this Agreement are subject to the fulfillment on or before the Closing of each of the following conditions by McKesson:

5.1. REPRESENTATIONS AND WARRANTIES. The representations and warranties of McKesson contained in Section 3 shall be true on and as of the Closing with the same effect as though such representations and warranties had been made on and as of the Closing.

5.2. QUALIFICATIONS. All authorizations, approvals, or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Stock pursuant to this Agreement shall be duly obtained and effective as of the Closing.

6. INDEMNIFICATION

IMS agrees to defend and indemnify McKesson and its respective affiliates, directors, officers, stockholders, employees, agents, successors and assigns (collectively, Indemnified Persons"), against and hold each of them harmless on an after-tax basis from any and all losses, liabilities, claims, suits, proceedings, demands, judgments, damages, expenses and costs, including, without limitation, reasonable counsel fees, costs and expenses incurred in the investigation, defense or settlement of any claims covered by this indemnify which any of Indemnified Persons may suffer or incur by reason of any of the following: (i) the inaccuracy or breach of any of the representations, warranties and covenants of IMS contained in this Agreement or any document, certificate or agreement delivered pursuant hereto; (ii) any claim made by any person (including any governmental entity) relating to or arising out of transactions, events, acts or omissions of or by IMS prior to the Closing that is not adequately accrued or otherwise reflected on the Financial Statements, other than any and all liabilities of IMS which are incurred after the date of such Financial Statements in the ordinary course of its business which are usual and normal in amount in relation to IMS' past experience.

7. MISCELLANEOUS

7.1. ENTIRE AGREEMENT. This Agreement and the documents referred to herein constitute the entire agreement between the parties and no party shall be liable or bound to the other party in any manner by any warranties, representations, or covenants except as specifically set forth herein or therein.

7.2. SURVIVAL OF WARRANTIES. The warranties, representations and covenants of IMS and McKesson contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing.

7.3. SUCCESSORS AND ASSIGNS. Except as otherwise provided herein, the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties (including permitted transfers of any Shares sold hereunder or any Common Stock issued upon conversion thereof). Nothing in this Agreement, express or implied, is intended to offer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in his Agreement.

7.4. COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.5. TITLES AND SUBTITLES. The titles and subtitles used in this agreement are used for convenience only and are not to be considered construing or interpreting this Agreement.

7.6. NOTICES. Unless otherwise provided, any notice required or permitted under this Agreement shall be given in

writing and shall be deemed effectively given upon personal delivery to the party to be notified by hand or professional courier service or five days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address indicated for such party on the signature page hereof, or at such other address as such party may designate by ten (10) days' advance written notice to the other party.

7.7. FINDER'S FEES. Each party represents that it neither is nor will be obligated for any finders' fee or commission in connection with this transaction.

McKesson agrees to indemnify and to hold harmless IMS from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which McKesson or any of its officers, partners, employees, or representatives is responsible.

IMS agrees to indemnify and hold harmless McKesson from any liability for any commission or compensation in the nature of a finders' fee (and the costs and expenses of defending against such liability or asserted liability) for which IMS or any of its officers, employees or representatives is responsible.

7.8. EXPENSES. Each party shall pay all costs and expenses that it incurs with respect to the negotiation, execution, delivery and performance of this Agreement.

7.9. AMENDMENTS AND WAIVERS. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of IMS and the holders of more than 50% of the Common Stock (that has not been sold to the public) issued or issuable upon conversion of the Shares. Any amendment or waiver effected in accordance with this paragraph shall be binding upon each holder of any securities purchased under this Agreement at the time outstanding (including securities into which such securities have been converted), each future holder of all such securities, and IMS.

7.10. SEVERABILITY. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms.

7.11. CORPORATE SECURITIES LAW. THE SALE OF THE SECURITIES WHICH ARE THE SUBJECT OF THIS AGREEMENT HAS NOT BEEN QUALIFIED WITH THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA

AND THE ISSUANCE OF SUCH SECURITIES OR THE PAYMENT OR RECEIPT OF ANY PART OF THE CONSIDERATION FOR SUCH SECURITIES PRIOR TO SUCH QUALIFICATION IS UNLAWFUL, UNLESS THE SALE OF SECURITIES IS EXEMPT FROM QUALIFICATION BY SECTION 25100, 25102 OR 25105 OF THE CALIFORNIA CORPORATION CODE. THE RIGHTS OF ALL STOCK PURCHASE AGREEMENT PARTIES TO THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON SUCH QUALIFICATION BEING OBTAINED, UNLESS THE SALE IS SO EXEMPT.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By: /s/ John A. McChesney
---
Name: John A. McChesney
---
Title: Chairman/CEO
---

McKESSON CORPORATION

By: /s/ David L. Mahoney
---
Name: David L. Mahoney
---
Title: Vice President
---

EXHIBIT 10.2

INTEGRATED MEDICAL SYSTEMS, INC.
NETWORK SPONSORSHIP AND PARTICIPATION AGREEMENT

THIS AGREEMENT ("AGREEMENT") dated November 17, 1993 is between McKesson Corp. ("MCKESSON"), a Delaware corporation, and Integrated Medical Systems, Inc. ("IMS"), a Colorado corporation.

WHEREAS, IMS develops and operates medical communication networks ("IMS NETWORKS") in various areas throughout the United States to improve the efficiency and effectiveness of medical communications between members of the medical community;

WHEREAS, McKesson wishes to utilize IMS Networks to send and receive information between IMS Network sites and McKesson's clients, and to link IMS Networks to McKesson's transaction processing and data base management infrastructure to send and receive information in support of a variety of services;

THEREFORE, in consideration for the fees and mutual undertakings specified herein and for other good and valuable consideration, McKesson and IMS hereby agree as follows:

1. DEFINITIONS

1.1. COMCENTER HARDWARE. ComCenter Hardware shall mean the message switching computer(s), owned by an IMS Network, on which the ComCenter Software runs.

1.2. COMCENTER SOFTWARE. ComCenter Software shall mean that portion of the IMS-NET Software that resides on the ComCenter Hardware.

1.3. COMCENTER SYSTEM. ComCenter System shall mean the ComCenter Software and ComCenter Hardware together.

1.4. IMS-NET(TM) SOFTWARE. IMS-NET Software shall mean the proprietary Ims communications software that supports the Ims Networks.

1.5. IMS NETWORK. An IMS Network shall mean the ComCenter Hardware, ComCenter Software, IMS-Net Software, Synergy Series Software, Network Interfaces Software, the facility and staff required to provide IMS communication services in a specific market area, and the Sponsors, Subscribers and other participants from and to whom IMS communication services are transmitted in such market area.

1.6. JOINT VENTURE. Joint Venture shall mean any IMS related business unit for which an economic interest has been sold to another party.

1.7. LICENSED SOFTWARE. Licensed Software shall mean, collectively, the ComCenter Software, the IMS-NET Software; the PC-COM Software, the Relay Software and the Synergy Series Software, together with any and all subsequent modifications, revisions, improvements, enhancements or updates made by IMS in such software.

1.8. MCKESSON PRODUCT LINES. Each of the following shall be a McKesson Product Line (collectively, the "McKesson Product Lines"): (i) the Prescription Benefit Management Services transmitted through the IMS Networks; (ii) financial services products offered by McKesson or its direct or indirect subsidiaries; and (iii) other groups of products mutually agreed upon by the parties.

1.9. NCW. NCW (Network Communications Workstation) shall mean an IBM personal computer or fully compatible computer on which the PC-COM Software runs.

1.10. NETWORK INTERFACE. Network Interface shall mean those portions of the IMS-NET Software that automate or partially automate message transmission and which are used to interface McKesson's existing computer system(s) to the IMS Network, and which include the Relay Software.

1.11. NETWORK SERVICES. Network Services shall mean the services provided by IMS under Section 4.

1.12. PC-COM SOFTWARE. PC-COM Software shall mean that portion of the IMS-NET Software that resides on a Sponsor's or Subscriber's NCW.

1.13. PRESCRIPTION BENEFIT MANAGEMENT SERVICES. Prescription Benefit Management Services shall mean the following services provided by McKesson or its direct or indirect subsidiaries: transaction and medical information services related to prescription drugs. Prescription Benefit Management Services include, but are not limited to, the following: formulary management; quality of care alerts involving drug interactions with other drugs, medical diagnosis, and other health care information; patient drug histories; patient instructions for drug use; electronic prescriptions and refill authorization; clinical information and educational sources related to drugs; information on drug distribution and pricing; clinical trial information; and drug sample management.

1.14. RELAY(TM) SOFTWARE. Relay Software shall mean proprietary software of IMS that captures medical reports from any Sponsor information systems and distributes them to Subscribers.

1.15. SCRIPT. Script shall mean any customized screen or message format that appears on a Sponsor's or Subscriber's NCW to

facilitate the sending or receiving of information in a format selected by a Sponsor.

1.16. SECONDARY MARKETS. Any geographic market not listed in Exhibit B.

1.17. SPONSOR. Sponsor shall mean any participant on any IMS Network that pays a fee to IMS (or its subsidiaries) in order to allow communication with a Subscriber. Sponsors include, but are not limited to, hospitals, clinical laboratories, managed care organizations, drug companies, and other payors and providers.

1.18. SUBDIRECTORY. Subdirectory shall mean a list of Sponsor sites and Subscriber sites that appears as a screen or screens on Sponsor's NCW and designates those Subscribers that Sponsor has paid to communicate with through an IMS Network.

1.19. SUBSCRIBER. Subscriber shall mean any physician private practice site that is authorized by IMS to participate in an IMS Network.

1.20. SYNERGY SERIES(TM) SOFTWARE. Synergy Series Software shall mean the practice support software modules provided by IMS to Subscribers other than the PC-Com Software. Synergy Series Software shall include the following capabilities: "Word Pro(TM)" word processing; "Clinical Manager(TM)" clinical data management; "Rx Manager(TM)" drug therapy management; "CME Manager(TM)" continuing medical education management; Image Manager(TM) clinical imaging management and other modules that may be offered by IMS from time to time.

1.21. TOP FIFTY MARKETS. Top Fifty Markets shall mean the markets set forth in EXHIBIT B.

## 2. BENEFICIARIES

IMS will make available the services set forth in this Agreement on the terms set forth herein to McKesson and any of its direct or indirect subsidiaries. Services provided to other entities, including partners of McKesson or its subsidiaries pursuant to joint venture, joint marketing, technology development or other types of associations shall be governed by separate sponsorship and participation agreements.

## 3. TERM

3.1. Except as otherwise provided in Section 3.2, the initial term of this Agreement will be five (5) years, and will renew annually thereafter unless canceled in writing by either party sixty (60) days prior to the Agreement anniversary date.

3.2. At such time, if any, as McKesson makes the First Tranche investment described in Section 5, the provisions set forth in Section 3.1 will be without effect and the following provisions shall become effective. The initial term of this Agreement will be five (5) years, and will renew automatically for one year unless canceled in writing by McKesson at least sixty (60) days prior to the expiration of the initial five-year terms. After the initial extension period, the Agreement will renew automatically for subsequent one-year terms unless: (i) McKesson cancels the Agreement in writing at least sixty (60) days prior to the Agreement anniversary date; or (ii) McKesson has failed to make Cumulative Payments of at least $250,000 in each of the four quarters preceding the renewal date.

## 4. NETWORK SERVICES AND FEES

4.1. EXISTING NETWORKS IN TOP FIFTY MARKETS. For the fees set forth in Exhibit A, with respect to existing IMS Networks located in the Top Fifty Markets that are wholly controlled by IMS, IMS will provide access for the McKesson Product Lines to all Subscribers designated by McKesson. For existing IMS Networks located in the Top Fifty Markets that are operated under a Joint Venture agreement, IMS will use its best efforts to obtain the consent of the Joint Venture participants to provide such access by McKesson. IMS shall ensure that any Joint Venture agreements entered into after the date of this Agreement shall expressly permit such access by McKesson.

4.2. NEW NETWORKS IN TOP FIFTY MARKETS. For the fees set forth in Exhibit A, IMS will provide access for the McKesson Product Lines to all Subscribers designated by McKesson in IMS Networks established after the date of this Agreement in the Top Fifty Markets. Additionally, McKesson shall have the right to become the initial Sponsor for IMS Networks established after the date of this Agreement in the Top Fifty Markets. McKesson acknowledges that IMS reserves the right to determine how many new IMS Networks IMS shall be established in the Top Fifty Markets after the date of this Agreement.

4.3. ACCESS TO NETWORKS IN SECONDARY MARKETS. For the fees set forth in Exhibit A, IMS will provide access for the McKesson Product Lines to all current Subscribers designated by McKesson in IMS Networks in the Secondary Markets. IMS and McKesson will negotiate in good faith the terms on which access would be made available to McKesson to new Subscribers in IMS Networks in the Secondary Markets. McKesson acknowledges that routing of messages, directory updates and other message or data files to Subscribers through the COMCENTER of an IMS Network in a Secondary Market requires approval of, and involves the payment of fees to, the operator of such IMS Network.

4.4. OTHER SERVICES. For no additional fee, IMS will take the actions set forth in this Section 4.4, provided, however,

that for IMS Networks operated in conjunction with another party who is not under the control of IMS, IMS' obligations under this Section shall be subject to approval by such other party, which approval IMS shall use its best efforts to obtain.

a. IMS will provide and maintain for each IMS Network the ComCenter System, related personnel and services needed to support current and future IMS Networks (together, the "Network Infrastructure"). IMS has the right to make such changes to the Network Infrastructure, IMS-NET Software and Synergy Series Software as it deems advisable in order to serve the needs of all IMS Network participants.

b. IMS will assist McKesson to develop and implement a plan to recruit prospective Subscribers specified by McKesson for access to the McKesson Product Lines. IMS will implement such a plan through direct mail, telemarketing, group presentations and individual site visits.

McKesson will, in its sole discretion, choose the Subscribers that are to be included in McKesson's Subdirectory, subject to acceptance by such Subscribers. McKesson will have the right to approve all IMS communications with McKesson clients related to McKesson's participation in the IMS Networks. IMS and the IMS Networks will conduct themselves at all times according to the highest professional and ethical standards when communicating with McKesson's clients.

Nothing in this Agreement shall be construed to limit IMS' right to enroll additional Sponsors or Subscribers.

c. IMS will develop and execute a technical implementation plan for each IMS Network. Such implementation will include meetings with appropriate personnel of McKesson and McKesson's clients to identify departments and/or functions to be included on the IMS Network, development of implementation schedules and related documentation, training of personnel on Script development and other support required to assist staff to optimize utilization of IMS Networks.

d. For no additional fee, IMS, in conjunction with participating Joint Venture partners and other IMS Network operators, will be responsible for installation of Licensed Software and for providing training, support, IMS Network administration and updates and enhancements of Licensed Software to Subscribers sponsored by McKesson.

4.5. CALCULATION OF FEES. For purposes of calculating amounts due under Exhibit A, IMS Network usage shall include (i) messages in connection with McKesson Product Lines sent through an Ims Network Controller and (ii) messages in connection with McKesson Product Lines sent between McKesson or its subsidiaries and a Sponsor or Subscriber, whether transmitted directly, or through an intermediate switching point. IMS will provide

McKesson with quarterly reports summarizing volume of such messages sent through IMS Network Controllers. McKesson will provide IMS with quarterly reports summarizing volume of such messages sent between McKesson or its subsidiaries and Sponsors or Subscribers.

5. REMUNERATION AND PAYMENT

5.1. MINIMUM SPONSOR FEE. McKesson shall pay IMS, as of the date of this Agreement, a fee of one million dollars ($1,000,000) (the "Minimum Sponsor Fee").

a. Subject to paragraph 5.1(c), IMS shall credit the amount paid as the Minimum Sponsor Fee toward any fees incurred by McKesson under Exhibit A on or before December 31, 1996. Credit shall be given in IMS Networks operated under a Joint Venture Agreement only up to IMS' national sponsor and marketing agreement fees plus IMS' pro-rata ownership portion of the Joint Venture.

b. The parties acknowledge that McKesson presently contemplates an equity investment in IMS as follows: McKesson may, in its sole discretion, choose to purchase 2.25-million shares of IMS Preferred Stock for ten million dollars ($10,000,000) as set forth in this paragraph. McKesson would purchase 1,250,000 shares by releasing five million dollars ($5,000,000) to IMS at an initial closing (the "First Tranche"); and McKesson would purchase an additional 1,000,000 shares by paying the one million dollar ($1,000,000) Minimum Sponsor Fee and by placing an additional four million dollars ($4,000,000) (the "Second Tranche") in an interest bearing restricted account to be released to IMS if IMS meets or exceeds certain operating performance criteria during the period from October 1, 1993 through September 30, 1994. In the event that the performance criteria were not met, McKesson would have the right, in its discretion, to retain the four million dollars plus accrued interest and to put back to IMS the 1,000,000 shares.

(1) IMS agrees that at such time, if any, that McKesson makes the First Tranche and Second Tranche investments IMS shall issue warrants (the "Warrants") to purchase shares of convertible Series C Preferred Stock of IMS ("Shares") as follows:

(a) At the time that the First Tranche investment is made, IMS shall issue Warrants for 375,000 Shares exercisable at any time during the three-year period after such investment is made. If redeemed during the first year after issuance, the Warrants will be exercisable at five dollars ($5.00) per Share; if redeemed during the subsequent year, the Warrants will be exercisable at six dollars ($6.00) per Share; if redeemed during the subsequent

year, the Warrants will be exercisable at seven dollars ($7.00) per Share.

(b) At the time that the Second Tranche investment is released from escrow, IMS shall issue additional Warrants for 500,000 Shares exercisable at any time during the two-year period after the Second Tranche investment is released from escrow. If redeemed during the first year after issuance, the Warrants will be exercisable at six dollars ($6.00) per Share; if redeemed during the subsequent year, the Warrants will be exercisable at seven dollars ($7.00) per Share.

(c) At the time that the First Tranche investment is made, and following the payment by McKesson of the Minimum Sponsor Fee under this Agreement, IMS shall issue Warrants for 375,000 Shares exercisable at any time during the three-year period after such investment is made. If redeemed during the first year after issuance, the Warrants will be exercisable at five dollars ($5.00) per Share; if redeemed during the subsequent year, the Warrants will be exercisable at six dollars ($6.00) per Share; if redeemed during the subsequent year, the Warrants will be exercisable at seven dollars ($7.00) per Share. Notwithstanding the above, the Warrants described in this Paragraph (c) shall expire prior to the end of three years under the following circumstances. If McKesson has not made Cumulative Payments (for purposes of this Agreement, "Cumulative Payments" shall mean the full amount of the $1,000,000 Minimum Sponsor Fee, any Optional Quarterly Sponsor Payments, and any other fees paid under this Agreement) in the amounts set forth below by any dates set forth below, then the Warrants described in this Paragraph (c) shall expire thirty (30) days after such date.

| CUMULATIVE PAYMENT | DATE DUE |
|---|---|
| $1,375,000 | January 31, 1995 |
| $1,750,000 | April 30, 1995 |
| $2,125,000 | July 31, 1995 |
| $2,500,000 | October 31, 1995 |
| $3,000,000 | January 31, 1996 |
| $3,500,000 | April 30, 1996 |
| $4,000,000 | July 31, 1996 |
| $4,500,000 | October 31, 1996 |

(2) IMS agrees that, in addition to crediting the Minimum Sponsor Fee toward fees as set forth in Section 5.1

(a), at such time, if any, as the Second Tranche investment is released from escrow to IMS, the amount of the Minimum Sponsor Fee shall also be credited toward the purchase of the 2.25 million shares of IMS Preferred Stock, thus constituting one million dollars of the ten million dollar purchase price for the 2.25 million shares.

(3) The parties acknowledge that nothing in this Agreement shall be construed as a commitment or agreement by McKesson to make any equity investment in IMS and any such agreement would be subject to a separate written agreement.

c. IMS agrees that, upon receipt of written instructions from McKesson, IMS shall spend for regional or technical development efforts up to one half of the proceeds from the Minimum Sponsor Fee as directed in writing by McKesson.

The parties agree that the credit toward fees granted to McKesson under paragraph 5.1.a shall not apply to any portion of the proceeds from the Minimum Sponsor Fee for which McKesson directs the spending under this paragraph 5.1.c.

5.2. OPTIONAL QUARTERLY PAYMENTS. In addition to the Minimum Sponsor Fee, McKesson may, in its sole discretion, make quarterly prepayments toward amounts incurred under Exhibit A ("Optional Quarterly Sponsor Payments").

5.3. PAYMENT OF ADDITIONAL AMOUNTS. If McKesson incurs fees under Exhibit A which at any time exceed the cumulative amount of the Minimum Sponsor Payment and any Optional Quarterly Payments made by McKesson, then the following payment terms shall apply:

a. BILLING. IMS shall submit invoices to McKesson for amounts payable under this Agreement as they are incurred; provided, however, that invoices for Annual Sponsor Fees (as defined in Exhibit A) shall be submitted thirty (30) days before the expiration of the prior sponsorship period.

b. PAYMENT. Within thirty (30) days of receipt of an invoice, McKesson shall initiate an electronic funds transfer to the amount to be paid to a bank account designated in writing by IMS.

c. LATE FEE. In the event that McKesson fails to pay any amount owing under this Agreement by the applicable due date, IMS shall have the right to impose late payment charges on any unpaid balance at the rate of twelve percent (12%) per year.

5.4. PRICE CHANGES.

a. IMS will not increase the fees set forth in Exhibit A during the first year of this Agreement. Thereafter, throughout the term of this Agreement and any renewals, IMS not increase such fees during any contract year by a percentage

that exceeds two times any increase in the Consumer Price Index during such contract year. Notwithstanding the above, in no event shall IMS increase any fees to McKesson such that McKesson does not have the benefit of the preferred price provided to McKesson as set forth in Exhibit A.

b. IMS agrees that throughout the term of this Agreement and any renewals, if IMS reduces its fees to any Sponsor, the fees set forth in Exhibit A shall be reduced by a percentage necessary to maintain the preferred price spread provided to McKesson as set forth in Exhibit A.

c. The parties agree that they shall negotiate in good faith changes to the fees set forth in Exhibit A, or the criteria on which fees under this Agreement are based, if such changes are necessary or desirable to meet market conditions and demands.

5.5. RIGHT TO AUDIT AGREEMENTS. IMS shall provide McKesson with an annual certificate of compliance signed by an officer of IMS certifying that IMS is in compliance with the provisions of Section 5.4.

5.6. TAXES. The parties acknowledge that any fees or other charges to be paid by McKesson under this Agreement do not include any Federal, State, County or local sales, use or other excise taxes however designated that may be levied on McKesson as the buyer.

6. APPROVAL RIGHTS FOR PRESCRIPTION BENEFIT MANAGEMENT SERVICES

6.1. IMS will not introduce Prescription Benefit Management Services on or before January 31, 1995 without the approval of, and except on terms acceptable to McKesson. If McKesson makes Cumulative Payments to IMS under this Agreement in the amounts set forth below, then the rights granted to McKesson under this Section shall be extended by one year from the date IMS receives payment of such cumulative amount.

| CUMULATIVE PAYMENT | DATE DUE |
|---|---|
| $1,375,000 | January 31, 1995 |
| $3,000,000 | January 31, 1996 |
| $5,000,000 | January 31, 1997 |

6.2. Notwithstanding anything to the contrary in Section 6.1, at such time, if any, as the First Tranche investment is made, IMS will not introduce Prescription Benefit Management

Services throughout the term of this Agreement and any extension thereof without the approval of and except on terms acceptable to McKesson regardless of any Cumulative Payments made by or due from McKesson under Section 6.1.

7. DATABASE/INFORMATION SERVICES.

McKesson may elect to use IMS Networks to provide physicians and other health care entities with access to McKesson proprietary data base/information services.

8. DATA OWNERSHIP.

8.1. McKesson acknowledges that McKesson has no right of ownership or use in any data transmitted across IMS Networks that is not transmitted in connection with a McKesson Product Line.

8.2. McKesson will not compile, use or sell data that is transmitted across IMS Networks in connection with a McKesson Product Line and in which McKesson reasonably determines that a Sponsor or a Subscriber has a proprietary right, unless McKesson obtains the consent of such Sponsor or Subscriber.

8.3. Subject to the limitations set forth above, McKesson shall have the right to capture and compile data transmitted across IMS Networks in connection with McKesson Product Lines and to generate, use and sell compilations, analyses and reports based on such data. IMS acknowledges that IMS shall have no right of ownership in such data, except that IMS shall be entitled to any fees set forth in Exhibit A in connection with the transmission of such data. McKesson acknowledges that IMS intends to provide and support various application software modules and provide other solutions to assist Subscribers and other IMS Network constituents to create or update databases. McKesson acknowledges that, except as otherwise provided above, they have no proprietary rights to such databases and that both McKesson and IMS are free to negotiate agreements to gain access to such databases to support their respective business objectives.

9. SOFTWARE WARRANTY.

IMS warrants that the Licensed Software will be free of errors and malfunctions and agrees, upon notification by McKesson, to correct at its own costs, as quickly as possible but no later than 30 days after receipt of such notification, any such errors or malfunctions in its software or related documentation. This warranty will not apply in the event of any unauthorized alteration to or use of Licensed Software by McKesson.

IMS warrants that it has all right and title to or has entered into licensing agreements covering all Licensed Software.

10. CONFIDENTIALITY

As used in this Section "Confidential Information" shall mean trade secrets, pricing, marketing plans, client lists, software and other information which a party identifies as proprietary and confidential. McKesson and IMS shall not (i) disclose Confidential Information of the other party to any third party without first obtaining the express written permission of the other party, which permission shall not be unreasonably withheld, (ii) shall use Confidential Information only as is necessary to fulfill its obligations pursuant to this Agreement, and (iii) shall limit such disclosure to any of its officers or employees on a need-to-know basis for purposes of fulfilling its obligations under this Agreement.

Notwithstanding anything to the contrary in this Section, Confidential Information shall not include:

a. information which is in the public domain prior to the receiving party's receipt thereof from the supplying party, or which subsequently becomes a part of the public domain other than by the receiving party's negligence or wrongful act;

b. information which was disclosed to the receiving party by a third party having the legal right to make such disclosure, or which the receiving party can establish was in its lawful possession prior to its receipt from the supplying party;

c. information which the receiving party can establish was independently developed without breach of this agreement; and

d. information to the extent it is disclosed pursuant to a subpoena or court order.

11. OBLIGATIONS OF McKESSON TO IMS.

11.1. NETWORK LIAISON. McKesson will identify personnel responsible for working with IMS to support IMS Network activities including Subscriber marketing, interface testing, and interactions between participants in IMS Networks.

11.2. SUBSCRIBER RECRUITING. McKesson will provide reasonable and appropriate cooperation with IMS' efforts to recruit potential Subscribers, including: providing lists of targeted potential Subscribers; participating in group informational meetings; sending letters to McKesson clients, selected by McKesson, encouraging IMS Network participation; and

participating in IMS Network publicity either directly or in cooperation with McKesson clients.

11.3. NETWORK UTILIZATION. McKesson agrees not to transmit unsolicited advertising messages to Subscribers; provided, however, that McKesson may transmit unsolicited product or service information using IMS authorized procedures under which such information is stored for optional review by the Subscriber.

11.4. NETWORK ACCESS. McKesson will provide IMS Network participants with access to the data center of McKesson's subsidiary PCS Health Systems, Inc. ("PCS") consistent with access customarily provided to PCS clients.

11.5. INSTALLING SOFTWARE UPDATES. McKesson will promptly install any changes, updates or corrections to IMS software that are provided to McKesson by IMS.

12. SOFTWARE LICENSE.

IMS hereby grants to McKesson a fully paid, nonexclusive license to use the Licensed Software in connection with McKesson's rights and duties under this Agreement. Without limiting the generality of the foregoing, the right of McKesson to use Licensed Software shall include the right to conduct such evaluations and reviews of the Licensed Software as McKesson may desire, the right to make modifications or improvements in the Licensed Software for any purpose, the right to copy the Licensed Software, and the right to use the Licensed Software to provide access to the McKesson Product Lines for IMS Networks.

12.1. TERM FOR LICENSE. The License granted under this Section shall commence on the date of this Agreement and shall be effective in perpetuity.

12.2. ESCROW AGREEMENT. IMS agrees to keep, and maintain current, a copy of the Licensed Software, source codes and technical documentation in escrow with Hopper & Kanouff, Suite 200, 1610 Wynkoop, Denver, Colorado 80202, 303/892-6000 as escrow agent under the terms set forth in Exhibit D.

13. SUBSCRIBER RIGHTS AND OBLIGATIONS

IMS and Subscribers' obligations to each other are defined in the Network Subscriber Agreement, a copy of which is attached as Exhibit E for reference.

14. NETWORK PERFORMANCE/RELIABILITY

In order to insure continuity of Network service and eliminate any single point of Network failure, IMS will maintain

identical Network directories on two or more Network Controllers located in separate physical sites. If one Controller malfunctions, messages will be automatically re-routed through the back-up Controllers.

15. INDEMNIFICATION

McKesson and IMS each agrees to defend, indemnify and hold the other harmless against any and all claims, costs and expenses that may arise, be charged to, incurred by or recovered from the indemnified party and that arise, or are alleged to arise as a result of the indemnifying party's willful misconduct or acts by the indemnifying party that are a material breach of this Agreement.

IMS further agrees to defend, indemnify and hold McKesson harmless against any and all copyright infringement, trademark infringement or other intellectual property claims, costs and expenses ("Claims") that may arise, be charged to, incurred by or recovered from McKesson or its direct or indirect subsidiaries and that arise, or are alleged to arise, as a result of McKesson's use of Licensed Software or Network Services.

16. NO AGREEMENT TO MAKE EQUITY INVESTMENT

The parties mutually agree that nothing in this Agreement, nor any conduct by McKesson or IMS nor their respective directors, officers, employees, agents or representatives shall be deemed to constitute a binding agreement or understanding for McKesson to make any equity investment in IMS. Without limiting the generality of the foregoing, IMS covenants not to sue or institute any legal proceedings seeking to establish that any such contractual relationship exists under this Agreement or otherwise.

17. INSURANCE

IMS will maintain at all times general liability insurance in an amount of at least $1,000,000.

18. APPLICABLE LAW

This Agreement will be interpreted according to Colorado law.

19. SUCCESSORS AND ASSIGNS

This Agreement will be binding upon, and will inure to the benefit of, IMS and McKesson and their permitted successors and assigns.

20. ENTIRE UNDERSTANDING

This Agreement, including any attachments hereto, constitutes the entire understanding of IMS and McKesson with respect to the subject matter hereof and supersedes any prior communications, written or oral. This Agreement may be amended only by a writing executed by IMS and McKesson.

21. NOTICES

Any notice required or permitted to be given pursuant to this Agreement will be in writing and will be sent by mail or delivered personally to the signatories to this Agreement (or their designates) at the addresses set forth below. All notices will be effective upon receipt.

22. CHANGES IN LAWS, RULES AND REGULATIONS

The parties agree that if any changes in laws, rules or regulations occur which affect the terms of this Agreement, the parties shall take any and all actions and provide necessary information to comply with such laws, rules and regulations and the parties further agree that they will, if necessary, renegotiate in good faith the terms of this Agreement to comply therewith.

23. ASSIGNMENT

This Agreement may not be assigned by either party without the prior written consent of the other, and any such attempted assignment shall be without effect.

24. SEVERABILITY

Whenever possible, each provision of this Agreement shall be interpreted so as to be effective and valid under applicable law, but if any provision of this Agreement should be prohibited or found invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

IN WITNESS WHEREOF, McKesson and IMS have executed this Agreement.

AGREED TO AND ACCEPTED FOR McKESSON:

McKESSON CORPORATION
One Post Street
San Francisco, California 94104-5296
Attention: David Mahoney

By: /s/ David L. Mahoney

Title: Vice President

AGREED TO AND ACCEPTED FOR IMS:

Integrated Medical Systems, Inc.
15000 W. Sixth Avenue
Golden, CO 80401
Attention: John A. McChesney

By: /s/ John A. McChesney

Title: President/CEO

Exhibit 10.3

# STOCKHOLDER'S RIGHTS AGREEMENT

THIS STOCKHOLDER'S RIGHTS AGREEMENT (this "AGREEMENT") is made and entered into as of the 6th day of January, 1994 by and among Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), and McKesson Corporation, a Delaware corporation ("MCKESSON").

## RECITALS

WHEREAS, McKesson and IMS are parties to that certain Stock Purchase Agreement of even date herewith (the "PURCHASE AGREEMENT"), pursuant to which McKesson has agreed to purchase and IMS has agreed to sell shares of IMS' 1993 Series C Preferred Stock;

WHEREAS, McKesson's obligations under the Purchase Agreement are conditioned upon the execution and delivery by McKesson and IMS of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. RESTRICTIONS ON TRANSFERABILITY OF SECURITIES: REGISTRATION RIGHTS

1.1. CERTAIN DEFINITIONS. As used in this Agreement, the following terms shall have the following respective meanings:

(A) "CLOSING" shall mean the date of the sale of the first tranche of Shares.

(B) "COMMISSION" shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Securities Act.

(C) "EXCHANGE ACT" shall mean the Securities Exchange Act of 1934, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time.

(D) "HOLDER" shall mean McKesson and any holder of Registrable Securities to whom the registration rights conferred by this Agreement have been transferred in compliance with Section 1.11 hereof.

(E) "INITIATING HOLDERS" shall mean any Holder or Holders who in the aggregate hold not less than twenty-five percent (25%) of the outstanding Registrable Securities. For purposes of such calculation, holders of Shares shall be

considered to hold the shares of Common Stock then issuable upon conversion of such Shares.

(F) "OTHER STOCKHOLDERS" shall mean persons other than Holders who, by virtue of agreements with IMS, are entitled to include their securities in certain registrations.

(G) "RESTRICTED SECURITIES" shall mean the securities of IMS required to bear or bearing the legend set forth in Section 1.3 hereof.

(H) "REGISTRABLE SECURITIES" shall mean (i) shares of Common Stock issued or issuable pursuant to the conversion of the Shares and (ii) any Common Stock issued as a dividend or other distribution with respect to or in exchange for or in replacement of the shares referenced in (i) above, provided, however, that Registrable Securities shall not include any shares
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of Common Stock that have previously been registered or that have otherwise been sold to the public.

(I) THE TERMS "REGISTER", "registered" and "registration" shall refer to a registration effected by preparing and filing a registration statement in compliance with the Securities Act and applicable rules and regulations thereunder, and the declaration or ordering of the effectiveness of such registration statement.

(J) "REGISTRATION EXPENSES" shall mean all expenses incurred in effecting any registration pursuant to this Agreement, including, without limitation, all registration, qualification and filing fees, printing expenses, escrow fees, fees and disbursements of counsel for IMS, blue sky fees and expenses, expenses of any regular or special audits incident to or required by any such registration, but shall not include Selling Expenses and fees and disbursements of counsel for the Holders (but excluding the compensation of regular employees of IMS, which shall be paid in any event by IMS).

(K) "RULE 144" shall mean Rule 144 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(L) "RULE 145" shall mean Rule 145 as promulgated by the Commission under the Securities Act, as such Rule may be amended from time to time, or any similar successor rule that may be promulgated by the Commission.

(M) "SECURITIES ACT" shall mean the Securities Act of 1933, as amended, or any similar successor federal statute and the rules and regulations thereunder, all as the same shall be in effect from time to time, corresponding to such act.

(N) "SELLING EXPENSES" shall mean all underwriting discounts and selling commissions applicable to the sale of Registrable Securities and all fees and disbursements of counsel for any Holder (other than the fees and disbursements of counsel included in Registration Expenses).

(O) "SHARES" shall mean IMS' 1993 Series C Preferred Stock.

(P) "WARRANTS" shall the warrants granted to McKesson pursuant to the Purchase Agreement.

1.2. DEMAND REGISTRATION.

(A) DEMAND FOR REGISTRATION. If IMS shall receive from Initiating Holders at any time or times not earlier than the earlier of (i) three years after the date of this Agreement or (ii) one year after the effective date of the first registration statement filed by IMS covering an underwritten offering of any of its securities to the general public, a written request specifying that it is made pursuant to this Section 1.2 that IMS effect any registration with respect to all or a part of the Registrable Securities having a reasonably anticipated aggregate offering price, net of underwriting discounts and commissions, that exceeds $1,000,000, IMS will:

(i) promptly give written notice of the proposed registration to all other Holders; and

(ii) as soon as practicable, use its diligent best efforts to effect such registration (including, without limitation, filing post-effective amendments, appropriate qualifications under applicable blue sky or other state securities laws and appropriate compliance with the Securities Act) as would permit or facilitate the sale and distribution of all or such portion of such Registrable Securities as are specified in such request, together with all or such portion of the Registrable Securities of any Holder or Holders joining in such request as are specified in a written request received by IMS within twenty (20) days after such written notice from IMS is effective.

IMS shall not be obligated to effect, or to take any action to effect, any such registration pursuant to this Section 1.2:

(A) In any particular jurisdiction in which IMS would be required to execute a general consent to service of process in effecting such registration, qualification or compliance, unless IMS is already subject to service in such jurisdiction and except as may be required by the Securities Act;

(B) After IMS has effected two such registrations pursuant to this Section 1.2(a) and such registrations have been declared or ordered effective;

(C) During the period starting with the date sixty (60) days prior to IMS's good faith estimate of the date of filing of, and ending on a date one hundred eighty (180) days after the effective date of, a registration pursuant to Section 1.3 hereof; provided that IMS is actively employing in good faith all reasonable efforts to cause such registration statement to become effective;

(D) If the Initiating Holders propose to dispose of shares of Registrable Securities that may be immediately registered on Form S-3 pursuant to a request made under Section 1.5 hereof.

(B) Subject to the foregoing clauses (A) through (D), IMS shall file a registration statement covering the Registrable Securities so requested to be registered as soon as practicable after receipt of the request or requests of the Initiating Holders; provided, however, that if (i) in the
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good faith judgment of the Board of Directors of IMS, such registration would be seriously detrimental to IMS and the Board of Directors of IMS concludes, as a result, that it is essential to defer the filing of such registration statement at such time, and (ii) IMS shall furnish to

such Holders a certificate signed by the president of IMS stating that in the good faith judgment of the Board of Directors of IMS, it would be seriously detrimental to IMS for such registration statement to be filed in the near future and that it is, therefore, essential to defer the filing of such registration statement, then IMS shall have the right to defer such filing for the period during which such disclosure would be seriously detrimental, provided, that IMS may not defer the filing for a period of more than one hundred eighty (180) days after receipt of the request of the Initiating Holders, and, provided further, that (except as provided in clause (c) above) IMS shall not defer its obligation in this manner more than once in any twelve-month period.

The registration statement filed pursuant to the request of the Initiating Holders may, subject to the provisions of Section 1.2(b) hereof, include other securities of IMS and may include securities of IMS being sold for the account of IMS.

(C) UNDERWRITING. If the Initiating Holders intend to distribute the Registrable Securities covered by their request by means of an underwriting, they shall so advise IMS as a part of their request made pursuant to Section 1.2 and IMS shall include such information in the written notice referred to in Section 1.2(a)(i) above. The right of any Holder to registration pursuant to Section 1.2 shall be conditioned upon such Holder's participation in such underwriting and the inclusion

of such Holder's Registrable Securities in the underwriting (unless otherwise mutually agreed by a majority in interest of the Initiating Holders and such Holder with respect to such participation and inclusion) to the extent provided herein. A Holder may elect to include in such underwriting all or a part of the Registrable Securities he holds.

(D) PROCEDURES. If IMS shall request inclusion in any registration pursuant to Section 1.2 of securities being sold for its own account, or if other persons shall request inclusion in any registration pursuant to Section 1.2, the Initiating Holders shall, on behalf of all Holders, offer to include such securities in the underwriting and may condition such offer on their acceptance of the further applicable provisions of this Section 1 (including Section 1.12). IMS shall (together with all Holders, and other persons proposing to distribute their securities through such underwriting) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected for such underwriting by a majority in interest of the Initiating Holders, which underwriter(s) are reasonably acceptable to IMS. Notwithstanding any other provision of this Section 1.2, if the representative of the underwriters advises the Initiating Holders in writing that marketing factors require a limitation on the number of shares to be underwritten, the number of shares to be included in the underwriting or registration shall be allocated as set forth in Section 1.13 hereof. If the person who has requested inclusion in such registration as provided above does not agree to the terms of any

such underwriting, such person shall be excluded therefrom by written notice from IMS, the underwriter or the Initiating Holders. The securities so excluded shall also be withdrawn from registration. Any Registrable Securities or other securities excluded shall also be withdrawn from such registration. If shares are so withdrawn from the registration and if the number of shares to be included in such registration was previously reduced as a result of marketing factors pursuant to this Section 1.2(d), then IMS shall offer to all holders who have retained rights to include securities in the registration the right to include additional securities in the registration in an aggregate amount equal to the number of shares withdrawn, with such shares to be allocated among such Holders requesting additional inclusion in accordance with Section 1.13.

1.3. COMPANY REGISTRATION.

(a) If IMS shall determine to register any of its securities either for its own account or the account of a security holder or holders exercising their respective demand registration rights (other than pursuant to Section 1.2 hereof), other than a registration relating solely to employee benefit plans, or a registration relating solely to a Commission Rule 145 transaction, or a registration on any registration form which does not permit secondary sales, IMS will:

(i) promptly give to each Holder written notice thereof; and

(ii) use its best efforts to include in such registration (and any related qualification under blue sky laws or other compliance), except as set forth in Section 1.3(b) below, and in any underwriting involved therein, all the Registrable Securities specified in a written request or requests, made by any Holder within twenty (20) days after the written notice from IMS described in clause (i) above is effective. Such written request may specify all or a part of a Holder's Registrable Securities.

(b) If the registration of which IMS gives notice is for a registered public offering involving an underwriting, IMS shall so advise the Holders as a part of the written notice given pursuant to Section 1.3(a)(i). In such event the right of any Holder to registration pursuant to Section 1.3 shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their securities through such underwriting shall (together with IMS and the holders of other securities of IMS distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the representative of the underwriter or underwriters selected by IMS.

(c) Notwithstanding any other provision of this Section 1.3, if the representative of the underwriters advises IMS in writing that marketing factors require a

limitation on the number of shares to be underwritten, IMS may (subject to the following limitations) exclude all Registrable Securities from, or limit the number of Registrable Securities to be included in, the registration and underwriting:

(i) If the registration is the first IMS initiated registered offering of IMS' securities to the general public, IMS may limit, to the extent so advised by the underwriters, the amount of securities (including Registrable Securities) to be included in the registration by IMS' stockholders (including the Holders), or may exclude, to the extent so advised by the underwriters, such underwritten securities entirely from such registration.

(ii) If such registration is the second or any subsequent IMS-initiated registered offering of IMS' securities to the general public, IMS may limit, to the extent so advised by the underwriters, the amount of securities to be included in the registration by IMS' stockholders (including the Holders); provided, however, that the
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aggregate value of securities (including Registrable Securities) to be included in such registration by IMS' stockholders (including the Holders) may not be so reduced to less than twenty-five (25%) of the total value of the securities.

IMS shall so advise all holders of securities requesting registration, and the number of shares of securities that are entitled to be included in the registration and underwriting

shall be allocated first to IMS for securities being sold for its own account and thereafter as set forth in Section 1.13. If any person does not agree to the terms of any such underwriting, he shall be excluded therefrom by written notice from IMS or the underwriter. Any Registrable Securities or other securities excluded or withdrawn from such underwriting shall be withdrawn from such registration.

If shares are so withdrawn from the registration or if the number of shares of Registrable Securities to be included in such registration was previously reduced as a result of marketing factors, IMS shall then offer to all persons who have retained the right to include securities in the registration the right to include additional securities in the registration in an aggregate amount equal to the number of shares so withdrawn, with such shares to be allocated among the persons requesting additional inclusion in accordance with Section 1.13 hereof.

1.4. EXPENSES OF REGISTRATION. All Registration Expenses incurred in connection with any registration, qualification or compliance pursuant to Sections 1.3 and 1.5 hereof, and the first registration pursuant to Section 1.2 hereof and reasonable fees of one counsel for the selling stockholders in the case of the first registration pursuant to Section 1.2 shall be borne by IMS; provided, however, that if the Holders bear the Registration Expenses for any registration proceeding begun pursuant to Section 1.2 and subsequently withdrawn by the Holders registering shares therein, such registration proceeding shall not be counted as a requested registration pursuant to Section 1.2 hereof, except in the event that such

withdrawal is based upon material adverse information relating to IMS that is different from the information known or available (upon request from IMS or otherwise) to the Holders requesting registration at the time of their request for registration under Section 1.2, in which event such registration shall not be treated as a counted registration for purposes of Section 1.2 hereof, even though the Holders do not bear the Registration Expenses for such registration. All Selling Expenses relating to securities so registered shall be borne by the holders of such securities pro rata on the basis of the number of shares of securities so registered on their behalf.

1.5. REGISTRATION ON FORM S-3.

(a) After its initial public offering, IMS shall use its best efforts to qualify for registration on Form S-3 or any comparable or successor form or forms. After IMS has qualified for the use of Form S-3, in addition to the rights contained in the foregoing provisions of this Section 1, the Holders of Registrable Securities shall have the right to request registrations on Form S-3 (such requests shall be in writing and shall state the number of shares of Registrable Securities to be disposed of and the intended methods of disposition of such shares by such Holder or Holders), provided, however, that IMS shall not be obligated to effect any such registration if (i) the Holders, together with the holders of any other securities of IMS entitled to inclusion in such registration, propose to sell Registrable Securities and such other securities (if any) on Form S-3 at an aggregate price to the public of less than

$1,000,000, or (ii) in the event that IMS shall furnish the certification described in paragraph 1.2(a)(ii) (but subject to the limitations set forth therein) or (iii) in a given twelve-month period, after IMS has effected one (1) such registration in any such period.

(b) If a request complying with the requirements of Section 1.5(a) hereof is delivered to IMS, the provisions of Sections 1.2(a)(i) and (ii) and Section 1.2(b) hereof shall apply to such registration. If the registration is for an underwritten offering, the provisions of Sections 1.2(c) and 1.2(d) hereof shall apply to such registration.

1.6. REGISTRATION PROCEDURES. In the case of each registration effected by IMS pursuant to Section 1, IMS will keep each Holder advised in writing as to the initiation of each registration and as to the completion thereof. At its expense, IMS will use its best efforts to:

(a) Keep such registration effective for a period of one hundred twenty (120) days or until the Holder or Holders have completed the distribution described in the registration statement relating thereto, whichever first occurs; provided, however, that (i) such 120-day period shall be extended for a period of time equal to the period the Holder refrains from selling any securities included in such registration at the request of an underwriter of Common Stock (or other securities)

of IMS; and (ii) in the case of any registration of Registrable Securities on Form S-3 that are intended to be offered on a continuous or delayed basis, such 120-day period shall be extended, if necessary, to keep the registration statement effective until all such Registrable Securities are sold, provided that Rule 415, or any successor rule under the Securities Act, permits an offering on a continuous or delayed basis, and provided further that applicable rules under the Securities Act governing the obligation to file a post-effective amendment permit, in lieu of filing a post-effective amendment (I) includes any prospectus required by Section 10(a)(3) of the Securities Act or (II) reflects facts or events representing a material or fundamental change in the information set forth in the registration statement, the incorporation by reference of information required to be included in (I) and (II) above to be contained in periodic reports filed pursuant to Section 13 or 15(d) of the Exchange Act in the registration statement;

(b) Prepare and file with the Commission such amendments and supple ments to such registration statement and the prospectus used in connection with such registration statement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement;

(c) Furnish such number of prospectuses and other documents incident thereto, including any amendment of or supplement to the prospectus, as a Holder from time to time may reasonably request;

(d) Notify each seller of Registrable Securities covered by such registration statement at any time when a prospectus relating thereto is required to be delivered under the Securities Act of the happening of any event as a result of which the prospectus included in such registration statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in the light of the circumstances then existing, and at the request of any such seller, prepare and furnish to such seller a reasonable number of copies of a supplement to or an amendment of such prospectus as may be necessary so that, as thereafter delivered to the purchasers of such shares, such prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or incomplete in the light of the circumstances then existing;

(e) Cause all such Registrable Securities registered pursuant hereunder to be listed on each securities exchange on which similar securities issued by IMS are then listed;

(f) Provide a transfer agent and registrar for all Registrable Securities registered pursuant hereunder and a CUSIP number for all such Registrable Securities, in each case not later than the effective date of such registration;

(g) Otherwise use its best efforts to comply with all applicable rules and regulations of the Commission, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve months, but not more than 18 months, beginning with the first month after the effective date of the Registration Statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act; and

(h) In connection with any underwritten offering pursuant to a registration statement filed pursuant to Section 1.2 hereof, IMS will enter into an underwriting agreement reasonably necessary to effect the offer and sale of Common Stock, provided such underwriting agreement contains customary underwriting provisions and provided further that if the underwriter so requests the underwriting agreement will contain customary contribution provisions.

1.7. INDEMNIFICATION.

(a) IMS will indemnify each Holder, each of its officers, directors and partners, legal counsel and accountants and each person controlling such Holder

within the meaning of Section 15 of the Securities Act, with respect to which registration, qualification or compliance has been effected pursuant to this Article 1, and each underwriter, if any, and each person who controls within the meaning of Section 15 of the Securities Act any underwriter, against all expenses, claims, losses, damages and liabilities (or actions, proceedings or settlements in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any prospectus, offering circular or other document (including any related registration statement, notification or the like) incident to any such registration, qualification or compliance, or based on any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation by IMS of the Securities Act or any rule or regulation thereunder applicable to IMS and relating to action or inaction required of IMS in connection with any such registration, qualification or compliance, and will reimburse each such Holder, each of its officers, directors, partners, legal counsel and accountants and each person controlling such Holder, each such underwriter and each person who controls any such underwriter, for any legal and any other expenses reasonably incurred in connection with investigating and defending or settling any such claim, loss, damage, liability or action, provided that IMS will not be liable in any such case to the extent that any such claim, loss, damage, liability or expense arises out of or is based on any untrue statement or omission based upon written information furnished to IMS by such Holder or underwriter and stated to be specifically for use

therein. It is agreed that the indemnity agreement contained in this Section 1.7(a) shall not apply to amounts paid in settlement of any such loss, claim, damage, liability or action if such settlement is effected without the consent of IMS (which consent has not been unreasonably withheld).

(b) Each Holder will, if Registrable Securities held by him are included in the securities as to which such registration, qualification or compliance is being effected, indemnify IMS, each of its directors, officers, partners, legal counsel and accountants and each underwriter, if any, of IMS' securities covered by such a registration statement, each person who controls IMS or such underwriter within the meaning of Section 15 of the Securities Act, each other such Holder and Other Stockholder and each of their officers, directors and partners, and each person controlling such Holder or Other Stockholder, against all claims, losses, damages and liabilities (or actions in respect thereof) arising out of or based on any untrue statement (or alleged untrue statement) of a material fact contained in any such registration statement, prospectus, offering circular or other document, or any omission (or alleged omission) to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse IMS and such Holders, Other Stockholders, directors, officers, partners, legal counsel and accountants, persons, underwriters or control persons for any legal or any other expenses reasonably incurred in connection with investigating or defending any such claim, loss, damage, liability or action, in each case to the

extent, but only to the extent, that such untrue statement (or alleged untrue statements or omission (or alleged omission) is made in such registration statement, prospectus, offering circular or other document in reliance upon and in conformity with written information furnished to IMS by such Holder; provided, however, that the obligations of such Holder
hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of such Holder (which consent shall not be unreasonably withheld).

(c) Each party entitled to indemnification under this Section 1. 7 (the "INDEMNIFIED PARTY") shall give notice to the party required to provide indemnifica tion (the "INDEMNIFYING PARTY" ) promptly after such Indemnified Party has actual knowledge of any claim as to which indemnity may be sought, and shall permit the Indemnifying Party to assume the defense of any such claim or any litigation resulting therefrom, provided that counsel for the Indemnifying Party, who shall conduct the defense of such claim or any litigation resulting therefrom, shall be approved by the Indemnified Party (whose approval shall not unreasonably be withheld), and the Indemnified Party may participate in such defense at such party's expense, and provided further that the failure of any Indemnified Party to give notice as provided herein shall not relieve the Indemnifying Party of its obligations under this Section 1.7, to the extent such failure is not prejudicial. No Indemnifying Party, in the defense of any such claim or litigation, shall, except with the consent

of each Indemnified Party, consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation. Each Indemnified Party shall furnish such information regarding itself or the claim in question as an Indemnifying Party may reasonably request in writing and as shall be reasonably required in connection with defense of such claim and litigation resulting therefrom.

(d) If the indemnification provided for in this Section 1.7 is held by a court of competent jurisdiction to be unavailable to an Indemnified Party with respect to any loss, liability, claim, damage or expense referred to therein, then the Indemnifying Party, in lieu of indemnifying such Indemnified Party hereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such loss, liability, claim, damage or expense in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and of the Indemnified Party on the other in connection with the statements or omissions which resulted in such loss, liability, claim, damage or expense as well as any other relevant equitable considerations. The relative fault of the Indemnifying Party and of the Indemnified Party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission to state a material fact relates to information supplied by the Indemnifying Party or by the

Indemnified Party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

1.8. INFORMATION BY HOLDER. Each Holder of Registrable Securities shall furnish to IMS such information regarding such Holder and the distribution proposed by such Holder as IMS may reasonably request in writing and as shall be reasonably required in connection with any registration, qualification or compliance referred to in this Article 1.

1.9. LIMITATIONS ON REGISTRATION OF ISSUES OF SECURITIES. From and after the date of this Agreement, IMS shall not, without the prior written consent of a majority in interest of the Holders, enter into any agreement with any holder or prospective holder of any securities of IMS giving such holder or prospective holder any registration rights the terms of which are more favorable than the registration rights granted to the Holders hereunder.

1.10. RULE 144 REPORTING. With a view to making available the benefits of certain rules and regulations of the Commission which may permit the sale of the Restricted Securities to the public without registration, IMS agrees to use its best efforts to:

(a) Make and keep public information available as those terms are understood and defined in Rule 144 under the Securities Act, at all times from and after ninety (90) days following the effective date of the first registration under the Securities Act filed by IMS for an offering of its securities to the general public;

(b) File with the Commission in a timely manner all reports and other documents required of IMS under the Securities Act and the Exchange Act at any time after it has become subject to such reporting requirements;

(c) So long as a Holder owns any Restricted Securities, furnish to the Holder forthwith upon written request a written statement by IMS as to its compliance with the reporting requirements of Rule 144 (at any time from and after ninety (90) days following the effective date of the first registration statement filed by IMS for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements), a copy of the most recent annual or quarterly report of IMS, and such other reports and documents so filed as a Holder may reasonably request in availing itself of any rule or regulation of the Commission allowing a Holder to sell any such securities without registration.

1.11. TRANSFER OR ASSIGNMENT OF REGISTRATION RIGHTS. The rights to cause IMS to register securities granted to a Holder by IMS under Sections 1.2, 1.3 and 1.5 may be transferred or assigned by a Holder only to a transferee or assignee of not less than 5% shares of Registrable Securities (as presently constituted and subject to subsequent adjustments for stock splits, stock dividends, reverse stock splits and the like), and only provided that IMS is given written notice at the time of or within a reasonable time after said transfer or assignment, stating the name and address of said transferee or assignee and identifying the securities with respect to which such registration rights are being transferred or assigned, and provided further that the transferee or assignee of such rights assumes the obligations of such Holder under this Article 1.

1.12. "MARKET STAND-OFF" AGREEMENT. If requested by IMS and an underwriter of Common Stock (or other securities) of IMS, a Stockholder shall not sell or otherwise transfer or dispose of any Common Stock (or other securities) of IMS held by such Stockholder (other than those included in the registration) during the one hundred eighty (180) day period following the effective date of a registration statement of IMS filed under the Securities Act, provided that:

(a) such agreement only applies to the first such registration statement of IMS, including securities to be sold on its behalf to the public in an underwritten offering; and

(b) all Holders and officers and directors of IMS enter into similar agreements;

The obligations described in this Section 1.12 shall not apply to a registration relating solely to employee benefit plans on Form S-l or Form S-8 or similar forms which may be promulgated in the future, or a registration relating solely to a Commission Rule 145 transaction on Form S-14 or Form S-15 or similar forms which may be promulgated in the future. IMS may impose stop-transfer instructions with respect to the shares (or securities) subject to the foregoing restriction until the end of said one hundred eighty (180) day period.

1.13. ALLOCATION OF REGISTRATION OPPORTUNITIES. In any circumstance in which all of the Registrable Securities and other shares of Common Stock of IMS (including shares of Common Stock issued or issuable upon conversion of shares of any currently unissued series of Preferred Stock of IMS) with registration rights (the "OTHER SHARES") requested to be included in a registration on behalf of the Holders or other selling stockholders cannot be so included as a result of limitations of the aggregate number of shares of Registrable Securities and Other Shares which may be so included, the number of shares of Registrable Securities and Other Shares which may be so allocated among the Holders and other selling stockholders requesting inclusion of shares pro rata on the basis of the number of shares of Registrable Securities and Other Shares that would be held by such Holders and other selling stockholders, assuming conversion; provided, however, that, so

that such allocation shall not operate to reduce the aggregate number of Registrable Securities and Other Shares to be included in such registration, if any Holder or other selling stockholder does not request inclusion of the maximum number of shares of Registrable Securities and Other Shares allocated to him pursuant to the above-described procedure, the remaining portion of his allocation shall be reallocated among those requesting Holders and other selling stockholders whose allocations did not satisfy their requests pro rata on the basis of the number of shares of Registrable Securities and Other Shares that would be held by such Holders and other selling stockholders, assuming conversion, and this procedure shall be repeated until all of the shares of Registrable Securities and Other Shares that may be included in the registration on behalf of the Holders and other selling stockholders have been so allocated. IMS shall not limit the number of Registrable Securities to be included in a registration pursuant to this Agreement in order to include shares held by stockholders with no registration rights or to include Founder's Stock or any other shares of stock issued to employees, officers, directors or consultants pursuant to IMS' Employee Stock Option Plan, or with respect to registrations under Sections 1.2 or 1.5 hereof, in order to include in such registration securities registered for IMS' own account.

1.14. TERMINATION OF REGISTRATION RIGHTS. The right of any Holder to request registration or inclusion in any registration pursuant to this Article 1 shall terminate on the closing of the first IMS-initiated registered public offering of Common Stock of IMS, provided that all shares of Registrable Securities held or entitled to be held upon

conversion by such Holder may immediately be sold under Rule 144 during any 90-day period, or on such date after the closing of the first Company-initiated registered public offering of Common Stock of IMS as all shares of Registrable Securities held or entitled to be held upon conversion by such Holder may immediately be sold under Rule 144 during any 90-day period; provided, however, that the provisions of this Section 1.14 shall not apply to any Holder who owns more than two percent (2%) of IMS' outstanding stock until the earlier of (x) such time as such Holder owns less than two percent (2%) of the outstanding stock of IMS, or (y) the expiration of three years after the closing of the first registered public offering of Common Stock of IMS.

2. COVENANTS OF IMS

Throughout the period that any Holder owns any Registrable Securities, or longer if otherwise designated, IMS hereby covenants and agrees as follows:

2.1. VOTING FOR DIRECTORS.

(a) The authorized number of directors of IMS shall be eight, two of whom shall be elected by McKesson.

(b) At such time as McKesson owns (including all shares that McKesson would own upon exercise of all warrants issued to McKesson) less that 50% of

the issued 1993 Series C Preferred Stock (including all shares that McKesson would own upon exercise of all warrants issued to McKesson), McKesson's rights under Section 2.1(a) shall be reduced to the election of one director. At such time as McKesson owns (including all shares that McKesson would own upon exercise of all warrants issued to McKesson) less than 25% of the issued 1993 Series C Preferred Stock (including all shares that McKesson would own upon exercise of all warrants issued to McKesson), McKesson shall have no rights under Section 2.1(a).

(c) IMS shall have the right to authorize more than eight directors, provided that McKesson shall be entitled to elect at least 20% of the directors authorized (which percentage shall be adjusted to at least 10%, if appropriate, as set forth in Section 2.1.(b).)

(d) Notwithstanding anything to the contrary in this Section 2.1, if the Escrow Agent fails to deliver the Escrow Fund to IMS on or before the last day of the Escrow Period (as set forth in Section 1.4.3 of the Stock Purchase Agreement), McKesson shall have the right to elect only one director under this Section 2.1.

2.2. ADVISORY BOARD. McKesson shall have the right to designate one member of the IMS Operating Company Advisory Board and one member of the IMS Business Development Group Advisory Board or any successors to these boards.

2.3. ACCESS TO MCKESSON PRODUCT LINES. During the period that the Network Sponsorship and Participation Agreement dated November 17, 1993 (the "Sponsorship Agreement") between McKesson and IMS remains in effect, IMS shall ensure that any joint venture agreements, or other agreements for the operation of IMS Networks, provide McKesson access for the McKesson Product Lines to all Subscribers designated by McKesson. For such access, McKesson shall have the benefit of the preferred pricing provisions set forth in Footnote 1 to Exhibit A of the Sponsorship Agreement. Capitalized terms used in this Section and not otherwise defined in this Agreement shall have the meanings assigned to them in the Sponsorship Agreement.

2.4. DIRECTED INVESTMENTS. Beginning on the date of release from escrow of $4,000,000 to IMS as described in the Stock Purchase Agreement, and continuing throughout the period that the Sponsorship Agreement remains in effect, IMS, upon receipt of written instructions from McKesson, shall spend for regional or technical development efforts a total of up to $500,000 as directed in writing by McKesson. This obligation shall be in addition to the obligation of IMS to make directed investments under Section 5.1.c of the Sponsorship Agreement.

2.5. APPROVAL RIGHTS FOR CERTAIN SERVICES. During the period that the Sponsorship Agreement is in effect, IMS will not introduce Prescription Benefit Management Services (as defined in the Sponsorship Agreement) without the approval of, and except on terms acceptable to, McKesson.

2.6. APPROVAL RIGHTS FOR JOINT VENTURES. During the period that the Sponsorship Agreement is in effect, IMS shall not, without the prior written approval of McKesson, enter into any joint venture agreement, or other agreement, for the operation of an IMS Network (as that term is defined in the Sponsorship Agreement) with any entity engaged in a business defined as a McKesson Product Line in the Sponsorship Agreement; provided however, that this prohibition shall not apply with respect to agreements between IMS and any of the following types of entities: (i) community coalitions of health service payors or providers; (ii) health service payors doing business only in the market served by the IMS Network; (iii) hospital or multi-hospital systems; (iv) physician groups or organizations including, but not limited to PPOs, PHOs, IPAs or MSOs.

2.7. RIGHT OF FIRST OFFER.

(a) IMS hereby grants to each Holder who owns any Shares, any shares of Common Stock issued upon conversion of the Shares or any shares of Common Stock issued upon exercise of the Warrants the right of first offer to purchase all or a portion of New Securities (as defined in this Section 2.7) which the Board of Directors of IMS may, from time to time, propose to sell and issue. Each Holder shall have the right of over-allotment such that if any Holder fails to exercise its right hereunder to purchase its pro rata share of New Securities, the other Holders may purchase the non-purchasing Holder's portion on a pro-rata basis within ten (10) days from the date such non-purchasing Holder fails to exercise its right

hereunder to purchase its pro rata share of New Securities. This right of first offer shall be subject to the following provisions:

(i) In the event IMS proposes to undertake an issuance of New Securities, it shall give each Holder written notice of its intention, describing the type of New Securities, and their price and the general terms upon which IMS proposes to issue the same. Each Holder shall have thirty (30) days after any such notice is effective to agree to purchase such Holder's pro rata share of such New Securities for the price and upon the terms specified in the notice by giving written notice to IMS and stating therein the quantity of New Securities to be purchased.

(ii) In the event the Holders fail to exercise fully the right of first offer within said thirty (30)-day period and after the expiration of the ten day period for the exercise of the over-allotment provisions of this Section 2.7(a), IMS shall have one hundred twenty (120) days thereafter to sell the New Securities respecting which the Holders' right of first offer option set forth in this Section 2.7(a) was not exercised, at a price and upon terms no more favorable to the purchasers thereof than specified in IMS's notice to Holders pursuant to Section 2.7(a)(i). In the event IMS has not sold within said 120-day period, IMS shall not thereafter issue or sell any New

Securities, without first again offering such securities to the Holders in the manner provided in Section 2.7(a)(i) above.

(b) IMS hereby grants to each Holder who owns any Shares, any shares of Common Stock issued upon conversion of the Shares or any shares of Common Stock issued upon exercise of the Warrants the right of first offer to purchase all or a portion of New Securities (as defined in this Section 2.7) which a prospective investor proposes to purchase from IMS. Each Holder shall have the right of over-allotment such that if any Holder fails to exercise its right hereunder to purchase its pro rata share of New Securities, the other Holders may purchase the non purchasing Holder's portion on a pro-rata basis within ten (10) days from the date such non-purchasing Holder fails to exercise its right hereunder to purchase its pro rata share of New Securities. This right of first offer shall be subject to the following provisions:

(i) In the event a prospective investor expresses interest in purchas ing New Securities from IMS, IMS shall give each Holder written notice of such expression of interest, describing the type of New Securities, and their price and the general terms upon which the prospective investor proposes to purchase the same. Each Holder shall have thirty (30) days after any such notice is effective to agree to purchase such Holder's pro rata share of such New Securities for the price and upon the terms specified in the notice by

giving written notice to IMS and stating therein the quantity of New Securities to be purchased.

(ii) In the event the Holders fail to exercise fully the right of first offer within said thirty (30)-day period and after the expiration of the ten day period for the exercise of the over-allotment provisions of this Section 2.3(a), IMS shall have one hundred twenty (120) days thereafter to sell the New Securities respecting which the Holders' right of first offer option set forth in this Section 2.3(a) was not exercised, at a price and upon terms no more favorable to such prospective investor than specified in IMS's notice to Holders pursuant to Section 2.3(b)(i). In the event IMS has not sold within said 120-day period, IMS shall not thereafter issue or sell any New Securities, without first again offering such securities to the Holders in the manner provided in Section 2.3(b)(i) above.

(c) "New Securities" shall mean any capital stock (including Common Stock and/or Preferred Stock) of IMS whether now authorized or not, and rights, options or warrants to purchase such capital stock, and securities of any type whatsoever that are, or may become, convertible into capital stock; provided that the term "New Securities" does not include (i) Shares purchased under the Purchase Agreement; (ii) securities issued upon conversion of the Shares; (iii) Common Stock issued pursuant to exercise of the Warrants; (iv) options issued to IMS employees

provided the total options outstanding shall not exceed 2,500,000 shares and provided that no options may be granted after the date of this Agreement with an exercise price lower than $4.00 per share or, if lower, the fair market value of common stock of IMS as evidenced by the issuance of at least $100,000 of Common Stock to a non-affiliate at a lower price; (v) Common Stock issued pursuant to exercise of such options; or (vi) Common Stock issued upon exercise of warrants disclosed on Schedule 4 to the Purchase Agreement; and

(d) Notwithstanding the provisions of this Section, IMS shall have no obligation to provide a right of first offer to McKesson for prospective sales as follows:

(i) sales of IMS New Securities to current directors, officers, employees and shareholders of IMS as of the date of this agreement;

(ii) sales of up to 15% of IMS New Securities per investor to accredited individual investors;

(iii) sales of up to 15% of IMS New Securities per investor to institutional investors such as venture capital firms or portfolio managers;

(iv) any sales of up to 5% per investor of IMS New Securities to significant IMS' customers, which shall mean customers generating at least 5% of IMS' annual revenues; or

(v) any sales of up to 15% per investor of IMS New Securities to potential investors which the IMS board of directors identifies as potential strategic partners of IMS; provided, however, that the provisions set forth in clauses d(i) through d(v) shall not apply to potential investors which are engaged to any degree and for (ii) and (iii) have invested in, to any degree, any of the businesses defined as the McKesson Product Lines in the Sponsorship Agreement.

(e) If IMS sells shares to a purchaser as set forth in Section (d), McKesson will have the right to purchase capital stock on the same terms as those offered to such purchaser in such amounts as will preserve McKesson's percentage of equity ownership in IMS at the time of IMS sale under Section (d).

(f) Nothing in this Section shall constrain IMS' ability, at the sole discretion of its board of directors, to effect a public offering of stock.

(g) The right of first offer granted under this Agreement shall expire upon, and shall not be applicable to, the first sale of Common Stock of IMS to the public effected pursuant to a registration statement filed with, and declared

effective by the Commission under the Securities Act, involving at least fifteen percent (15%) of IMS' aggregate outstanding shares after giving effect to the public offering and resulting in proceeds of more than Fifteen Million Dollars ($15,000,000).

(h) The right of first offer is assignable by each Holder to any wholly owned subsidiary or parent of, or to any corporation or entity that is, within the meaning of the Securities Act, controlling, controlled by or under common control with, any such Holder, and (ii) such right is assignable between and among any of the Holders.

(i) Notwithstanding anything to the contrary in this Section 2.7, the Holders shall have approval rights for prospective purchasers described in this Section 2.7 to the extent that such prospective purchasers are engaged in any of the businesses defined as the McKesson Product Lines in the Sponsorship Agreement.

2.8. BASIC FINANCIAL INFORMATION. IMS will furnish the following reports to each Holder:

(a) As soon as practicable after the end of each fiscal year of IMS, and in any event within ninety (90) days thereafter, a consolidated balance sheet of IMS and its subsidiaries, if any, as at the end of such fiscal year, and consolidated

statements of income and sources and applications of funds of IMS and its subsidiaries, if any, for such year, prepared in accordance with generally accepted accounting principles consistently applied and setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and certified by independent public accountants of recognized national standing selected by IMS.

(b) As soon as practicable after the end of the first, second, and third quarterly accounting periods in each fiscal year of IMS, and in any event within forty-five (45) days thereafter, a consolidated balance sheet of IMS and its subsidiaries, if any, as of the end of each such quarterly period, and consolidated statements of income and sources and applications of funds of IMS and its subsidiaries for such period and for the current fiscal year to date, prepared in accordance with generally accepted accounting principles consistently applied, subject to changes resulting from normal year end audit adjustments, all in reasonable detail and certified by the principal financial or accounting officer of IMS, except that such balance sheet need not contain the notes required by generally accepted accounting principles.

(c) From the date IMS becomes subject to the reporting requirements of the Exchange Act, and in lieu of the financial information required pursuant to Sections

1.1(a) and (b), copies of its annual reports on Form 10-K and its quarterly reports on Form 10-Q, respectively.

2.9. ADDITIONAL INFORMATION AND RIGHTS.

(a) IMS will permit any Holder to visit and inspect any of the properties of IMS, including its books of account and other records (IMS shall provide such copies thereof as McKesson may reasonably request), and to discuss its affairs, finances and accounts with IMS's officers and its independent public accountants, all at such reasonable times and as often as any such person may reasonably request.

(b) Until the earlier to occur of (i) the date on which IMS is subject to the reporting requirements of Sections 13(a) or 15(d) of the Exchange Act, or (ii) the date on which quotations for the Common Stock of IMS are reported by the automated quotations systems operated by the National Association of Securities Dealers, Inc., or by an equivalent quotations system, IMS will deliver the reports described below in this Section 2.9 to each Holder:

(i) As soon as practical after the end of each month and in any event within thirty (30) days thereafter a consolidated balance sheet of IMS and its subsidiaries, if any, as at the end of such month and consolidated

statements of income and of sources and applications of funds of IMS and its subsidiaries, for each month and for the current fiscal year of IMS to date, all subject to normal year-end audit adjustments, prepared in accordance with generally accepted accounting principles consistently applied and certified by the principal financial or accounting officer of IMS.

(ii) Annually (but in any event at least thirty (30) days prior to the commencement of each fiscal year of IMS) the financial plan of IMS, in such manner and form as approved by the Board of Directors of IMS, which financial plan shall include a projection of income and a projected cash flow statement for such fiscal year and a projected balance sheet as of the end of such fiscal year. Any material changes in such business plan shall be submitted as promptly as practicable after such changes have been approved by the Board of Directors of IMS.

(iii) With reasonable promptness, such other information and data with respect to IMS and its subsidiaries as any such person may from time to time reasonably request.

(iv) As soon as practicable after transmission or occurrence and in any event within ten days thereof, copies of any reports or communications

delivered to any class of IMS's security holders or broadly to the financial community, including any filings by IMS with any securities exchange, the Securities and Exchange Commission or the National Association of Securities Dealers, Inc.

(c) The provisions of Section 2.1 and this Section 2.2 shall not be in limitation of any rights which any Holder may have with respect to the books and records of IMS and its subsidiaries, or to inspect their properties or discuss their affairs, finances and accounts, under the laws of the jurisdictions in which they are incorporated.

2.10. PROMPT PAYMENT OF TAXES, ETC. IMS will promptly pay and discharge, or cause to be paid and discharged, when due and payable, all lawful taxes, assessments and governmental charges or levies imposed upon the income, profits, property or business of IMS or any subsidiary; provided, however, that any such tax, assessment, charge or levy need not be paid if the validity thereof shall currently be contested in good faith by appropriate proceedings and if IMS shall have set aside on its books adequate reserves with respect thereto, and provided, further, that IMS will pay all such taxes, assessments, charges or levies forthwith upon the commencement of proceedings to foreclose any lien which may have attached as security therefor. IMS will promptly pay or cause to be paid when due, or in conformance with customary trade terms or otherwise in accordance with

policies related thereto adopted by IMS's Board of Directors, all other indebtedness incident to operations of IMS.

2.11. MAINTENANCE OF PROPERTIES AND LEASES. IMS will keep its properties and those of its subsidiaries in good repair, working order and condition, reasonable wear and tear excepted, and from time to time make all needful and proper repairs, renewals, replacements, additions and improvements thereto; and IMS and its subsidiaries will at all times comply with each material provision of all leases to which any of them is a party or under which any of them occupies property if the breach of such provision might have a material and adverse effect on the condition, financial or otherwise, or operations of IMS.

2.12. INSURANCE. Except as otherwise decided in accordance with policies adopted by IMS's Board of Directors, IMS will keep its assets and those of its subsidiaries which are of an insurable character insured by financially sound and reputable insurers against loss or damage by fire, explosion and other risks customarily insured against by companies in IMS's line of business, and IMS will maintain, with financially sound and reputable insurers, insurance against other hazards and risks and liability to persons and property to the extent and in the manner customary for companies in similar businesses similarly situated.

2.13. ACCOUNTS AND RECORDS. IMS will keep true records and books of account in which full, true and correct entries will be made of all dealings or transactions in relation

to its business and affairs in accordance with generally accepted accounting principles applied on a consistent basis.

2.14. INDEPENDENT ACCOUNTANTS. IMS will retain independent public accountants of recognized national standing who shall certify IMS's financial statements at the end of each fiscal year. In the event the services of the independent public accountants so selected, or any firm of independent public accountants hereafter employed by IMS are terminated, IMS will promptly thereafter notify the Holders and will request the firm of independent public accountants whose services are terminated to deliver to the Holders a letter from such firm setting forth the reasons for the termination of their services. In the event of such termination, IMS will promptly thereafter engage another firm of independent public accountants of recognized national standing. In its notice to the Holders IMS shall state whether the change of accountants was recommended or approved by the Board of Directors of IMS or any committee thereof.

2.15. COMPLIANCE WITH REQUIREMENTS OF GOVERNMENTAL AUTHORITIES. IMS and all its subsidiaries shall duly observe and conform to all valid requirements of governmental authorities relating to the conduct of their businesses or to their properties or assets.

2.16. MAINTENANCE OF CORPORATE EXISTENCE, ETC. IMS shall maintain in full force and effect its corporate existence, rights and franchises and all licenses and other rights in or to use patents, processes, licenses, trademarks, trade names or copyrights owned or

possessed by it or any subsidiary and deemed by IMS to be necessary to the conduct of their business.

2.17. PROPRIETARY INFORMATION AND INVENTIONS AGREEMENTS. IMS will cause each person now or hereafter employed by it or any subsidiary with access to confidential information to enter into a proprietary information and inventions agreement substantially in the form approved by the Board of Directors.

2.18. EMPLOYEE AND OTHER STOCK ARRANGEMENTS. IMS will not, without the approval of the Board of Directors, issue any of its capital stock, or grant an option or rights to subscribe for, purchase or acquire any of its capital stock, to any employee, consultant, officer or director of IMS or a subsidiary except for the issuance of shares of Common Stock pursuant to outstanding stock options. Each acquisition of any shares of capital stock of IMS or any option or right to acquire any shares of capital stock of IMS by an employee, officer or director of IMS will be conditioned upon the execution and delivery by IMS and such employee, officer or director of an agreement substantially in a form approved by the Board of Directors of IMS.

2.19. INDEBTEDNESS. IMS shall not, without the prior approval of the Board of Directors of IMS, incur any indebtedness in excess of $_____, other than trade credit incurred in the ordinary course of business.

2.20. EXTENSION OF CREDIT. IMS shall not, without the prior approval of the Board of Directors of IMS, extend credit by any method or in any form or manner other than open account credit extended to customers in the ordinary course of business.

2.21. COMPENSATION OF EMPLOYEES. IMS shall not, without the prior approval of the Board of Directors of IMS, compensate any of its employees, including officers, in an amount greater than $160,000.

2.22. TRANSACTIONS WITH AFFILIATES. IMS shall not, without the approval of the disinterested members of IMS's Board of Directors, engage in any loans, leases, contracts or other transactions with any director, officer or key employee of IMS, or any member of any such person's immediate family, including the parents, spouse, children and other relatives of any such person, on terms less favorable than IMS would obtain in a transaction with an unrelated party, as determined in good faith by the Board of Directors.

2.23 Application of Certain Covenants. IMS' obligations under Section 2.1 through 2.8 shall be only to McKesson and shall not bind IMS with respect to any other Holder. All other obligations of IMS under this Agreement shall apply to all Holders.

2.23. TERMINATION OF COVENANTS. The covenants set forth in this Section 2 shall terminate and be of no further force and effect after the time of effectiveness of IMS' first firm commitment underwritten public offering registered under the Securities Act,

provided, however, that such termination shall not apply to the covenants set forth in Section 2.2 through 2.7.

3. COVENANTS OF MCKESSON.

Throughout the period that McKesson owns any registrable securities, McKesson covenants and agrees as follows:

3.1 Right of First Offer.

(a) McKesson hereby grants to each IMS right of first offer to purchase all or a portion of any shares of Common Stock issued upon conversion of Common Shares or any Shares of common stock issued upon exercise of the warrants (the "Securities"). That McKesson may offer to IMS competitor, as defined below:

This right of first offer shall be subject to the following provisions:

(i) In the event McKesson proposes to undertake a sale of securities to an IMS competitor, as defined below, it shall give IMS written notice of its intention, describing the Securities, and the general terms upon which McKesson proposes to sell the same. IMS shall have thirty (30) days after any such notice is effective to purchase such Securities from McKesson for the price and upon the terms specified in the notice by giving written notice.

(ii) In the event IMS fails to exercise fully the right of first offer within said thirty (30)-day period, McKesson shall have one hundred twenty (120) days thereafter to sell the Securities respecting which the right of first offer option was not exercised, at a price and upon terms no more favorable to the purchasers thereof than specified in McKesson's notice to IMS. In the

event McKesson has not sold within said 120-day period, McKesson shall not thereafter sell any Securities, without first again offering any securities to IMS in the manner provided in Section (i) above.

(b) McKesson hereby grants to IMS the right of first offer to purchase all or a portion of Securities which a prospective investor who is an IMS competitor proposes to purchase from McKesson. This right of first offer shall be subject to the following provisions:

(i) In the event a prospective investor who is an IMS competitor expresses interest in purchasing Securities from McKesson, McKesson shall give IMS written notice of such expression of interest, describing the type of Securities, and their price and the general terms upon which the prospective investor proposes to purchase the same. IMS shall have thirty (30) days after any such notice is effective to agree to purchase such Securities for the price and upon the terms specified in the notice.

(ii) In the event IMS fail to exercise fully the right of first offer within said thirty (30)-day period, McKesson shall have one hundred twenty (120) days thereafter to sell the Securities respecting which IMS' right of first offer option was not exercised, at a price and upon terms no more favorable to such prospective investor than specified in McKesson's notice

to IMS. IMS shall have thirty (30) days after any such notice is effective to agree to purchase such Securities for the price and upon the terms specified in the notice.

(c) The right of first offer granted under this Section shall expire upon the first sale of Common Stock of IMS to the public effected pursuant to a Registration Statement filed with, and declared effective by the Commission under the Securities Act, involving at least fifteen percent (15%) of IMS' aggregate outstanding shares after giving effect to the public offering and resulting in gross proceeds of at least Fifteen Million Dollars ($15,000,000).

3.2 IMS COMPETITOR. For purposes of this Section 3, an "IMS Competitor" shall mean a company which derives the majority of its revenues from the operation of regional medical information networks operating on-line links between hospitals and clinical laboratories and physicians' offices for the transmission of laboratory and radiology reports and other non-voice data.

4 MISCELLANEOUS.

4.1 SUCCESSORS AND ASSIGNS. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, assigns, heirs, executors and administrators of the parties hereto.

4.2 ENTIRE AGREEMENT; AMENDMENT; WAIVER. This Agreement (including the Exhibits hereto) together with the Stock Purchase Agreement (including any Exhibits thereto) constitutes the full and entire understanding and agreement between the parties with regard to the subjects hereof and thereof. Neither this Agreement nor any term hereof may be amended, waived, discharged or terminated, except by a written instrument signed by IMS and the holders of at least fifty percent (50%) of the Registrable Shares and any such amendment, waiver, discharge or termination shall be binding on all the Holders, but in no event shall the obligation of any Holder hereunder be materially increased, except upon the written consent of such Holder.

4.3 NOTICES, ETC. Any notice given hereunder shall be in writing and shall be deemed effective upon the earlier of personal delivery (including personal delivery by facsimile) or the third day after mailing by certified or registered mail, postage prepaid, as follows:

To McKesson:

McKesson Corporation
One Post Street
San Francisco, California 94104
Facsimile No. 415-983-8826
Attention: General Counsel

To IMS:

Integrated Medical Systems, Inc.
11975 El Camino Real #300
San Diego, CA 92130
Facsimile No. 619-755-5637
Attention: John McChesney

or to such other address as any party may have furnished in writing to the other parties in the manner provided above.

4.4 DELAYS OR OMISSIONS. No delay or omission to exercise any right, power or remedy accruing to any Holder, upon any breach or default of IMS under this Agreement shall impair any such right, power or remedy of such Holder nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or of or in any similar breach or default thereafter occurring; nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent or approval of any kind or character on the part of any Holder of any breach or default under this Agreement or any waiver on the part of any Holder of any provisions or conditions of this Agreement must be made in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any Holder, shall be cumulative and not alternative.

4.5 RIGHTS; SEPARABILITY. Unless otherwise expressly provided herein, a Holder's rights hereunder are several rights, not rights jointly held with any of the other Holders. In case any provision of the Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

4.6 TITLES AND SUBTITLES. The titles of the paragraphs and subparagraphs of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

4.7 COUNTERPARTS. This Agreement may be executed in any number of counter parts, each of which shall be an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Stockholder's Rights Agreement effective as of the day and year first above written.

IMS: INTEGRATED MEDICAL SYSTEMS, INC.

By: /s/ John A. McChesney

Title: John A. McChesney, Chairman/CEO

MCKESSON: MCKESSON CORPORATION

By: /s/ David L. Mahoney

Title: David L. Mahoney, President

EXHIBIT 10.4

THIS NOTE IS TRANSFERABLE ONLY UPON THE CONDITIONS SPECIFIED HEREIN, AND THE HOLDER OF THIS NOTE BY THE ACCEPTANCE HEREOF AGREES TO BE BOUND BY SUCH PROVISION.

SENIOR SUBORDINATED CONVERTIBLE NOTE DUE SEPTEMBER 30, 1991

$150,000 Denver, Colorado
October 11, 1988

INTEGRATED MEDICAL SYSTEMS, INC., a Colorado corporation (herein called the "Company"), for value received, hereby promises to pay to Charles I. Brown as General Partner of The Charles I. Brown Family Partnership, 2691 Pinehurst Drive, Evergreen, Colorado 80439 on the 30th day of September, 1991, the principal amount of One Hundred Fifty Thousand Dollars ($150,000) and to pay quarterly, on December 31, March 31, June 30, and September 30 each year (commencing December 31, 1988) interest on the unpaid portion of said principal amount from the date hereof at the rate of 11% per annum until such unpaid portion of such principal amount shall have become due and payable. Both the principal hereof and interest hereon are payable at the principal corporate office of the Company in Golden, Colorado.

This Note contains conditions restricting and limiting the transfer of this Note which relate to compliance with the Securities Act of 1933, as amended, or any similar federal or state laws at the time in effect. While such conditions remain effective, any other notes issued in exchange or in substitution for this Note will bear an appropriate legend with respect to such conditions. Notwithstanding such conditions, the holder of this Note shall be authorized and entitled to pledge this Note as collateral for bona fide borrowings of holder or to otherwise cause this Note to be subject to a security interest securing the repayment of such borrowings.

This Note is or may be one of a series of duly authorized Senior Subordinated Convertible Notes substantially similar in terms except for dates, principal amounts and named payees (the "Notes"). The aggregate of such Notes shall not exceed $750,000.

The rights, limitations of rights, obligations, duties and any immunities of the Company, the holder of this Note and any and all persons who shall from time to time become holders of this Note or any of the Notes, are as set forth below:

1. Subordination.
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The holder of this Note and each of the other Notes, by acceptance hereof or thereof, covenants and agrees that the payment of the principal amount of this Note and interest thereon is hereby expressly subordinated in the right of payment to the prior payment in full of all senior indebtedness as

hereinafter defined. "Senior Indebtedness" shall mean and include the following:

(a) The Company's existing debt as of the date of this Note as described on Exhibit A attached hereto and incorporated herein.
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(b) Any future debt incurred by the Company for the purpose of increasing the Company's working capital (which debt may consist only of borrowings which result in a corresponding increase in current assets of the Company and only if such borrowings are secured only by receivables and inventories of the Company, provided that the Company may issue or grant to lenders of such amounts equity securities of the Company so long as the value of any such securities granted to such lenders does not exceed 10% of the amount borrowed by the Company, and further provided that any such borrowings may be made only from commercial banks, commercial finance companies or commercial factors which typically make such working capital loans). For purposes of this Note, all other debt or liabilities of the Company are excluded from the definition of "Senior Indebtedness."

2. Conversion.
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(a) Any holder of this Note shall have the right at his option at any time prior to its maturity, subject to the terms and provisions hereof, to convert the unpaid principal of such Note into shares of Company no par value common stock (the "Common Stock").

(b) To convert this Note into Common Stock, the holder hereof shall surrender this Note and give notice to the Company of his or her intention to convert, in writing, stating the name and address of each person in whose name shares of Common Stock are to be issued.

(c) As promptly as practical after the surrender and giving of notice to convert as herein provided, the Company shall deliver or cause to be delivered at its agency maintained for that purpose, to or upon written order of the holder of this Note, a certificate representing the number of shares of Common Stock into which said Note is converted.

(d) Upon any conversion, the interest accrued and unpaid on the principal of the converted Note at the time of conversion shall be paid in cash to the holder of the Note.

(e) The conversion price for each share of Common Stock issuable pursuant to the conversion of the Note shall be $3.00 per share, provided that such conversion price may be adjusted from time to time as described below:

(i) In case the Company shall declare a dividend or other distribution payable in Common Stock or shall subdivide its Common Stock into a greater number of shares of Common Stock, the conversion price hereunder in effect immediately prior to such dividend, distribution or subdivision shall be proportionately reduced and the number of shares of Common Stock purchasable hereunder shall be proportionately increased.

(ii) In case the Company shall take a record of the holders of its Common Stock for the purpose of entitling them (1) to receive a dividend or other distribution payable in Common Stock, or (2) to subscribe for or purchase Common Stock, then such record date shall be deemed to be the date of the issue or sale of the shares of Common Stock deemed to have been issued upon the declaration of such dividend or the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.

(iii) In case the Company shall combine all of the outstanding Common Stock of the Company proportionately into a smaller number of shares, the conversion price hereunder in effect immediately prior to such combination shall be proportionately increased and the number of shares of Common Stock purchasable hereunder shall be proportionately reduced.

(iv) With the exception of securities issued, sold or optioned prior to the date of this Note, as described on Exhibit B attached hereto
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and incorporated herein by reference, if the Company issues any shares of its Common Stock for a consideration which is less than $1.50 per share, then the conversion price shall be reduced to a price (calculated to the nearest cent) determined by dividing (1) an amount equal to the sum of (aa) the number of shares of Common Stock outstanding immediately prior to such issue multiplied by the then existing conversion price, which in no event may exceed $1.50, and (bb) the consideration, if any , received by the Company upon such issue, by (2) the total number of shares of fully diluted Common Stock outstanding immediately after such issue. For purposes of this provision, Common Stock will be deemed to have been issued if the Company grants any rights to subscribe for or purchase, or any options for the purchase of Common Stock or securities convertible into or exchangeable for Common Stock, whether or not such rights or options or the right to convert or exchange any such convertible securities are immediately exercisable.

(f) The Company shall not be required, in connection with any conversion, to issue a fraction of a share of Common Stock, but, in lieu thereof, the Company shall make a cash payment (calculated to the next higher cent for purposes of this and similar computations) equal to such fraction multiplied by the fair market value of a share of Common Stock on the last business day prior to the date of conversion, such fair market value to be determined by the Company's Board of Directors pursuant to any method they deem appropriate.

(g) The Company shall at all times reserve and keep available out of its authorized but unissued shares, for the purpose of effecting conversions, such amounts of its duly authorized Common Stock as shall from time to time be sufficient to effect the conversion of this Note.

3. Dilution Adjustment.

(a) If at any time while this Note is outstanding the Company issues any dividend or interest bearing securities that are convertible into Company Common Stock or that include warrants to purchase Company Common Stock (hereafter "Preferred Securities") with a conversion price or warrant exercise price below $3.00 per share, then the conversion price of this Note will automatically adjust to said conversion or warrant exercise price or $1.50 per share, whichever is higher, and the number of shares of Common Stock that the holder of this Note will receive upon conversion of this Note will increase accordingly. If said conversion or warrant exercise price is below $1.50 per share, the actual adjusted conversion price of the Notes will be determined after giving effect to the provision of Section 2(e)(iv) above.

(b) If the Company issues Common Stock or employee stock options, at a price or exercise lower than the prices specified in the table below during the periods indicated (the months after the date of this Note), then the initial conversion price ($3.00) of this Note will be adjusted as provided in Section 3(a) above.

| Months After Date of Note | Price |
|---|---|
| 1 - 3 | $2.25 |
| 4 - 6 | 2.32 |
| 7 - 9 | 2.39 |
| 10 - 12 | 2.45 |
| 13 - 15 | 2.52 |
| 16 - 18 | 2.59 |
| 19 - 21 | 2.66 |
| 22 - 24 | 2.73 |
| 25 - 27 | 2.79 |
| 28 - 30 | 2.86 |
| 31 - 33 | 2.93 |
| 34 - 36 | 3.00 |

4. Performance Adjustment.

(a) The initial conversion price of $3.00 per share described herein may be further adjusted if the Company has not achieved at least one of the following goals on or before September 30, 1991:

(i) The Company has completed a public offering of its Common Stock at a price to the public of $6.00 per share with gross proceeds of at least $2,000,000;

(ii) A sale of the Company to, or a merger of the Company with, another entity for cash or securities actively traded on a recognized exchange or over-the-counter with a market value of at least $6.00 per share of fully diluted Company Common Stock outstanding before the transaction;

(iii) A private placement of the Company's Common Stock to one or more private investors in which at least $2,000,000 is raised at a price of at least $6.00 per share; or

(iv) The Company achieves fully diluted after tax earnings of not less than $0.40 per share, determined on a generally accepted accounting principles basis, for the 12 months ending September 30, 1991.

(b) In the event that the Company does not achieve at least one of the above-described goals, the conversion price will be reduced, but in no event below $1.50 per share (except as may be required by Sections 2(e)(i) through 2(e)(iv)), in proportion to the shortfall. For example, a public offering in which at least $2,000,000 is raised at $4.85 per share, if no other goal has been achieved, will give rise to an adjustment of the conversion price from $3.00 to $2.43. Similarly, earnings per share for the 12 months ended September 30, 1991 of $0.33, if no other goal has been reached, will give rise to an adjustment in the conversion price from $3.00 to $2.48. If none of the above-described goals are met, then the adjustment in the conversion price which yields the highest adjusted conversion price shall be used to determine the adjustment described in this section.

(c) If the initial conversion price of $3.00 has been adjusted under the provisions of Section 3, "Dilution Adjustment," or pursuant to the provisions of Sections 2(e)(i) through 2(e)(iv) above, then the performance goals described in this section will also be adjusted proportionately. For example, if the conversion price has been adjusted to $2.00 per share as a result of the Dilution Adjustment provisions above, then the target goal for purposes of the performance adjustment described above would become $4.00 per share instead of $6.00 per share and the target earnings goal per share described in paragraph 4(a)(iv), would become $0.27 instead of $0.40.

5. Registration Rights.

(a) If at any time the Company proposes to register any of its securities under the Securities Act of 1933, as amended, or any similar federal law governing the distribution of securities preparatory to a public distribution of such securities, it shall give written notice to the holder of this Note and any other Notes which have the same terms but may be

held by others, and upon the written request of such holders, the Company shall use its best efforts to cause the securities as to which registration shall have been so requested to be registered in the Registration Statement proposed to be filed by the Company, all to the extent which may be required to permit the offer and sale or other distribution by the prospective seller or sellers of such securities, including the holder of this Note. Notwithstanding any other provision of this paragraph, if the underwriter determines that marketing factors require a limitation of the number of shares to be underwritten, the underwriter may exclude some or all of the Common Stock sought to be registered by the holder of this Note and other Notes from such registration and underwriting. Any such exclusion of securities will be pro rata among the holders of this Note and any other Notes that have requested registration. The rights of holders of this Note and any other Notes to registration pursuant to this section shall be subject to the prior right to such registration held by the holders of the Company's outstanding Series B preferred stock and, if it is determined by the underwriter in the offering that only shares of Common Stock held by the holders of the Company's outstanding Series B preferred stock may be registered, then the holder of this Note and any other Notes shall not be entitled to have their shares of Common Stock included in such Registration Statement.

(b) All expenses incurred by the Company in connection with the registration of the securities including shares of Common Stock held by holders of this Note and any other Notes pursuant to the provisions of this Agreement, including, without limitation, all registration and filing fees, printing expenses, fees and disbursements of counsel for the Company, and Blue Sky fees and expenses are hereinafter called Registration Expenses; and all underwriting discounts and selling commissions applicable to the sales are hereinafter called Selling Expenses. The Company shall pay all Registration Expenses and all Selling Expenses will be borne by the Company and the selling shareholders pro rata in proportion to the securities being sold by them. Each selling shareholder shall bear the fees and costs of his or its own counsel.

6. Affirmative Covenant. At all times prior to the payment in full of
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principal and accrued interest on this Note the Company will maintain a positive working capital (current assets less current liabilities). The holder of this Note will receive quarterly financial statements of the Company, prepared in accordance with generally accepted accounting principles, within 45 days of the end of each calendar quarter, as well as audited year-end financial statements promptly after their preparation by the Company's outside auditors.

7. Default.
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(a) If the Company shall be in breach of the Affirmative Covenant described in Section 6 above, and shall

remain in breach of such Affirmative Covenant for a period of thirty (30) days after notice thereof by the holder of this Note, or if the Company shall be more than fifteen (15) days late in the payment of any quarterly installment of interest, then in either of such events the holder of this Note may at any time thereafter at his option (unless any such breach or default shall theretofore have been remedied), by written notice or notices to the Company, declare this Note to be due and payable, whereupon the same shall forthwith become due and payable together with interest accrued thereon, without presentment, demand, protest or notice, all of which are hereby waived by the Company.

(b) If the holder of this Note institutes any legal action in order to collect principal and accrued interest owed on this Note, either upon default as described herein or upon maturity of this Note, then in such event the Company shall be required to pay to the holder all reasonable costs of collection of this Note, including reasonable attorneys' fees.

8. Restrictions on Transferability.

(a) The holder of this Note by acceptance thereof agrees, prior to any transfer or attempted transfer of this Note, that he or it shall not transfer this Note unless a Registration Statement under the Securities Act is in effect with respect to such transfer or, prior to such transfer, it shall have delivered to the Company an opinion of counsel experienced in Securities Act matters reasonably acceptable to the Company and counsel to the Company in a form reasonably acceptable to the Company, or that a "no action" letter from the Securities and Exchange Commission, to the effect that the proposed transfer may be effected without registration under the Securities Act.

(b) The requirement of an opinion of counsel or a "no action" letter from the Commission contained in subsection 8(a) hereof is hereby waived by the Company in connection with any transfer by the holder of a Note, of such Note to a person, firm, or entity which is an affiliate (as such term is defined in the federal securities laws) of such holder provided that such transferee agrees to be bound by the provisions of this Section 8 with respect to any future transfer or attempted transfer of such Note.

WITNESS the seal of the Company and the signature of its duly authorized officer.

INTEGRATED MEDICAL SYSTEMS, INC.

By: /s/ John A. McChesney
---
John A. McChesney
Chief Executive Officer

ATTEST:

/s/ Alan J. Danson
---
Assistant Secretary

S E A L

EXHIBIT A

SENIOR DEBT

As of September 30, 1988, the creditors of IMS that are senior to the holder(s) of the Notes were as follows:

| Creditor | Amount |
|---|---|
| Saint Elizabeth Health Services, Inc./1/ | $ 94,300 |
| Missouri Baptist Medical Center/1/ | 101,050 |
| John Wallace/2/ | 9,673 |
| CJS Financial/3/ | 43,458 |
| CityWide Bank/4/ | 18,623 |
| Colorado National Bank/5/ | 137,500 |
| | $404,604 |

Notes:

1. The Company is paying $2,250 per month for a total of 60 months to each of Saint Elizabeth Health Services and Missouri Baptist Medical Center to "share" half the cost of their Com Center System.

2. Repurchase of one limited partner interest.

3. Lease of two MicroVAX II computers. Monthly payments of principal and interest are $2,059 over three years beginning December 9, 1987.

4. Financing of two vans for our field offices.

5. This loan is guaranteed by all of the Company's directors. Principal payments are $3,125 per month (plus interest at prime + 2%) over 60 months from May 1, 1987.

EXHIBIT B

SECURITIES ISSUED, SOLD OR OPTIONED AS OF SEPTEMBER 30, 1988

| Description | Shares | Common Equivalents |
|---|---|---|
| Convertible Debenture/1/ | --- | 150,000 |
| Common Stock | 3,416,555 | 3,416,555 |
| Series A Preferred Stock/1/ | 500,000 | 500,000 |
| Series B Preferred Stock/2/ | 2,000,000 | 1,333,333 |
| Warrants to Purchase Common Stock/3/ | 1,005,000 | 1,005,000 |
| Employee Stock Options/4/ | 347,500/5/ | 347,500 |
| Total Common Equivalents (fully diluted) | | 6,752,388 |

Notes:

1. Convertible at $1.00.

2. Convertible at $1.50.

3. Exerciseable at $1.50 (one share per warrant).

4. Exerciseable at $1.00-$2.25.

5. Includes R. Taylor option approved but not yet issued (20,000 shares at $2.25).

Exhibit 10.5

# INDEMNIFICATION AGREEMENT

INDEMNIFICATION AGREEMENT, dated this 14th day of August, 1992, between Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), and David R. Holbrooke ("Holbrooke").

WHEREAS, Holbrooke is a member of the Board of Directors of Integrated Medical Systems-NET of Northern California, Inc., a California corporation ("NorCal"), and of Integrated Medical Systems-NET of Sacramento, Inc., a California corporation ("Sacto"); and

WHEREAS, Holbrooke has indicted his unwillingness to continue as a director of NorCal and Sacto unless he receives appropriate indemnification in his capacity as a director of NorCal and Sacto and has requested that NHG and IMS provide such indemnification; and

WHEREAS, IMS has determined that it is in the best interests of NorCal and Sacto that Holbrooke continue to serve as a director of NorCal and Sacto, respectively for the foreseeable future; and

WHEREAS, IMS and Holbrooke desire to enter into this Agreement in order to afford Holbrooke protection against certain claims against Holbrooke which may arise as a result of Holbrooke's performance of his duties as a director of NorCal and Sacto;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Indemnifiable Damages. For the purpose of this Agreement, the term "Indemnifiable Damages" shall mean any and all judgments, settlements, penalties, fines or reasonable expenses, including, without limitation, reasonable attorneys' fees, incurred after the date hereof and with respect to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, and whether formal or informal (individually, a "Proceeding"), which are not immediately paid by insurance or by NorCal or Sacto pursuant the NorCal's or Sacto's right or obligation, if any, to indemnify Holbrooke; provided to the extent IMS provides any indemnity hereunder, IMS shall be entitled to an assignment by Holbrooke of Holbrooke's claims to reimbursement by insurance or by NorCal or Sacto pursuant to NorCal's or Sacto's right or obligation, if any, to indemnity Holbrooke.

2. Indemnification. IMS hereby covenants and agrees to indemnify Holbrooke against and hold him harmless, consistent with

Section 7-3-101.5 of the Colorado Corporation Code, and as permitted by Section 7-3-101.5(8)(b) and (c) thereof, from any and all Indemnifiable Damages which Holbrooke may suffer or incur by reason of:

(a) Claimed or alleged actions, omissions or activities of Holbrooke arising from or related to his capacity as a director of NorCal or Sacto at any time prior to the termination of this Agreement; and

(b) Any failure or alleged failure by Holbrooke to disclose to or advise NHG of John McChesney's proposed visit to the Sacramento, California offices of NorCal on or about January 19, 1992; and

(c) Any claimed or alleged action, omission or activity of Holbrooke, at any time prior to termination of this Agreement, which arises from or relates in any way to any of the claims, causes of action or allegations now or hereafter asserted by any party, or any related person or entity thereof, in the following lawsuits or in any related litigation now or subsequently instituted:

Integrated Medical Systems, Inc., et al.
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v.
NewHealth Group, et al.,
---
Superior Court of California
County of Sacramento
Case No. 525054; and related Cross Actions

The NewHealth Group, Inc.
---
v.
Integrated Medical Systems, Inc., et al.
---
Superior Court of California
County of Sacramento
Case No. 528471; and related Cross Actions

provided, however, that such indemnification shall only apply if Holbrooke conducted himself in good faith, he reasonably believed that his conduct was in NorCal's or Sacto's best interests or that his conduct was a least not opposed to NorCal's or Sacto's best interests and, in the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful; and provided further that such indemnification shall apply only to the extent that such claimed or alleged actions, omissions or activities of Holbrooke giving rise to such Indemnifiable Damages arising from or relating in any way, directly or indirectly, to the management or business of NorCal or Sacto.

3. Notice and Right to Defend Third Party Claims. Promptly, upon receipt of notice of any claim, demand or assessment (collectively, "Claims") or the commencement of any suit, action or

proceeding (collectively, "Actions") in respect of which indemnity may be sought pursuant to the terms of this Agreement, Holbrooke will use his best efforts to notify IMS in writing thereof within sufficient time for IMS to respond to such Claim or Action or otherwise plead in such Action. Except to the extent that IMS is prejudiced thereby, the omission of Holbrooke to promptly notify IMS of any such Claim or Action shall not relieve IMS from any liability which it may have to Holbrooke in connection therewith. In case any Claim shall be asserted or Action commenced against Holbrooke, and if he shall notify IMS of the commencement thereof, IMS will be entitled, provided that IMS unequivocally undertakes to indemnify, defend and hold Holbrooke harmless with respect to such Claim or Action, to participate therein and, to the extent it may wish, to assume the defense, conduct or settlement thereof, with counsel reasonably satisfactory to Holbrooke. After notice from IMS to Holbrooke of its election so to assume the defense, conduct or settlement thereof, IMS will not be liable to Holbrooke for any other legal or other expenses consequently incurred by Holbrooke in connection with the defense, conduct or settlement thereof, so long as IMS performs its obligations hereunder. Holbrooke will cooperate with IMS in connection with any such Claim or Action and make personnel, books and records relevant to such Claim or Action available to IMS. In the event IMS does not assume the defense, conduct or settlement of any Claim or Action, Holbrooke will not settle such Claim or Action without the consent of IMS, which consent shall not be unreasonably withheld and IMS shall cooperate fully with Holbrooke in connection with any such Claim or Action and make personnel, books and records relevant to such Claim or Action available to Holbrooke.

4. Expenses. IMS shall pay for or reimburse Holbrooke for the reasonable expenses incurred by him in connection with a Proceeding in advance of the final disposition of such Proceeding only if:

(a) Holbrooke furnishes to IMS a written affirmation of his good faith belief that he has met the standard of conduct required by Section 2 hereof; and

(b) Holbrooke furnishes to IMS a written undertaking to repay the advance either if it is determined that he did not meet such standard of conduct or if he receives payment for such expenses from insurance or NorCal; and

(c) IMS determines that the facts then known to it would not preclude indemnification under Section 2 hereof.

5. Release.

(a) Holbrooke, for himself, his successors and assigns (collectively, the "Holbrooke Parties"), does hereby release and forever discharge and covenant to hold harmless IMS,

its officers, directors, employees or agents, together with their respective successors and assigns, from and against any and all actions, causes, suits, claims, damages and demands of whatever nature in law or in equity which the Holbrooke Parties may now or hereafter acquire against IMS arising out of or in any way relating to the management or business of NorCal or Sacto or IMS' investment therein prior to the date hereof (collectively, the "Claims"). This release by the Holbrooke Parties is general and unconditional in nature and the Holbrooke Parties do not reserve, expressly or implicitly, any Claim whatsoever against IMS with respect to the foregoing.

(b) IMS, for itself, its successors and assigns (collectively, the "IMS Parties"), does hereby release and forever discharge and covenant to hold harmless Holbrooke, together with his successors and assigns, from and against any and all actions, causes, suits, claims, damages and demands of whatever nature in law or in equity which the IMS Parties may now or hereafter acquire against Holbrooke arising out of or in any way relating to the management or business of NorCal or Sacto or IMS' investment therein (collectively, the "Claims"). This release by the IMS Parties is general and unconditional in nature and the IMS Parties do not reserve, expressly or implicitly, any Claim whatsoever against Holbrooke with respect to the foregoing.

(c) Each of Holbrooke and IMS has read and fully understands the language of Section 1542 of the Civil Code of the State of California and on that basis expressly waives all rights under Section 1542, to the extent Section 1542 would apply, if at all, to this Agreement. Section 1542 reads as follows:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

6. Termination. This Agreement may be terminated by either party hereto immediately upon delivery of written notice to the other party. Upon the termination of this Agreement, IMS shall have no further obligation to indemnify Holbrooke; provided, however, that IMS shall continue to indemnify Holbrooke for actions meeting the requirements of Section 2; and provided further that the provisions of Section 5 hereof shall survive such termination.

7. Representations of IMS. Neither the execution nor delivery by IMS of this Agreement nor compliance by IMS with any of the provisions hereof, will (i) conflict with or result in a breach of any provision of the Articles of Incorporation or Bylaws of IMS or (ii) violate any law or any rule or regulation of any

administrative agency or governmental body to which IMS may be subject.

8. Expenses. In addition to any reasonable attorneys fees for which Holbrooke may be entitled to indemnification pursuant to Section 2 hereof, IMS hereby' covenants and agrees to reimburse Holbrooke for any reasonable attorneys' fees incurred by Holbrooke during the period from May 19, 1992 through the termination of this Agreement, but only to the extent that such fees were incurred by Holbrooke in connection with the performance of his duties as a director of NorCal or Sacto. Holbrooke covenants and agrees to provide IMS with monthly statements setting forth such fees incurred by Holbrooke during the previous month for which Holbrooke seeks or intends to seek reimbursement.

9. Notice. All notices, demands and requests required or authorized hereunder shall be deemed sufficiently given if in writing and sent by registered or certified mail, return receipt requested, and postage prepaid, or sent by facsimile or telecopy transmission, or personally delivered, directed as follows:

If to Holbrooke:

David R. Holbrooke, M.D.
Holbrooke & Associates, Inc.
550 Montgomery Street
Suite #770
San Francisco, California 94111
FAX Number: 415/433-3067

If to IMS:

Integrated Medical Systems, Inc.
15000 W. 6th Avenue
Golden, Colorado 80401
FAX Number: 303/279-0079

or to such other address as such party may designate in compliance herewith. Notice will be deemed to be given on the earlier of the date of first attempted or actual delivery.

10. Arbitration. Any controversy or claim arising out of or relating to this Agreement or breach thereof, shall be resolved by arbitration conducted in San Francisco, California, before a single arbitrator appointed by the American Arbitration Association in accordance with the rules of such Association then in effect. The award of such arbitrators shall be final and binding upon the parties hereto and may be entered by any party hereto in any court of competent jurisdiction. All costs and expenses of such arbitration, including reasonable attorneys' fees, shall be paid solely by the party against whom the arbitrator's

award is directed or as directed by the arbitrator if an award not entirely in favor of either party is made.

11. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, exclusive of its choice of law provisions.

(b) It is expressly agreed by the parties hereto as a material consideration for the execution of this Agreement that there are and were no verbal or written representations, understandings, stipulations, agreements or promises pertaining to the subject matter of this Agreement and not incorporated in writing herein. It is likewise agreed that neither this Agreement nor any of its terms, provisions or conditions can be modified, changed, terminated, amended, superseded, waived or extended except by an appropriate written instrument executed by each of the parties hereto.

(c) If any clause, paragraph or provision of this Agreement or the application thereof to any person or situation, to any extent shall be held illegal, invalid or unenforceable under present or future laws, then in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby and that such clause, paragraph or provision be reformed by them so as to be legal, valid and enforceable.

(d) This Agreement shall be fully binding on and enforceable against each of the parties hereto and their respective committed successors and assigns.

IN WITNESS WHEREOF, the parties hereto duly executed this Agreement as of the date first above written.

_____
David R. Holbrooke

INTEGRATED MEDICAL SYSTEMS, INC.

By: /s/ John A. McChesney
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Its: [President]
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EXHIBIT 10.6

INTEGRATED MEDICAL SYSTEMS, INC.
1989 STOCK OPTION PLAN

1. Purpose of the Plan

The purpose of this 1989 Stock Option Plan ("Plan") of Integrated Medical Systems, Inc., a Colorado corporation ("Company"), is to secure and retain key employees and directors responsible for the success and management of the Company and its subsidiary corporations, to motivate such persons to exert their best efforts on behalf of the Company, to encourage stock ownership and to provide such persons with proprietary interest in, and a greater concern for, the welfare of, and an incentive to continue as employees and directors of, the Company or its subsidiary corporations through the granting of stock options entitling such employees and directors to purchase shares of the Company's common stock pursuant to this Plan. A portion of the options authorized by this Plan may be issued to certain employees and directors in exchange for other outstanding options to purchase a like number of shares.

2. Shares of Stock Subject to the Plan

The total number of shares of the Company's no par value common stock ("Common Stock") for which options to purchase such shares ("options") may be granted under the Plan is 750,000 shares. Such shares may consist, in whole or in part, of authorized but unissued shares of the Common Stock or issued shares of the Common Stock which have been reacquired by the Company. Options to purchase up to 337,500 of such shares may be granted in exchange for other outstanding options held by certain employees and directors. No option shall be granted under the Plan after August 31, 1999. If any outstanding option under the Plan for any reason expires or is terminated, the shares of Common Stock allocable to the unexercised portion of such option may be granted again under this Plan. The Board of Directors and the proper officers of the Company shall from time to time take appropriate action required for delivery of Common Stock in accordance with the options and any exercise thereof.

3. Administration of the Plan

The Plan shall be administered by the Compensation Committee of the Board of Directors of the Company, hereinafter referred to as the "Committee," provided that if at the time of granting any option under this Plan, no securities of the Company are registered under the Securities Exchange Act of 1934, as amended (the "Act"), then the action of the Board of Directors of the Company shall be deemed to be the action of the Committee. The Committee shall consist of at least three members of the Board of Directors of the Company chosen by the Board who, as of the date of any action by the Committee, are not then, and have not been during the preceding 12 months, employees of the Company. If the Committee thus established shall consist of fewer than three members at the time of any action by the Committee, then the directors shall select enough other

shareholders to serve on the Committee to have three members and to meet any requirements of (S) 422A of the Code and regulations adopted thereunder and regulations adopted under Section 16(b) of the Act. The decision of a majority of those present at any meeting of the Committee where a quorum consisting of a majority of the Committee is present shall constitute the decision of the Committee. The Committee is authorized and empowered to administer the Plan and, consistent with the terms of the Plan, to (a) select the employees and directors to whom stock options are to be granted and to fix the number of shares and other terms and conditions of the options to be granted; (b) determine the date upon which options shall be granted and the terms and conditions of the granted options in a manner consistent with the Plan, which terms need not be identical as between options or Optionees; (c) interpret the Plan and the options granted under the Plan; (d) adopt, amend and rescind rules and regulations for the administration of the Plan; and (e) direct the Company to execute option agreements pursuant to the Plan. All such actions of the Committee (or of the Board of Directors if its actions are deemed to be the actions of the Committee as permitted in the first sentence of this Section 3) shall be binding upon all participants in the Plan.

4. Eligibility and Limitation on Granted Options

The employees and directors of the Company or any of its subsidiary corporations who shall be eligible to receive grants of options under the Plan shall be those directors and key employees, including officers or directors of the Company or its subsidiary corporations, who are from time to time responsible for the management, direction, policies, planning, growth and protection of the business of the Company and who shall have been selected by the Committee to receive options under the Plan. The directors and employees to receive options under the Plan shall be selected from time to time by the Committee, in its sole discretion, and the Committee shall determine, in its sole discretion, the number of shares to be covered by the option or options granted to each employee and director selected. The term "subsidiary corporation" shall have the same meaning as set forth in Section 425(f) of the Internal Revenue Code of 1986, as amended.

5. Option Exercise Price

The exercise price of each option issued under this Plan shall be determined by the Committee at the time the option is granted. Options to purchase up to 337,500 shares which may be granted to certain employees and directors in exchange for a like number of outstanding options shall have the same exercise price as the options for which they are being exchanged. The option exercise price for the option to purchase the remaining 412,500 shares of common stock subject to this Plan shall in no event be less than 100% of the fair market value of the Company's Common Stock on the date of grant. For purposes of this Plan, the fair market value of the Company's Common Stock shall be determined as follows:

(i) If the Common Stock is listed on a national securities exchange or admitted to unlisted trading privileges on such exchange, the fair market value shall be the last reported sale price of the Common Stock on the date the option is granted or if no such sale is made on such date, the average of the last reported highest closing bid and the lowest closing asked prices for such date on such exchange; or

(ii) If the Common stock is not so listed or admitted to unlisted trading privileges, the fair market value shall be equal to the mean between the bid and asked prices of the Common Stock as quoted in the over-the-counter market at the close of business on the date such option is granted, or, if there were no sales on such date, the most recent date upon which such Common Stock was traded prior to the grant of such option; or

(iii) If the Common Stock is not so listed or admitted to unlisted trading privileges and bid and asked prices are not reported or the Common Stock is closely held and not publicly traded, the current fair market value shall be determined in such reasonable manner as may be chosen by the Committee.

6. PERIOD OF OPTION AND CERTAIN LIMITATIONS ON RIGHT TO EXERCISE

(a) Exercise Period. All options issued under the Plan shall be exercisable for such period as the Committee shall determine, but in no event for more than 10 years after the grant thereof. In no event may an option be exercised within three (3) months of its grant or after the expiration of its term.

(b) Payment for Shares. Payment in full, in cash, shall be made for all shares purchased pursuant to the exercise of an option. All options shall be exercised for 100 shares, or multiple thereof, or for the full number of shares for which the option is then exercisable. No holder of an option ("Optionee") shall have the right to dividends or other rights of a shareholder with respect to shares subject to an option until the Optionee has given written notice of exercise of the Optionee's option and paid in full for such shares.

(c) Manner of Exercise. Any option granted pursuant to this Plan may be exercised at such time or times as set forth in the option, by surrender of the option granted under this Plan and delivery of written notice to any officer or director of the Company other than the Optionee, together with payment in full, in cash, for the number of shares to be purchased pursuant to such exercise. Such notice (i) shall state the election to exercise the option, (ii) shall state the number of shares in respect of which the option is being exercised, (iii) shall contain such representations and agreements concerning the Optionee's investment intent with respect to such shares of Common Stock as shall be satisfactory to the Company's counsel, and (iv) shall be signed by the Optionee. The shares so purchased shall be deemed to be issued by the close of business on the date on which such option is exercised even though the stock certificate or certificates evidencing such

shares in the name of the Optionee may not be issued for a reasonable time after the date of such exercise. The Company represents and covenants that upon payment in full for the shares purchased upon the exercise of an option, in whole or in part, such shares shall be fully paid and nonassessable.

(d) Limitation on Transfer of Shares. Unless registered under the Securities Act of 1933 (the "Act"), the options and all shares issued under the Plan shall be "restricted securities" as defined in Rule 144 of the Act and the certificate evidencing such options and the underlying shares shall contain a legend as follows:

"The securities represented by this certificate may not be offered for sale, sold, or otherwise transferred except pursuant to an effective registration statement under the Securities Act of 1933 ("Act") or pursuant to an exemption from registration under the Act, the availability of which is to be established to the satisfaction of the Company."

(e) Death of Optionee. If an Optionee dies, any option previously granted to the Optionee which is exercisable at the date of death shall be exercisable by the personal representative or administrator of the deceased Optionee's estate, or by any trustee, heir, legatee or beneficiary who shall have acquired the option directly from the Optionee by will or by the laws of descent and distribution at any time within (i) three (3) months after such Optionee's death or, if the Optionee was employed for at least three (3) years prior to his or her death, options which were exercisable at the time of termination of employment may be exercised for the balance of the term of the option in accordance with its terms or (ii) the expira tion date of such option, whichever occurs earlier.

(f) Disability of Optionee. If an Optionee becomes permanently and totally disabled ("disability"), and at the time of such disability the Optionee is entitled to exercise such option, the Optionee shall have the right to exercise such option within one (1) year after such disability provided that the Optionee exercises within no later than the expiration date of such option. If Optionee was employed by the Company for at least three (3) years before becoming disabled, options exercisable upon termination of employment shall remain exercisable during the term of the option in accordance with its terms. For purposes of this Section 6(f), an Optionee shall be considered to be totally and permanently disabled if a qualified medical physician approved by the Company certifies to the Company that such Optionee is unable to be gainfully employed by the Company by reason of a diagnosed and determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(g) Optionee's Termination. If the employment by the Company of an Optionee is terminated for any reason other than death, disability or Termination for Cause as hereinafter defined, any previously granted option held by the Optionee, which is exercisable as of the date of termination, may be exercised for three (3) months after the date of resignation or termination and after three months from termination, if not exercised, the right to

purchase the shares underlying the option shall automatically terminate and the unexercised portion thereof shall be null and void. Options held by any Optionee whose employment or service as a director of the Company ceases due to his or her Termination for Causes as defined herein shall immediately become null and void and the Optionee shall have no right to purchase the shares of common stock underlying such option from and after the date of such termination of employemnt or service as a director. For purposes of this Section 6(g), "Termination for Cause" shall mean termination by an appropriate officer of the Company or the Board of Directors of the Company due to conviction for the commission of a felony crime, improper conduct involving moral turpitude, the commission of fraudulent activities involving the Company, or other improper conduct knowingly undertaken contrary to the best interests of the Company in the reasonable determination of the Board of Directors of the Company.

7. WITHHOLDING OF TAXES

It is acknowledged that the exercise of options granted under this Plan may represent compensation for services provided by an employee or director of the Company and such exercise may be subject to withholding by the Company of appropriate payroll taxes, including without limitation, FICA, FUTA and other withholding taxes under applicable federal and estate tax laws. Each option granted under this Plan shall entitle the Company to withhold amounts otherwise due to the Optionee if required by applicable tax laws upon exercise of an option.

8. RESTRICTION ON ASSIGNABILITY

No option granted under this Plan shall be transferable in any manner other than by will or the laws of descent and distribution. During the lifetime of each Optionee or the expiration of the period in which such option may be exercised as provided in Section 6(a) hereof, whichever occurs earlier, such option will be exercisable only by the Optionee.

9. DILUTION OR OTHER ADJUSTMENTS

(a) Adjustment of Exercise Price for Stock Splits, Reverse Stock Splits and Stock Dividends. If the outstanding shares of Common Stock shall be subdivided (split), combined (reverse split), by reclassification or otherwise, or if any dividend payable on the Common Stock in shares of Common Stock shall occur at the time that any remains unexercised in whole or in part, the exercise price and the number of shares of Common Stock available for purchase immediately prior to such subdivision, combination or dividend shall be proportionately adjusted as follows:

(i) If a net increase shall have been effected in the number of outstanding shares of the Company's Common Stock, the number of shares underlying an option shall be proportionately increased, and the exercise price payable per share shall be proportionately reduced; and

(ii) If a net reduction shall have been effected in the number of outstanding shares of the Company's Common Stock, the shares underlying such option shall be proportionately reduced and the cash consideration payable per share shall be proportionately increased.

(b) Recapitalization or Merger. If the outstanding shares of Common Stock which are eligible for the granting of options hereunder, or subject to options theretofore granted, shall at any time be changed or exchanged by declaration of a stock dividend, split-up, subdivision or combination of shares, recapitalization, merger, consolidation or other corporate reorganization in which the Company is the surviving corporation, the number and kind of shares subject to this Plan or subject to any options previously granted, and the option prices, shall be appropriately and equitably adjusted, so as to maintain the proportionate number of shares without changing the aggregate option price. All such adjustments shall be made by the Committee, and, in the absence of fraud, the decision of the Committee shall be final. In the event of a dissolution or liquidation of the Company, or a merger, consolidation, sale of all or substantially all of its assets, or other corporate reorganization in which the Company is not the surviving corporation and the holder of Common Stock receives securities of another corporation, any outstanding options hereunder shall terminate as of the effective date of such event; provided that immediately prior to such event each optionee shall have the right to exercise any unexpired option in whole or in part. The Company shall afford each person who holds an option under this Plan with at least 30 days advance written notice of such event. The existence of this Plan, or of any options hereunder, shall not in any way prevent any transaction described in this section, nor shall anything contained in this Plan prevent the substitution of a new option by a surviving corporation.

(c) Certificate as to Adjustments. Upon the occurrence of each adjustment or readjustment pursuant to this Section 9, the Company, at its expense, shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each Optionee a certificate setting forth such adjustment or readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Company shall, upon the written request, at any time, of any Optionee, furnish or cause to be furnished to such Optionee a like certificate setting forth:

(i) Such adjustments or readjustments;

(ii) The exercise price of such options at the time in effect; and

(iii) The number of shares of Common Stock and the amount, if any, of other property that at the time would be received upon the exercise of such options.

(d) Notices of Record Date. If (i) the Company establishes a record date to determine the holders of any class of securities for the purpose of determining who is entitled to receive any dividend or other distribution, (ii) the Company shall offer to the holders of Common Stock for subscription or purchase by them of any shares of stock of any class or any other rights, or (iii) any capital reorganization of the Company, reclassification of the capital stock of the company, consolidation or merger of the Company with or into another corporation, sale, lease or transfer of all or substantially all of the property and assets of the Company or dissolution, liquidation or winding up of the Company ("Certain Events") shall be effected, the Company shall mail to each Optionee at least ten (10) days prior to the date specified for the taking of (A) a record or (B) the proposed action, a notice specifying the proposed action to be taken and stating the date (1) of record for any such dividend or distribution or (2) when any such Certain Events are to be consummated and the date, if any, to be fixed as to when the holders of Common Stock of record shall be entitled to exchange their shares of Common Stock for securities or other property deliverable upon the completion of any such Certain Events.

10. USE OF PROCEEDS

Proceeds from the sale of Common Stock pursuant to the exercise of options granted under this Plan shall constitute general funds of the Company.

11. RESERVATION OF ISSUANCE OF SHARES

The Company shall at all times during the duration of this Plan reserve and keep available such number of shares of Common Stock as will be sufficient to satisfy the requirements of all options granted pursuant to this Plan, and shall pay all original issue and transfer taxes with respect to the issuance of shares pursuant to the exercise of such options, and shall pay all of the fees and expenses necessarily incurred in connection with the exercise of such options and the issuance of such shares.

12. AMENDMENTS

The Board of Directors may amend, alter, or discontinue this Plan, but no amendment, alteration or discontinuation shall be made which would impair the rights of any Optionee under any options previously granted, without such Optionee's consent.

13. INDEMNIFICATION

The members of the Committee shall be indemnified by the Company against reasonable expenses, including attorney's fees, actually incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therefrom, to which they or any of them may be party by reason of any action taken or failure to act under or in connection with this Plan or any option granted thereunder and against all amounts paid by them in settlement thereof (providing such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of judgment in any action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such member of the Committee is liable for gross negligence, fraud or willful misconduct in the performance of such member's duties so long as within sixty (60) days after institution of any such action, suit or proceeding such member shall offer in writing the Company an opportunity, at the Company's own expense, to handle and defend such action, suit or proceeding.

14. EFFECTIVE DATE OF PLAN

This Plan shall be effective as of the date of its approval by the directors.

15. MISCELLANEOUS

Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural, and words of the plural may be construed as denoting the singular, and words of one gender may be construed as denoting such other gender as is appropriate. Paragraph headings are not to be considered part of this Plan and are included solely for convenience and are not intended to be full or accurate descriptions of the contents thereof.

Dated: Effective as of December 31, 1989
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INTEGRATED MEDICAL SYSTEMS, INC.,
a Colorado corporation

S E A L

By: /s/ Alan S. Danson
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Alan S. Danson, President

ATTEST:

By: /s/ James A. Larson
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James A. Larson, Secretary

Exhibit 10.7

INTEGRATED MEDICAL SYSTEMS, INC.

1994 EMPLOYEE STOCK OPTION PLAN

1. PURPOSE OF PLAN. The purpose of this 1994 Employee Stock Option Plan ("Plan") is to secure and retain employees responsible for the success of Integrated Medical Systems, Inc. ("Company"), to motivate such persons to exert their best efforts on behalf of the Company, to encourage stock ownership and to provide such persons with proprietary interests in, and a greater concern for, the welfare of, and an incentive to continue service with, the Company. For purposes of this Plan, the term "Company" shall include where appropriate in the context used any "parent corporation" or "subsidiary corpora tion" of the Company, as those terms are defined in Sections 424(e) and (f) of the Code, whether in existence on the date of adoption of the Plan or formed after the adoption of this Plan. Options issued pursuant to this Plan will constitute incentive stock options within the meaning of (S) 422 of the Internal Revenue Code of 1986, as amended ("Code"), at the time of grant ("Incentive Stock Options"), or other options ("Nonstatutory Stock Options"). Incentive Stock Options and Nonstatutory Stock Options may both be granted hereunder and any option granted which for any reason does not qualify as an Incentive Stock Option shall be a Nonstatutory Stock Option. Unless the context requires otherwise, the term "Option" in this Plan refers to both Incentive Stock Options and Nonstatutory Stock Options.

2. STOCK SUBJECT TO THE PLAN. The number of shares of the Company's no par value common stock ("Common Stock") which may be optioned under this Plan is 400,000 shares. Such shares may consist, in whole or in part, of unissued shares or treasury shares. The maximum number of shares issuable pursuant to this Plan, including shares subject to outstanding options, shall be subject to adjustment as provided in Section 6 of this Plan. No option shall be granted under this Plan after March 15, 2004. The aggregate fair market value of the shares subject to Incentive Stock Options granted to any optionee which become exercisable in a particular calendar year shall not exceed $100,000. For purposes of such limitation, the fair market value of Common Stock shall be determined as of the date of grant and the limitations shall be applied by taking into account Incentive Stock Options in the order granted. For purposes of this Plan, market value of shares subject to an option shall be determined as follows:

(i) If no public market exists for the Common Stock, the fair market value of the Common Stock shall be as reasonably determined by the Board of Directors; or

(ii) If the Common Stock is listed on the New York Stock Exchange, the American Stock Exchange or such other securities exchange designated by the Committee, or admitted to unlisted trading privileges on any such exchange, or if the Common Stock is quoted on a National Association of Securities Dealers, Inc. system that reports closing prices, the fair market value shall be the closing price of the Common Stock as reported by the Wall Street Journal on the day the fair market value is to be determined, or if no such price is reported for such day, then the determination of such closing price shall be as of the last immediately preceding day on which the closing price is so reported; or

(iii) If the Common Stock is not so listed or admitted to unlisted trading privileges or so quoted, the fair market value shall be the average of the last reported highest bid and the lowest asked prices quoted on the National Associa tion of Securities Dealers, Inc. Automated Quotations System or, if not so quoted, then by the National Quotation Bureau, Inc. on the day the fair market value is determined.

If any outstanding Option under this Plan for any reason expires or is terminated, the shares of Common Stock allocable to the unexercised portion of such Option may again be optioned under this Plan subject to the limitations, terms and conditions of this Plan. The Board of Directors, and the proper officers of the Company shall from time to time take appropriate action required for delivery of Common Stock, in accordance with any exercise of Options under this Plan.

(a) Carryover of Unused Option Limit. If the aggregate fair market value, determined at the time an option is granted under the Plan, of the shares subject to an option granted to an optionee during any calendar year is less than $100,000 ("Unused Option Amount"), one-half of the Unused Option Amount may be carried over ("Unused Option Limit Carryover") to any of the three succeeding calendar years in determining the aggregate fair market value of shares subject to the option granted to such optionee in such succeeding years subject to the following limitations: (i) the amount of any Unused Option Limit Carryover to a succeeding calendar year shall be reduced by the amount of such carryover which was used in prior calendar years, and (ii) for purposes of determining the Unused Option Limit Carryover, it shall be deemed that the amount of options granted during any calendar year shall have first been applied to the $100,000 limitation under this Section 2 of the Plan and any remaining amount shall be applied to the Unused Option Limit Carryover to such year in the order of the calendar years in which the carryover arose.

3. ADMINISTRATION. Administration of the Plan shall be administered by the Compensation Committee of the Board of Directors of the Company, hereinafter referred to as the "Committee." The Committee shall consist of at least two members of the Board of Directors of the Company chosen by the Board, who as of the date of any action of the Committee, are not, and have not been during the preceding 12 months, employees of the Company. If the Committee thus established shall consist of fewer than two members at the time of any action by the Committee, then the directors shall select enough other shareholders to serve on the Committee to have three members and to meet any requirements of (S) 422 of the Code and regulations adopted thereunder and, if the Company is then subject to the Securities Act of 1934, as amended, ("1934 Act"), the regulations adopted under Section 16(b) of the 1934 Act. With respect to persons subject to Section 16 of the 1934 Act, transactions under this Plan are intended to comply with all applicable conditions of Rule 16b-3 or its successors under the 1934 Act.

The decision of a majority of those present at any meeting of the Committee where a quorum consisting of a majority of the Committee is present shall constitute the decision of the Committee. The Committee is authorized and empowered to administer the Plan insofar as it relates to Options and, consistent with the terms of the Plan, to (a) select the employees to

whom Options are to be granted and to fix the number of shares and other terms and conditions of the Options to be granted; (b) determine the date upon which Options shall be granted and the terms and conditions of the granted Options in a manner consistent with the Plan, which terms need not be identical as between Options or optionees; (c) interpret the Plan and the Options granted under the Plan; (d) adopt, amend and rescind rules and regulations for the administra tion of the Plan insofar as it relates to Options; and (e) direct the Company to execute Stock Option agreements pursuant to the Plan. All such actions of the Committee shall be binding upon all participants in the Plan.

4. ELIGIBILITY. The employees of the Company who shall be eligible to receive grants of Options under this Plan shall be those key employees, including officers or directors of the Company who are also employees, who are from time to time responsible for the management, growth or success of the business of the Company and who shall have been selected by the Committee. Officers of the Company who are also directors shall be eligible to participate in this Plan if they are also employees. The directors of the Company and other stockholders who are not also employees shall not be eligible to receive grants of Options under the Plan.

The persons to receive Options under the Plan shall be selected from time to time by the Committee, in its sole discretion, and the Committee shall determine, in its sole discretion, the number of shares to be covered by the Options granted to each person selected. Subject to the exception under Section 5(b), no person may be granted an Option if such person, at the time the Option is granted, owns shares of Common Stock possessing more than 10% of the total combined voting power of all classes of stock of the Company. For purposes of calculating such stock ownership, the attribution rules of stock ownership set forth in Section 424(d) of the Code shall apply. Accordingly, an optionee, with respect to whom such 10% limitation is being determined, shall be considered as owning Common Stock owned directly or indirectly by or for the optionee's brothers and sisters (whether by the whole or half-blood), spouse, ancestors and lineal descendants; and any Common Stock owned directly or indirectly by or for a corporation, partnership, estate or trust, shall be considered as being owned proportionately by or for its shareholders, partners or beneficiaries.

5. TERMS AND CONDITIONS. All Options granted under this Plan shall be subject to the terms and conditions of this Plan, including all of the following:

(A) OPTION PRICE. Subject to the provisions of Section 5(b), the Option price per share shall be determined by the Committee but shall not be less than 100% of the fair market value of such shares at the time the Option is granted.

(B) MORE THAN 10% SHAREHOLDER. If an employee owns more than 10% of the total combined voting power of all classes of stock of the Company as determined under Section 4, at the time an Incentive Stock Option is granted under this Plan, the Committee may issue an Incentive Stock Option to such person at 110% of the fair market value of the Common Stock. Any Incentive Stock Option granted to any such employee shall not be exercisable after the expiration of five years from the date such Incentive Stock Option is granted.

(c) LIMITATIONS ON GRANT OF OPTIONS. Subject to the limitations under Section 5(b) of this Plan, no Option shall be granted which may be exercised more than ten years after the date it was granted.

(d) LIMITATIONS ON EXERCISE OF OPTION. No optionee granted an Option under this Plan may exercise such Option for six months following the date of grant of the Option and unless at all times during the period beginning on the date of the granting of the Option and ending on the day three months before the date of such exercise such optionee was employed by the Company or a corporation or subsidiary thereof issuing or assuming the Option in a transaction set forth under Section 6 of this Plan.

(e) PAYMENT FOR SHARES. Payment in full, in cash, shall be made for all shares issued pursuant to the exercise of an Incentive Stock Option, provided that the Committee may permit payment to be made with shares of the Company's Common Stock owned by the optionee to be valued at the fair market value at the date of exercise. All Options shall be exercised for 100 shares, or a multiple thereof, or for the full number of shares for which the Option is then exercis able. No optionee shall have the right to dividends or other rights of a stockholder with respect to shares subject to an Option until the optionee has given written notice of exercise of the optionee's Incentive Stock Option and paid in full for such shares.

(f) MANNER OF EXERCISE. Any Option granted pursuant to this Plan may be exercised at such time or times as set forth in the Option, by the delivery of written notice to any officer of the Company, other than the optionee, together with payment in full, for the number of shares to be purchased pursuant to such exercise. Such notice (i) shall state the election to exercise the Option, (ii) shall state the number of shares in respect of which the Option is being exercised, (iii) shall state the optionee's address, (iv) shall state the optionee's social security number, (v) shall contain such representations and agreements concerning optionee's investment intent with respect to such shares of Common Stock as shall be satisfactory to the Company's counsel, (vi) shall state that the certificate evidencing the shares may be stamped with a restrictive legend and the shares evidenced by such certificate will constitute "re stricted securities" as defined in Rule 144 promulgated under the Securities Act of 1933, as amended (the "Act") (unless the shares to be acquired are registered under the Act) and (vii) shall be signed and dated by optionee.

(g) LIMITATION ON TRANSFER OF SHARES. Unless shares issued upon exercise are at the time of exercise registered under the Securities Act of 1933, as amended, all shares of Common Stock acquired by an optionee upon exercise of an Option granted under this Plan shall be deemed to be "restricted securities" as defined in Rule 144 promulgated under the Act and the certificate evidencing such shares shall contain a legend as follows:

> "The securities represented by this certificate may not be offered for sale, sold or otherwise transferred except pursuant to an effective registration statement under the Securities Act of 1933

(the `Act') or pursuant to an exemption from registration under the Act, the availability of which is to be established to the satisfaction of the Company."

(H) OTHER REPRESENTATIONS OR WARRANTIES. As a further condition to the exercise of any Option granted under this Plan, the Company may require each optionee to make any representation and warranty to the Company as may be required by any applicable law or regulation.

(I) HOLDING PERIOD OF SHARES. No shares of Common Stock acquired upon exercise of an Incentive Stock Option granted under this Plan shall be sold or otherwise disposed of, within the meaning of Section 424(c) of the Code, at any time before the sooner of two years from the date of the grant of an Incentive Stock Option under this Plan or one year after the date of exercise of the Incentive Stock Option. However, an optionee who has acquired shares of Common Stock upon exercise of a stock option granted under this Plan, who transfers such shares to a trustee, receiver, or other similar fiduciary in any proceeding under Title 11 of the United States Bankruptcy Law or any other similar insolvency proceeding at a time when such optionee is insolvent shall not have been deemed to have made a transfer or disposition for purposes of this subsection, nor shall one who acquires the shares from the Company with another person in joint tenancy be deemed to have made a transfer or disposition. Shares of Common Stock acquired by exercise of a Nonstatutory Stock Option under the Plan shall not be sold or otherwise disposed of at any time before one year from the date of the grant of the Nonstatutory Stock Option.

(J) DEATH OF OPTIONEE. If an optionee dies, any Option previously granted to the optionee shall be exercisable by the personal representative or administrator of the deceased optionee's estate, or by any trustee, heir, legatee or beneficiary (collectively referred to for convenience as the "legal representative") who shall have acquired the Option directly from the optionee by will or by the laws of descent and distribution at any time within one year after his death, but not more than ten years [five years if Section 5(b) is applicable] after the date of granting of the Option, provided the deceased optionee was entitled to exercise such Option at the time of his death. Prior to the exercise of any such Option, the legal representative of the deceased optionee shall furnish to the Company written notice of such exercise, together with a certified copy of letters testamen tary or other proof deemed sufficient by the Committee of the right of the legal representative to exercise such Option in accordance with the provisions of this Plan.

(K) RETIREMENT. If an optionee's employment with the Company terminates by reason of retirement, any Option previously granted to him shall be exercisable as determined in the sole discretion of the Committee at any time within three months after the date of such termination, but not more than ten years [five years if Section 5(b) is applicable] after the date of granting of the Option, and then only to the extent to which it was exercisable at the time of such termination by retirement; provided, however, that if the optionee dies within three months after termination by retirement, any unexercised

Option, to the extent to which it was exercisable at the time of his death, shall thereafter be exercisable for one year after the date of his death, but not more than ten years [five years if Section 5(b) is applica ble] after the date of granting of the Option.

(L) DISABILITY. If an optionee becomes disabled within the meaning of Section 22(e)(3) of the Code, and at the time of such disability the optionee is entitled to exercise an Option, the optionee shall have the right to exercise such Option within one year after such disability provided that the optionee exercises within ten years after the date of grant thereof [or five years if Section 5(b) is applicable], and then only to the extent to which it was exercisable at the time of such disability.

(M) OPTIONEE'S TERMINATION. If an optionee's employment by the Company is terminated for any reason other than death, retirement or disability, any Option previously granted to the optionee which was exercisable at the time of termination shall terminate three months after the date upon which the optionee's employment terminates or at such earlier time as provided in the terms of the Option granted to the optionee.

(N) LEAVE OF ABSENCE. For the purposes of this Plan (i) a leave of absence, duly authorized in writing by the Company for military service or sickness, or for any other purpose approved by the Company, if the period of such leave does not exceed 90 days and (ii) a leave of absence in excess of 90 days, duly authorized in writing by the Company provided the optionee's right to re-employment is guaranteed either by statute or by contract, shall not be deemed a termination of employment.

(O) NONTRANSFERABILITY OF OPTIONS. No Option granted under this Plan will be transferable by the optionee other than by will or the laws of descent and distribution. During the lifetime of the optionee, the Option will be exercisable only by optionee.

(P) EXERCISABILITY OF OPTIONS. No optionee granted an Option under this Plan shall be entitled to exercise such Option at any time after the expiration of such Option as specified in the option certificate evidencing such Option.

6. ADJUSTMENTS UPON RECAPITALIZATION, MERGER, ETC. If the outstanding shares of no par value Common Stock of the Company shall at any time be changed or exchanged by declaration of a stock dividend, split-up, subdivision or combination of shares, recapitalization, merger, consolidation or other corporate reorganization in which the Company (including a merger or similar reorganization which effects a reincorporation of the Company in a different county or province) is the surviving corporation, the number and kind of shares subject to this Plan or subject to any Options previously granted, and the Option prices, shall be appropriately and equitably adjusted, so as to maintain the proportionate number of shares without changing the aggregate Option price. In the event of a dissolution or liquidation of the Company, or a merger, consolidation, sale of all or substantially all of its assets, or other corporate reorganization in which the Company is not the surviving corporation and the holder of Common Stock receives securities of another corporation, then any outstanding Options hereunder shall terminate as of the effective date of such event; provided that immediately prior to such event each optionee shall have the right to exercise any unexpired Option in whole or

in part whether or not the Option would otherwise be exercisable. The Company shall afford each person who holds an Incentive Stock Option under this Plan with at least 30 days advance written notice of such event. The existence of this Plan, or of any Options hereunder, shall not in any way prevent any transaction described in this section, nor shall anything contained in this Plan prevent the substitution of a new Option by a surviving corporation.

7. USE OF PROCEEDS. Proceeds from the sale of stock pursuant to Options granted under this Plan shall constitute general funds of the Company may be used for such general corporate purposes as the Company's Board of Directors shall determine.

8. RESERVATION OF ISSUANCE OF SHARES. The Company shall at all times during the duration of this Plan reserve and keep available such number of shares of Common Stock as will be sufficient to satisfy the requirements of all Options granted pursuant to this Plan, and shall pay all original issue and transfer taxes with respect to the issuance of shares pursuant to the exercise of such Options, and shall pay all of the fees and expenses necessarily incurred in connection with the exercise of such Options and the issuance of such shares.

9. AMENDMENTS. The Board of Directors may amend, alter, or discontinue this Plan, but no amendment, alteration or discontinuation shall be made which would impair the rights of any optionee under any Options previously granted, without the optionee's consent, or which, without the approval of the stock holders, would:

(i) except as is provided in Section 6 of this Plan, increase the total number of shares reserved for the purposes of this Plan;

(ii) decrease the Option price to less than 100% of the fair market value [or 110% if Section 5(b) is applicable] on the date of the granting of the Option;

(iii) change the persons (or class of persons) eligible to receive Options under this Plan;

(iv) increase the aggregate fair market value of the Common Stock underlying the Options which may be granted under this Plan to any person and which become exercisable in any year to an amount in excess of $100,000; or

(v) modify the provisions of the Plan relating to eligibility.

10. INDEMNIFICATION. In addition to such other rights of indemnification as they may have as directors, the members of the Committee and the Board of Directors shall be indemnified by the Company against reasonable expenses, including attorneys' fees actually incurred in connection with the defense of any action, suit or proceeding, or in connection with any appeal therefrom, to which they or any of them may be a party by reason of any action taken or failure to act under or in connection with this Plan or any Option granted hereunder, or shares purchased pursuant to the exercise of Options under this Plan, and against all amounts paid by them in settlement thereof (provided such settlement is approved by independent legal counsel selected by the Company) or paid by them in satisfaction of judgment in any action, suit or proceeding, except in relation to matters as to which it shall be adjudged in such action,

suit or proceeding, that such member of the Board of Directors is liable for gross negligence, fraud or willful misconduct in the performance of the director's duties so long as within 60 days after institution of any such action, suit or proceeding, the director shall in writing offer the Company the opportunity, at its own expense, to handle and defend such action, suit or proceeding.

11. APPROVAL OF SHAREHOLDERS. This Plan shall take effect upon approval by the holders of a majority of the issued and outstanding shares of the Company's Common Stock present, or represented, and entitled to vote, at a meeting at which a quorum of shareholders of the Company is present or represented. Such approval must occur within 12 months after the date this Plan is adopted by the Board of Directors.

12. MISCELLANEOUS. Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural, and words denoting the plural may be construed as denoting the singular, and words of one gender may be construed as denoting such other gender as is appropriate. Paragraph headings are not to be considered part of this Plan and are included solely for convenience and are not intended to be full or accurate descriptions of the contents thereof.

Adopted by Directors: _____, 1994
Adopted by Shareholders: _____, 1994

INTEGRATED MEDICAL SYSTEMS, INC.

ATTEST:

By _____
_____, Chairman

_____
_____, Secretary

S E A L

EXHIBIT 10.8

# PROMISSORY NOTE

$3,000,000.00 June 12, 1995

FOR VALUE RECEIVED, Integrated Medical Systems, Inc., a Colorado corporation ("Maker"), does hereby promise to pay to the order of Eli Lilly and Company, an Indiana corporation ("Payee"), on July 1, 1996, or such earlier date as payment may become due pursuant to the terms hereof (the "Maturity Date"), the sum of Three Million Dollars ($3,000,000), with interest computed from the date hereof on the unpaid principal sum from time to time outstanding at a rate of ten percent (10%) per annum except that if any portion of the principal or interest payable hereunder shall not be paid on the Maturity Date, the interest rate from and after the Maturity Date shall be 12%. Payee, as holder of this Note, and any subsequent holder of this Note, is sometimes hereinafter referred to as "Holder." Principal and interest shall be payable in money of the United States of America that at the time is legal tender for the payment of public and private debts.

This Note is executed and delivered together with a certain Security Agreement, dated as of the date hereof, between Maker and Payee (the "Security Agreement") and a certain Pledge Agreement, dated as of the date hereof, between Maker and Payee (the "Pledge Agreement"), which secure the obligations of Maker under this Note. In the event of a Default (as hereinafter defined) under this Note, Holder shall be entitled to enforce its rights and shall have recourse against the Maker in accordance with the terms of this Note and applicable law and Holder shall be entitled to enforce its rights against the Collateral (as defined in the Security Agreement) and the Pledged Collateral (as defined in the Pledge Agreement) and shall have recourse against Maker as described in the Security Agreement and the Pledge Agreement.

The indebtedness evidenced by this Note shall be subordinate and junior in right of payment, to the extent set forth in clauses (i) to (iv) of this paragraph, to all principal and interest on all indebtedness of Maker for borrowed money outstanding on the date hereof and listed on Schedule 1 hereto. Such indebtedness of Maker to which this Note is subordinate and junior is referred to as "Senior Debt."

(i) Upon maturity of any Senior Debt by lapse of time, acceleration or otherwise, then all principal of, premium, if any, and interest on, all such matured Senior Debt shall first be paid in full before any payment on account of principal or interest is made upon this Note.

(ii) In the event of any insolvency, bankruptcy, liquidation, reorganization or other similar proceeding, or any receivership proceedings in connection therewith, relative to Maker or its creditors or its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of Maker, whether or not involving insolvency or bankruptcy proceedings, then all principal and interest due on Senior Debt shall first be paid in full, or such payment shall have been provided for, before any payment on account of principal or interest is made upon this Note. In any of the proceedings referred to in the first sentence of this clause (ii), any payment or distribution of any kind or character, whether in cash, property, stock or obligations, which may be payable or deliverable in respect of this Note shall be paid or delivered directly to the holders of Senior Debt (or to a banking institution selected by the court or person making the payment or delivery or designated by any holder of Senior Debt) for application in payment thereof, unless and until all principal and interest on all Senior Debt shall have been paid in full, or such payment shall have been provided for; provided, however, that:

(a) in the event that payment or delivery of such cash, property, stock or obligations to the Holder is authorized by an order or decree giving effect, and stating in such order or decree that effect is given, to the subordination of this Note to Senior Debt, and made by a court of competent jurisdiction in a reorganization proceeding under any applicable bankruptcy or reorganization law, no payment or delivery of such cash, property, stock or obligations payable or deliverable with respect to this Note shall be made to the holders of Senior Debt; and

(b) no such delivery shall be made to holders of Senior Debt of stock or obligations which are issued pursuant to reorganization proceedings or dissolution or liquidation proceedings, or upon any merger, consolidation, sale, lease, transfer or other disposal by Maker, as reorganized, or by the corporation succeeding to Maker or acquiring its property and assets, if

such stock or obligations are subordinate and junior at least to the extent provided in this paragraph to the payment of all Senior Debt then outstanding and to the payment of any stock or obligations which are issued in exchange or substitution for any Senior Debt then outstanding.

(iii) Maker shall not make any payment of principal or interest on this Note during the continuance of any default in the payment of principal of or interest on any Senior Debt.

(iv) The provisions of this paragraph are for the purpose of defining the relative rights of the holders of Senior Debt, on the one hand, and Holder, on the other hand, and as between Maker and the Holder, nothing herein shall impair the obligation of Maker, which is unconditional and absolute, to pay to the Holder the principal of and any interest on this Note, in accordance with its terms, nor shall anything herein prevent the Holder from exercising all remedies otherwise permitted by applicable law upon default hereunder, subject to the rights, under this paragraph, of holders of Senior Debt in respect of cash, property, stock, or other securities received upon the exercise of such remedies.

This Note may be prepaid, at any time or from time to time, in whole or in part, without penalty, at the option of Maker.

Upon the happening of any Default of Maker, the entire unpaid balance of the amount owed by Maker under this Note, together with interest accrued thereon, shall become immediately due and payable. Each of the following shall constitute a "Default" of Maker:

(i) failure of Maker to make any payment of principal or interest when due hereunder;

(ii) default by Maker in the performance or observance of any covenant or agreement, or breach by Maker of any representation or warranty, contained (x) herein, in the Security Agreement or in the Pledge Agreement, (y) in paragraphs 8, 9, 10, 11 or 12 of the term sheet dated June 12, 1995 between Payee and Maker relating to an acquisition of Maker by Payee (the "Term Sheet"), or (z) in the definitive agreement contemplated by the Term Sheet; provided that in the case of
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any default or breach under clause (y) or (z), if such default or breach is reasonably capable of cure by Maker, then such default or breach shall not be a Default hereunder

unless such default or breach has not been cured by 12:00 noon, New York City time, on the tenth business day after written notice of such default or breach is provided by Holder to Maker in the manner specified below;

(iii) any default by Maker in respect of any obligation to pay principal under, or any acceleration of any right to payment under, any Senior Debt.

(iv) Maker purporting to assign any of its obligations under this Note to any person or entity without the prior written consent of Holder;

(v) Maker (a) admits in writing its inability generally to pay its debts as they become due; (b) files a petition commencing a voluntary case concerning it under any Chapter of Title 11 of the United States Code entitled "Bankruptcy" ("Title 11"); (c) petitions or applies to any tribunal for the appointment of any receiver, liquidator or trustee of or for it or any substantial part of its property or assets; or (d) commences any proceeding relating to it under any other bankruptcy, reorganization, arrangement, readjustment or debt, receivership, dissolution, liquidation or similar law or statute of any jurisdiction (domestic or foreign), whether now or hereafter in effect, or any other procedure for the relief of financially distressed debtors;

(vi) commencement against Maker of an involuntary case under Title 11 and an order for relief under Title 11 is entered or the petition is controverted but is not dismissed within 60 days after the commencement of the case; or

(vii) commencement against Maker of any proceeding under any other applicable federal or state bankruptcy, insolvency or other similar law seeking the appointment of a receiver, liquidator, assignee, trustee, sequestrator, agent or custodian (or other similar official) of it or any substantial part of its property, and relief against it is ordered in such proceeding or such proceeding remains undismissed for a period of 60 days or more.

In the event an attorney at law or other agent is retained for collection of this Note after any Default of Maker, in addition to principal and interest, Holder shall be entitled to collect all reasonable costs of collection, including but not limited to, reasonable attorneys' fees and

costs, incurred in connection with any of Holder's collection efforts, whether or not suit on this Note is filed, and all such costs and expenses shall be payable by Maker on demand and also shall be secured by all other collateral at any time held by Holder as security for Maker's obligations to Holder.

No failure on the part of Holder to exercise any right or remedy hereunder with respect to Maker, whether before or after the happening of a Default, shall constitute waiver of any future Default or any other Default. No failure to accelerate the debt of Maker evidenced hereby by reason of a Default or indulgence granted from time to time shall be construed to be a waiver of the right to insist upon prompt payment thereafter, or shall be deemed to be a novation of this Note or a reinstatement of the debt evidenced hereby or a waiver of such right of acceleration or any other right, or be construed so as to preclude the exercise of any right Holder may have, whether by the laws of the state governing this Note, by agreement or otherwise; and Maker hereby expressly waives the benefit of any statute or rule of law or equity that would produce a result contrary to or in conflict with the foregoing. This Note may not be modified orally, but only by an agreement in writing signed by the party against whom such agreement is sought to be enforced.

Any notice provided to Maker hereunder shall be sent (and shall be deemed given on the date sent) by facsimile (and confirmed by mailing by first class mail) as follows:

Integrated Medical Systems, Inc.
15000 West 6th Avenue, Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

or to such other facsimile number and address as Maker shall provide in writing to Holder for purposes of notices hereunder.

This Note is binding upon Maker's successors and permitted assigns, shall inure to the benefit of Holder, its successors and assigns and shall be governed by and construed in accordance with laws of the State of New York.

IN WITNESS WHEREOF, Maker has executed this Note on the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

/s/ Charles I. Brown
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Name: Charles I. Brown
Title: Executive Vice President and Chief Financial Officer

Schedule 1
to
Promissory Note

Senior Debt

| Creditor | Amount |
|---|---|
| First National Bank of Wyoming | $1,000,000 |
| Prime Leasing Corporation | 120,013 |
| CHCN Partners | 30,112 |
| NEC/XEROX (Long Term Debt) | 135,404 |

EXHIBIT 10.9

SECURITY AGREEMENT dated as of June 12, 1995 ("Security Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), to Eli Lilly and Company, together with its successors and assigns (the "Secured Party").

PRELIMINARY STATEMENTS

1. Reference is made to the Subordinated Note (the "Note"), dated the date hereof, pursuant to which the Secured Party is lending and IMS is borrowing $3.0 million, subject to the terms and conditions contained therein (the "Loan").

2. It is a condition precedent to the obligation of the Secured Party to provide the Loan to IMS that IMS shall have granted the security interest contemplated by this Security Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Secured Party to provide the Loan to IMS, IMS hereby agrees as follows:

SECTION 1. Grant of Security. IMS hereby grants to the Secured Party a security interest in and on all of IMS's right, title and interest in and to all of the following, whether now owned or hereafter acquired or existing (the "Collateral"):

(a) All equipment in all of its forms, wherever located, including, without limitation, all machinery and other goods, furniture, furnishings, fixtures, office supplies and all other similar types of tangible personal property and all parts thereof and all accessions thereto, together with all parts, fittings, special tools, alterations, substitutions, replacements and accessions thereto (any and all such equipment, parts and accessions being the "Equipment");

(b) All inventory in all of its forms, wherever located, including, but not limited to, (i) all raw materials and work in process, finished goods, and materials used or consumed in manufacture or production, (ii) goods in which IMS has an interest in mass or a joint or other interest or right of any kind (including, without limitation, goods in which IMS has an interest or right as consignee), and (iii) goods which are returned to or repossessed by IMS, and all accessions thereto and products thereof and all documents and documents of title relating to

or covering any of the foregoing or any other assets ("Documents") (any and all such inventory, accessions, products and Documents being the "Inventory");

(c) All accounts, accounts receivable, contract rights, chattel paper, instruments, acceptances, drafts, and other obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, together with all ledger sheets, files, records and documents relating to any of the foregoing, including all computer records, programs, storage media and computer software useful or required in connection therewith (the "Receivables") (it being understood that the term "Receivables" shall not include, and the security interest granted by this Agreement shall not include, the right to future payments owed under various license or service contracts, which rights have been sold on a non-recourse basis prior to the date hereof or which may be sold on a non-recourse basis consistent with prior practice hereafter (the "Excluded Receivables"), and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such Receivables, and any and all such leases, security agreements and other contracts (the "Related Contracts");

(d) All rights under all contracts or agreements to which IMS is a party (other than contracts or agreements which by their terms expressly prohibit the granting of a lien thereon);

(e) All trademarks, trade names, trade styles, service marks, prints and labels on which said trademarks, trade names, trade styles and service marks have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, or any other country or any political subdivision thereof, together with the goodwill associated therewith, and all reissues, amendments, extensions or renewals thereof and all licenses thereof (the "Trademarks");

(f) All copyrights, copyrighted works or any item which embodies such copyrighted work of the United States or any other country, all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Copyright Office or in any similar office or agency of the United States, any State thereof or any other country or any political

subdivision thereof, and all derivative works, extensions or renewals thereof (the "Copyrights");

(g) All letters patent of the United States or any other country, and all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, and all reissues, continuations, divisionals, continuations-in-part or extensions thereof and all licenses thereof (the "Patents");

(h) All general intangibles, including but not limited to good will and tax refunds (the "General Intangibles"); and

(i) All proceeds of any and all of the foregoing Collateral (including, without limitation, proceeds which constitute property of the types described in clauses (a) through (h) of this Section 1) and, to the extent not otherwise included, all payments under insurance (whether or not the Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing items .

SECTION 2. Security for the Loan. The Collateral secures the prompt and complete payment when due of the Loan.

SECTION 3. IMS Remains Liable. Anything herein to the contrary notwithstanding, (a) IMS shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Security Agreement had not been executed, (b) the exercise by the Secured Party of any of the rights hereunder shall not release IMS from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) the Secured Party shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Security Agreement, nor shall the Secured Party be obligated to perform any of the obligations or duties of IMS thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

SECTION 4. Representations and Warranties. IMS represents and warrants to the Secured Party as follows:

(a) All of the Equipment and Inventory are located at the places specified in Schedule I hereto. The chief place of business and chief executive office of IMS and the office where IMS keeps its records concerning Receivables are located at the

address specified on Schedule I hereto. All originals of all chattel paper which evidence Receivables have been delivered to the Secured Party. None of the Receivables is evidenced by a promissory note or other instrument.

(b) IMS owns the Collateral free and clear of any lien, except for (1) the security interest created by this Security Agreement and (2) liens listed on Schedule II hereto. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except (1) for financing statements filed pursuant to the liens listed on Schedule II hereto and (2) such as may have been filed in favor of the Secured Party relating to this Security Agreement.

(c) Other than as set forth on Schedule II, this Security Agreement creates a valid first priority lien in the Collateral, securing the payment of the Loan. All actions necessary or desirable to perfect and protect such security interest have been duly taken.

(d) No authorization, approval or other action by, and no notice to or filing with, any governmental authority is required either (1) for the grant by IMS of the security interest granted hereby or for the execution, delivery or performance of this Security Agreement by IMS or (2) for the perfection of or the exercise by the Secured Party of its rights and remedies hereunder.

(e) The Taxpayer Identification Number of IMS is 84-0970775.

SECTION 5. Further Assurances. (a) IMS agrees that from time to time, at the expense of IMS, IMS will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, IMS will: (1) if any Receivable shall be evidenced by a promissory note or other instrument or chattel paper (other than any such instrument received in connection with collections permitted to be undertaken by IMS in accordance with Section 8) deliver such to the Secured Party duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Secured Party; and (2) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Secured Party may request, in order to perfect and preserve the security interest granted or purported to be granted hereby.

(b) IMS hereby authorizes the Secured Party to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of IMS where permitted by law. A carbon, photographic or other reproduction of this Security Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) IMS will furnish to the Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may request, all in reasonable detail.

(d) IMS will defend the Collateral against all claims and demands of all persons (other than the Secured Party) claiming an interest therein. IMS will pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Collateral, except to the extent where there is a Good Faith Contest to the validity thereof. In connection with any such Good Faith Contest IMS will, at the request of the Secured Party, promptly provide a bond, cash deposit or other security reasonably satisfactory to protect the security interest of the Secured Party should such Good Faith Contest be unsuccessful.

SECTION 6. As to Equipment, Inventory and Trademarks. IMS shall:

(a) Keep the Equipment and Inventory (other than Inventory sold in the ordinary course of business) at the places therefor specified in Schedule I hereto or, upon 30 days' prior written notice to the Secured Party, at such other places in jurisdictions where all action required by Section 5 shall have been taken with respect to the Equipment and Inventory;

(b) Cause the Equipment necessary for the conduct of its business to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and shall forthwith, or in the case of any loss or damage to any of the Equipment as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements, and other improvements in connection therewith which are necessary or desirable to such end;

(c) Permit the Secured Party or any agent of the Secured Party to have access to the Inventory and Equipment for purposes of inspection during normal business hours and upon reasonable notice;

(d) Promptly notify the Secured Party in writing of any material loss or damage to the Inventory or Equipment;

(e) Not (other than in the ordinary course of business) sell, assign, lease, mortgage, transfer or otherwise dispose of any interest in the Inventory or Equipment;

(f) Not use or permit the Inventory or Equipment to be used for any unlawful purpose or in violation of any Law or (other than in the ordinary course of business) for hire;

(g) Not permit the Equipment to become a part of or to be affixed to any real property of any Person; and

(h) Take all reasonable steps to maintain and enforce the Trademarks, Patents and Copyrights material to the conduct of its business, including but not limited to (1) payment of all fees, (2) prosecuting infringers if failure to do so would materially and adversely affect the business of IMS and (3) diligently pursuing any application or registration material to the business of IMS.

SECTION 7. Insurance. (a) IMS shall, at its own expense, maintain
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insurance with respect to the Equipment and Inventory in such amounts, against such risks, in such form and with such insurers, as shall be reasonably sufficient to protect IMS against material financial loss resulting from damage to or loss thereof. Each policy for: (1) liability insurance shall provide for all losses to be paid on behalf of the Secured Party and IMS as their respective interests may appear; and (2) property damage insurance shall provide for all losses to be paid directly to the Secured Party.

(b) In case of any loss involving damage to Equipment or Inventory, IMS shall make or cause to be made the necessary repairs to or replacements of such Equipment or Inventory, and any proceeds of insurance maintained by IMS pursuant to this Section 7 shall be paid to IMS as reimbursement for the costs of such repairs or replacements.

SECTION 8. As to Receivables. (a) IMS shall keep its chief place of
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business and chief executive office and the office where it keeps its records concerning the Receivables, at the location therefor specified in Schedule I hereto or, upon 30 days' prior written notice to the Secured Party, at such other locations in a jurisdiction where all action required by Section 5 shall have been taken with respect to Receivables. IMS will hold and preserve such records and will permit representatives of the Secured Party to inspect and make abstracts from such records.

(b) Except as otherwise provided in this subsection (b), IMS shall continue to collect, at its own expense, all

amounts due or to become due to IMS under the Receivables. In connection with such collections, IMS may take (and, at the Secured Party's discretion, shall take) such action as IMS or the Secured Party may deem necessary or advisable to enforce collection of the Receivables; provided, however, that the Secured Party shall have the right at any time, upon the occurrence and during the continuance of a Default (as defined in the Note) upon written notice to IMS of its intention to do so, to notify the account debtors or obligors under any Receivables of the assignment of such Receivables to the Secured Party and to direct such account debtors or obligors to make payment of all amounts due or to become due to IMS thereunder directly to the Secured Party and, upon such notification and at the expense of IMS, to enforce collection of any such Receivables, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as IMS might have done. After receipt by IMS of the notice from the Secured Party referred to in the proviso to the preceding sentence and as long as there is a Default (as defined in the Note), (1) all amounts and proceeds (including instruments) received by IMS in respect of the Receivables shall be received in trust for the benefit of the Secured Party hereunder, shall be segregated from other funds of IMS and shall be forthwith paid over to the Secured Party in the same form as so received (with any necessary endorsement) to be held as proceeds of the Collateral, or be applied as provided by Section 14(b), as determined by the Secured Party, and (2) IMS shall not adjust, settle or compromise the amount or payment of any Receivable, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon, other than any discount allowed for prompt payment.

SECTION 9. Transfer and Other Liens. IMS shall not:

(a) Except for Inventory and used Equipment in the ordinary course of business and Excluded Receivables, consistent with prior practice, sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral.

(b) Except with respect to the security interest created by this Security Agreement and liens listed on Schedule II hereto, create or suffer to exist any lien upon or with respect to any of the Collateral to secure indebtedness of any person.

SECTION 10. The Secured Party Appointed Attorney-in-Fact. IMS hereby irrevocably appoints the Secured Party IMS's attorney-in-fact, with full authority in the place and stead of IMS and in the name of IMS, the Secured Party or otherwise, to, after the occurrence and during the continuance of Default (as defined in the Note), take any action and to execute any instrument which the Secured Party may deem necessary or

advisable to accomplish the purposes of this Agreement, including, without limitation:

(a) to obtain and adjust insurance required to be paid to the Secured Party pursuant to Section 7;

(b) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) to receive, endorse, assign, and collect any and all checks, notes, drafts and other negotiable and non-negotiable instruments, documents and chattel paper, in connection with clause (a) or (b) above, and IMS waives notice of presentment, protest and non-payment of any instrument, document or chattel paper so endorsed or assigned;

(d) to file any claims or take any action or institute any proceedings which the Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Secured Party with respect to any of the Collateral; and

(e) to sell, transfer, assign or otherwise deal in or with the Collateral or the proceeds or avails thereof, as full and effectually as if the Secured Party were the absolute owner thereof.

IMS hereby ratifies and approves all acts, other than those which result from the Secured Party's gross negligence or willful misconduct, of the Secured Party, as its attorney in-fact, pursuant to this Section 10, and the Secured Party, as its attorney in-fact, will not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law other than those which result from the Secured Party's gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable so long as this Security Agreement remains in effect.

IMS also authorizes the Secured Party, at any time and from time to time, to communicate in its own name with any party to any contract, agreement or instrument included in the Collateral with regard to the assignment of such contract, agreement or instrument and other matters relating thereto.

SECTION 11. The Secured Party May Perform. If IMS fails to perform any agreement contained herein, the Secured Party may itself perform, or cause performance of, such agreement, and the expenses of the Secured Party incurred in

connection therewith shall be payable by IMS under Section 14(b).

SECTION 12. The Secured Party's Duties. The powers conferred on the Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, the Secured Party shall not have any duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral.

SECTION 13. Remedies. If any Default (as defined in the Note) shall have occurred and be continuing:

(a) the Secured Party may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") (whether or not the Code applies to the affected Collateral) and also may (i) require IMS to, and IMS hereby agrees that it will at its expense and upon the request of the Secured Party forthwith, assemble all or part of the Collateral as directed by the Secured Party and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties and (ii) to enter the premises where any of the Collateral is located and take and carry away the same, by any of its representatives, with or without legal process, to the Secured Party's place of storage, and (iii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Secured Party's offices or elsewhere, for cash, on credit or for future delivery and upon such other terms as the Secured Party may deem commercially reasonable. IMS agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to IMS of the time and place of any public or private sale is to be made shall constitute reasonable notification. The Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place it was so adjourned.

(b) All cash proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Secured Party, be held by the Secured Party as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Secured Party pursuant to Section 14) in whole or in part by the Secured Party against,

all or any part of the Loan in such order as the Secured Party shall elect. Any surplus of such cash or cash proceeds held by the Secured Party and remaining after payment in full of the Loan to the Secured Party shall be paid over to IMS. If the proceeds of the sale of the Collateral are insufficient to pay all the Loan, IMS agrees to pay upon demand any deficiency to the Secured Party.

SECTION 14. Indemnity and Expenses. (a) IMS agrees to indemnify the Secured Party from and against any and all claims, losses and liabilities growing out of or resulting from this Security Agreement (including, without limitation, enforcement of this Security Agreement), except claims, losses or liabilities resulting from the Secured Party's gross negligence or willful misconduct.

(b) IMS will upon demand pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and out of pocket disbursements of its counsel and of any experts and agents, which the Secured Party may incur in connection with (1) filing or recording fees incurred in connection with this Security Agreement, (2) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (3) the exercise or enforcement of any of the rights of the Secured Party hereunder, or (4) the failure by IMS to perform or observe any of the provisions hereof. The Secured Party shall not be liable to IMS for damages as a result of delays, temporary withdrawals of the Equipment from service or other causes other than those caused by the Secured Party's gross negligence or willful misconduct.

SECTION 15. Amendments; Etc. No amendment or waiver of any provision of this Security Agreement nor consent to any departure by IMS herefrom shall in any event be effective unless the same shall be in writing and signed by the Secured Party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 16. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to IMS, mailed or delivered by messenger or sent by facsimile, addressed to it at the address of IMS set forth below; if to the Secured Party, mailed or delivered by messenger or sent by facsimile to it, addressed to it at the address of the Secured Party set forth below; or as to any other party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section.

If to the Secured Party: Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Telephone (317) 276-2000
Telecopy (317) 276-9152
Attention: General Counsel

If to IMS: Integrated Medical Systems, Inc.
15000 West 6th Avenue,
Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when received in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 17. Continuing Security Interest; Transfer of the Note. This Agreement shall create a continuing security interest in the Collateral and shall (1) remain in full force and effect until payment in full of the Loan, (2) be binding upon IMS, its successors and assigns, and (3) inure to the benefit of the Secured Party and their successors, transferees and assigns. Without limiting the generality of the foregoing clause (3), the Secured Party may assign or otherwise transfer all or a portion of its rights and obligations under this Security Agreement and the Note to any other person and such other person shall thereupon become vested with all the benefits in respect thereof granted to the Secured Party herein or otherwise. Upon the payment in full of the Loan, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to IMS. Upon any such termination, the Secured Party will, at IMS's expense, execute and deliver to IMS such documents as IMS shall reasonably request to evidence such termination.

SECTION 18. Governing Law; Terms. This Security Agreement shall be governed by and construed in accordance with the laws of the State of New York, except to the extent that the validity or perfection of the security interest hereunder, or remedies hereunder, in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of New York. Unless otherwise defined herein or in the Note, terms used in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 19. Miscellaneous. This Security Agreement is in addition to and not in limitation of any other rights and remedies the Secured Party may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by IMS or by Law or otherwise. If any provision of this Security Agreement is contrary to applicable Law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. If and to the extent that applicable Law confers any rights in addition to any of the provisions of this Security Agreement, the affected provision shall be considered amended to conform thereto. The Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to or waiver of any such right or remedy which the Secured Party would have had on any future occasion nor shall the Secured Party be liable for exercising or failing to exercise any such right or remedy.

IN WITNESS WHEREOF, IMS has caused this Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I Brown
---
Name: Charles I. Brown
Title: Executive Vice President and Chief Financial Officer

SCHEDULE I
to Security Agreement

Place of Business and Locations of Collateral

| | |
|---|---|
| Chief Place of Business and Chief Executive Office: | 15000 West Sixth Avenue<br>Suite 400<br>Golden Colorado 80401 |
| Locations of Equipment: | (same as above) |
| Locations of Inventory: | (same as above) |
| Location of Records Evidencing Receivables: | (same as above) |

SCHEDULE II
to the Security Agreement

1. First National Bank of Wyoming, Laramie, Wyoming, holds a first priority security interest in all of IMS' Equipment, "Accounts, Instruments, Documents, Chattel Paper or Other Rights to Payment," and furniture and fixtures now owned or later acquired, to secure the repayment of a revolving $1,000,000 loan to IMS (Loan Number 15555, dated May 19, 1995). This loan was also personally guaranteed by all directors of IMS other than those affiliated with Eli Lilly and Company.

2. Certain office equipment or furniture of IMS is leased or subject to liens held by various vendors or financing entities.

3. Certain real estate leases pursuant to which IMS occupies office space prohibit use of the leasehold as collateral for indebtedness.

4. Prime Leasing Corporation holds a first priority security interest in IMS' receivable under the Network License Agreement with Boca Raton Hospital, Boca Raton, Florida to secure a loan made September 24, 1993 to IMS' in the original principal amount of $250,000. The principal balance of the loan at June 1, 1995 was $120,012.93. Monthly payments of approximately $8,008.24 on the loan obligation are made by IMS.

5. In the regular course of its business, IMS periodically sells future receivables owed to IMS under various license or service contracts on a non-recourse basis to financing entities. At June 7, 1995, sale of receivables for three contracts with a face value of $1,447,340 were being negotiated.

Exhibit 10.10

PLEDGE AGREEMENT dated as of June 12, 1995 ("Pledge Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation (the "Pledgor") to Eli Lilly and Company, an Indiana corporation (together with its successors and assigns, "Pledgee").

PRELIMINARY STATEMENTS

1. Reference is made to the Subordinated Note (the "Note"), dated the date hereof, pursuant which the Pledgee is lending and the Pledgor is borrowing $3.0 million, subject to the terms and conditions contained therein (the "Loan").

2. It is a condition precedent to the obligation of the Pledgee to provide the Loan to the Pledgor that the Pledgor shall have granted the security interest contemplated by this Pledge Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Pledgee to provide the Loan to the Pledgor, the Pledgor hereby agrees as follows:

SECTION 1. Pledge. The Pledgor hereby pledges and grants a security interest to the Pledgee in all of the following (the "Pledged Collateral"):

(i) all of the stock described in Schedule I (the "Pledged Shares") and the certificates representing the Pledged Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares; and

(ii) all additional shares of stock of any and all issuers of any of the Pledged Shares from time to time acquired by the Pledgor in any manner, and the certificates representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares; and

(iii) all proceeds of any and all of the foregoing.

SECTION 2. Security for Obligations. The Pledged Collateral secures the prompt and complete payment when due

of all obligations of Pledgor under the Note (the "Obligations").

SECTION 3. Delivery of Pledged Collateral. All certificates or instruments representing or evidencing the Pledged Collateral shall be delivered to and held by the Pledgee pursuant hereto and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to the Pledgee. The Pledgee shall have the right, at any time in its discretion and without notice to the Pledgor, to transfer to or to register in the name of the Pledgee or any of its nominees any or all of the Pledged Collateral, subject only to the revocable rights specified in Section 6(a). In addition, the Pledgee shall have the right at any time to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations.

SECTION 4. Representations and Warranties. The Pledgor represents and warrants to the Pledgee as follows:

(i) The Pledged Shares have been duly authorized and validly issued and are fully paid and non-assessable.

(ii) The Pledgor is the legal and beneficial owner of the Pledged Collateral free and clear of any Lien, option or other charge or encumbrance, except for the security interest created by this Pledge Agreement.

(iii) The pledge of the Pledged Shares pursuant to this Pledge Agreement creates a valid and perfected first priority security interest in the Pledged Collateral securing the payment of Pledgor's obligation under the Note.

(iv) No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority is required either (i) for the pledge by the Pledgor of the Pledged Collateral pursuant to this Pledge Agreement or for the execution, delivery or performance of the Pledge Agreement by the Pledgor, or (ii) for the exercise by the Pledgee of the voting or other rights provided for in this Pledge Agreement or the remedies in respect of the Pledged Collateral pursuant to this Pledge Agreement (except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally).

(v) The Pledged Shares constitute all of the issued and outstanding shares of stock of each issuer thereof as set forth on Schedule I.

SECTION 5. Further Assurances. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Pledgee may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Pledgee to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral.

SECTION 6. Voting Rights; Dividends; Etc. (a) So long as no Default (as defined in the Note) shall have occurred and be continuing:

(i) The Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Pledged Collateral or any part thereof for any purpose not inconsistent with the terms of this Pledge Agreement or the Note; provided, however, that the Pledgor shall not exercise or refrain from exercising any such right if, in the Pledgee's reasonable judgment, such action would modify or in any way adversely change the Pledgor's or the Pledgee's rights with respect to the Pledged Collateral or any part thereof.

(ii) The Pledgor shall be entitled to receive and retain any and all dividends paid in respect of the Pledged Collateral, provided, however, that any and all

(A) dividends paid or payable, other than in cash, in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral,

(B) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a liquidation or dissolution, and

(C) cash paid, payable or otherwise distributed in respect of principal of, or in redemption of, or in exchange for, any Pledged Collateral,

shall be, and shall be forthwith delivered to the Pledgee to hold as, Pledged Collateral and shall, if received by the Pledgor, be received in trust for the benefit of the Pledgee, be segregated from the other property or funds of the Pledgor, and be forthwith delivered to the Pledgee as Pledged Collateral in the

same form as so received (with any necessary indorsement).

(iii) The Pledgee hereby authorizes the Pledgor to exercise all voting and other rights which it is entitled to exercise pursuant to paragraph (i) above and to receive the dividends which it is authorized to receive and retain pursuant to paragraph (ii) above.

(b) Upon the occurrence and during the continuance of a Default:

(i) Upon the request of the Pledgee, all rights of the Pledgor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 6(a)(i) and to receive the dividends which it would otherwise be authorized to receive and retain pursuant to Section 6(a)(ii) shall cease, and all such rights shall thereupon become vested in the Pledgee, and the Pledgee shall thereupon have the sole right to exercise such voting and other consensual rights and to receive and hold as Pledged Collateral such dividends.

(ii) All dividends which are received by the Pledgor contrary to the provisions of paragraph (i) of this Section 6(b) shall be received in trust for the benefit of the Pledgee, shall be segregated from other funds of the Pledgor and shall be forthwith paid over to the Pledgee as Pledged Collateral in the same form as so received (with any necessary indorsement).

SECTION 7. Transfers and Other Liens; Additional Shares.

(a) The Pledgor agrees that it will neither (i) sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, nor (ii) create or permit to exist any Lien, security interest, or other charge or encumbrance upon or with respect to any of the Pledged Collateral, except for the security interest under this Pledge Agreement.

(b) The Pledgor agrees that it will (i) cause each issuer of the Pledged Shares not to issue any stock or other securities in addition to or in substitution for the Pledged Shares, except to its existing shareholders so that after giving effect to such issuance all such shareholders, including the Pledgor, still own the same percentage of the outstanding stock of such issuer, and (ii) pledge hereunder, immediately upon its acquisition (directly or indirectly) thereof, any and all additional shares of stock or other securities of each issuer of the Pledged Shares.

SECTION 8. Pledgee Appointed Attorney-in-Fact. The Pledgor hereby appoints the Pledgee, the Pledgor's attorney-in-fact, with full authority in the place and stead of the Pledgor and in the name of the Pledgor or otherwise, to take any action and to execute any instrument which the Pledgee may deem necessary or advisable to accomplish the purposes of this Pledge Agreement, including, without limitation, to receive, endorse and collect all instruments made payable to the Pledgor representing any dividend or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same, provided, however, the Pledgee agrees it will only exercise such rights upon the occurrence and during the continuance of a Default.

SECTION 9. Pledgee May Perform. If the Pledgor fails to perform any agreement contained herein, the Pledgee may itself perform or cause performance of, such agreement, and the expenses of the Pledgee incurred in connection therewith shall be payable by the Pledgor under Section 12.

SECTION 10. The Pledgee's Duties and Reasonable Care. The powers conferred on the Pledgee hereunder are solely to protect its interests in the Pledged Collateral and shall not impose any duty upon it to exercise any such powers. The Pledgee shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equal to that which the Pledgee accords its own property, it being understood that the Pledgee shall not have any responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Pledgee has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

SECTION 11. Remedies. If any Default shall have occurred and be continuing:

(a) The Pledgee may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") in effect in the State of New York at that time, and the Pledgee may also, without notice, except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Pledgee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as

the Pledgee may deem commercially reasonable. The Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Pledgee shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Pledgee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by the Pledgee as Pledged Collateral and all cash proceeds received by the Pledgee in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Pledgee, be held by the Pledgee as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Pledgee pursuant to Section 12) in whole or in part by the Pledgee against, all or any part of the Obligations in such order as the Pledgee shall elect. Any surplus of such cash or cash proceeds held by the Pledgee and remaining after payment in full of all Obligations shall be paid over to the Pledgor or to whosoever may be lawfully entitled to receive such surplus. If the proceeds of the sale of the Collateral are insufficient to pay all the Obligations the Pledgor agrees to pay upon demand any deficiency to the Pledgee.

SECTION 12. Indemnity and Expenses. (a) The Pledgor hereby indemnifies the Pledgee from and against any and all claims, losses, damages and liabilities growing out of or resulting from this Pledge Agreement (including, without limitation, enforcement of this Pledge Agreement), except claims, losses, damages or liabilities resulting from the Pledgee's gross negligence and willful misconduct.

(b) The Pledgor will upon demand pay to the Pledgee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the Pledgee may incur in connection with (i) any amendment to this Pledge Agreement; (ii) the administration of this Pledge Agreement; (iii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral; (iv) the exercise or enforcement of any of the rights of the Pledgee hereunder; or (v) the failure by the Pledgor to perform or observe any of the provisions hereof.

SECTION 13. Amendments, Etc. No amendment or waiver of any provision of this Pledge Agreement, nor consent to any departure by the Pledgor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Pledgee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 14. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to the Pledgor, mailed or delivered by messenger or sent by facsimile, addressed to it at in the Note; if to the Pledgee, mailed or delivered by messenger or sent by facsimile to it, addressed to it at Eli Lilly and Company, Lilly Corporate Center, Indianapolis, Indiana 46285, Telephone (317) 276-2000, Telecopy (317) 276-9152, Attention: General Counsel. All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when deposited in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 15. Continuing Security Interest; Transfer of the Note. This Pledge Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until payment in full of all Obligations, (ii) be binding upon the Pledgor, its successors and assigns, and (iii) inure to the benefit of the Pledgee and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Pledgee may assign or otherwise transfer all or a portion of its rights or obligations under the Note to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to the Pledgee herein or otherwise. Upon the payment in full of the Obligations, the Pledgor shall be entitled to the return, upon its request and at its expense, of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

SECTION 16. Governing Law; Terms. This Pledge Agreement shall be governed by and construed in accordance with the laws of the State of New York. Unless otherwise defined herein, terms defined in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 17. Miscellaneous. This Pledge Agreement is in addition to and not in limitation of any other rights and remedies the Pledgee may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by the Pledgor or any other person or by law or otherwise. If any provision of this

Pledge Agreement is contrary to applicable law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. The Pledgee shall not, by any act, delay, omission or otherwise, be deemed to have waived any of their rights or remedies hereunder.

[Intentionally Left Blank]

IN WITNESS WHEREOF, the Pledgor has caused this Pledge Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I. Brown
---
Name: Charles I. Brown
Title: Executive Vice President and
Chief Financial officer

Exhibit 10.11

# PROMISSORY NOTE

$1,000,000.00 July 27, 1995

FOR VALUE RECEIVED, Integrated Medical Systems, Inc., a Colorado corporation ("Maker"), does hereby promise to pay to the order of Eli Lilly and Company, an Indiana corporation ("Payee"), on July 1, 1996, or such earlier date as payment may become due pursuant to the terms hereof (the "Maturity Date"), the sum of One Million Dollars ($1,000,000), with interest computed from the date hereof on the unpaid principal sum from time to time outstanding at a rate of ten percent (10%) per annum except that if any portion of the principal or interest payable hereunder shall not be paid on the Maturity Date, the interest rate from and after the Maturity Date shall be 12%. Payee, as holder of this Note, and any subsequent holder of this Note, is sometimes hereinafter referred to as "Holder." Principal and interest shall be payable in money of the United States of America that at the time is legal tender for the payment of public and private debts.

This Note is executed and delivered together with a certain Security Agreement, dated as of the date hereof, between Maker and Payee (the "Security Agreement") and a certain Pledge Agreement, dated as of the date hereof, between Maker and Payee (the "Pledge Agreement"), which secure the obligations of Maker under this Note. In the event of a Default (as hereinafter defined) under this Note, Holder shall be entitled to enforce its rights and shall have recourse against the Maker in accordance with the terms of this Note and applicable law and Holder shall be entitled to enforce its rights against the Collateral (as defined in the Security Agreement) and the Pledged Collateral (as defined in the Pledge Agreement) and shall have recourse against Maker as described in the Security Agreement and the Pledge Agreement.

The indebtedness evidenced by this Note shall be subordinate and junior in right of payment, to the extent set forth in clauses (i) to (iv) of this paragraph, to all principal and interest on all indebtedness of Maker for borrowed money outstanding on the date hereof and listed on Schedule 1 hereto. Such indebtedness of Maker to which this Note is subordinate and junior is referred to as "Senior Debt."

(i) Upon maturity of any Senior Debt by lapse of time, acceleration or otherwise, then all principal of, premium, if any, and interest on, all such matured Senior Debt shall first be paid in full before any payment on account of principal or interest is made upon this Note.

(ii) In the event of any insolvency, bankruptcy, liquidation, reorganization or other similar proceeding, or any receivership proceedings in connection therewith, relative to Maker or its creditors or its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of Maker, whether or not involving insolvency or bankruptcy proceedings, then all principal and interest due on Senior Debt shall first be paid in full, or such payment shall have been provided for, before any payment on account of principal or interest is made upon this Note. In any of the proceedings referred to in the first sentence of this clause (ii), any payment or distribution of any kind or character, whether in cash, property, stock or obligations, which may be payable or deliverable in respect of this Note shall be paid or delivered directly to the holders of Senior Debt (or to a banking institution selected by the court or person making the payment or delivery or designated by any holder of Senior Debt) for application in payment thereof, unless and until all principal and interest on all Senior Debt shall have been paid in full, or such payment shall have been provided for; provided, however, that:

(a) in the event that payment or delivery of such cash, property, stock or obligations to the Holder is authorized by an order or decree giving effect, and stating in such order or decree that effect is given, to the subordination of this Note to Senior Debt, and made by a court of competent jurisdiction in a reorganization proceeding under any applicable bankruptcy or reorganization law, no payment or delivery of such cash, property, stock or obligations payable or deliverable with respect to this Note shall be made to the holders of Senior Debt; and

(b) no such delivery shall be made to holders of Senior Debt of stock or obligations which are issued pursuant to reorganization proceedings or dissolution or liquidation proceedings, or upon any merger, consolidation, sale, lease, transfer or other disposal by Maker, as reorganized, or by the corporation succeeding to Maker or acquiring its property and assets, if

such stock or obligations are subordinate and junior at least to the extent provided in this paragraph to the payment of all Senior Debt then outstanding and to the payment of any stock or obligations which are issued in exchange or substitution for any Senior Debt then outstanding.

(iii) Maker shall not make any payment of principal or interest on this Note during the continuance of any default in the payment of principal of or interest on any Senior Debt.

(iv) The provisions of this paragraph are for the purpose of defining the relative rights of the holders of Senior Debt, on the one hand, and Holder, on the other hand, and as between Maker and the Holder, nothing herein shall impair the obligation of Maker, which is unconditional and absolute, to pay to the Holder the principal of and any interest on this Note, in accordance with its terms, nor shall anything herein prevent the Holder from exercising all remedies otherwise permitted by applicable law upon default hereunder, subject to the rights, under this paragraph, of holders of Senior Debt in respect of cash, property, stock, or other securities received upon the exercise of such remedies.

This Note may be prepaid, at any time or from time to time, in whole or in part, without penalty, at the option of Maker.

Upon the happening of any Default of Maker, the entire unpaid balance of the amount owed by Maker under this Note, together with interest accrued thereon, shall become immediately due and payable. Each of the following shall constitute a "Default" of Maker:

(i) failure of Maker to make any payment of principal or interest when due hereunder;

(ii) default by Maker in the performance or observance of any covenant or agreement, or breach by Maker of any representation or warranty, contained (x) herein, in the Security Agreement or in the Pledge Agreement, (y) in paragraphs 8, 9, 10, 11 or 12 of the term sheet dated June 12, 1995 between Payee and Maker relating to an acquisition of Maker by Payee (the "Term Sheet"), or (z) in the definitive agreement contemplated by the Term Sheet; provided that in the case of
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any default or breach under clause (y) or (z), if such default or breach is reasonably capable of cure by Maker, then such default or breach shall not be a Default hereunder

unless such default or breach has not been cured by 12:00 noon, New York City time, on the tenth business day after written notice of such default or breach is provided by Holder to Maker in the manner specified below;

(iii) any default by Maker in respect of any obligation to pay principal under, or any acceleration of any right to payment under, any Senior Debt.

(iv) Maker purporting to assign any of its obligations under this Note to any person or entity without the prior written consent of Holder;

(v) Maker (a) admits in writing its inability generally to pay its debts as they become due; (b) files a petition commencing a voluntary case concerning it under any Chapter of Title 11 of the United States Code entitled "Bankruptcy" ("Title 11"); (c) petitions or applies to any tribunal for the appointment of any receiver, liquidator or trustee of or for it or any substantial part of its property or assets; or (d) commences any proceeding relating to it under any other bankruptcy, reorganization, arrangement, readjustment or debt, receivership, dissolution, liquidation or similar law or statute of any jurisdiction (domestic or foreign), whether now or hereafter in effect, or any other procedure for the relief of financially distressed debtors;

(vi) commencement against Maker of an involuntary case under Title 11 and an order for relief under Title 11 is entered or the petition is controverted but is not dismissed within 60 days after the commencement of the case; or

(vii) commencement against Maker of any proceeding under any other applicable federal or state bankruptcy, insolvency or other similar law seeking the appointment of a receiver, liquidator, assignee, trustee, sequestrator, agent or custodian (or other similar official) of it or any substantial part of its property, and relief against it is ordered in such proceeding or such proceeding remains undismissed for a period of 60 days or more.

In the event an attorney at law or other agent is retained for collection of this Note after any Default of Maker, in addition to principal and interest, Holder shall be entitled to collect all reasonable costs of collection, including but not limited to, reasonable attorneys' fees and

costs, incurred in connection with any of Holder's collection efforts, whether or not suit on this Note is filed, and all such costs and expenses shall be payable by Maker on demand and also shall be secured by all other collateral at any time held by Holder as security for Maker's obligations to Holder.

No failure on the part of Holder to exercise any right or remedy hereunder with respect to Maker, whether before or after the happening of a Default, shall constitute waiver of any future Default or any other Default. No failure to accelerate the debt of Maker evidenced hereby by reason of a Default or indulgence granted from time to time shall be construed to be a waiver of the right to insist upon prompt payment thereafter, or shall be deemed to be a novation of this Note or a reinstatement of the debt evidenced hereby or a waiver of such right of acceleration or any other right, or be construed so as to preclude the exercise of any right Holder may have, whether by the laws of the state governing this Note, by agreement or otherwise; and Maker hereby expressly waives the benefit of any statute or rule of law or equity that would produce a result contrary to or in conflict with the foregoing. This Note may not be modified orally, but only by an agreement in writing signed by the party against whom such agreement is sought to be enforced.

Any notice provided to Maker hereunder shall be sent (and shall be deemed given on the date sent) by facsimile (and confirmed by mailing by first class mail) as follows:

Integrated Medical Systems, Inc.
15000 West 6th Avenue, Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

or to such other facsimile number and address as Maker shall provide in writing to Holder for purposes of notices hereunder.

This Note is binding upon Maker's successors and permitted assigns, shall inure to the benefit of Holder, its successors and assigns and shall be governed by and construed in accordance with laws of the State of New York.

IN WITNESS WHEREOF, Maker has executed this Note on the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

/s/ Charles I. Brown
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Name: CHARLES I. BROWN
Title: EXECUTIVE VICE PRESIDENT
CHIEF FINANCIAL OFFICER

Schedule 1
to
Promissory Note

Senior Debt

| Creditor | Amount |
|---|---|
| First National Bank of Wyoming | $1,000,000 |
| Prime Leasing Corporation | 120,013 |
| CHCN Partners | 30,112 |
| NEC/XEROX (Long Term Debt) | 135,404 |

EXHIBIT 10.12

SECURITY AGREEMENT dated as of July 27, 1995 ("Security Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), to Eli Lilly and Company, together with its successors and assigns (the "Secured Party").

PRELIMINARY STATEMENTS

1. Reference is made to the Subordinated Note (the "Note"), dated the date hereof, pursuant to which the Secured Party is lending and IMS is borrowing $1.0 million, subject to the terms and conditions contained therein (the "Loan").

2. It is a condition precedent to the obligation of the Secured Party to provide the Loan to IMS that IMS shall have granted the security interest contemplated by this Security Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Secured Party to provide the Loan to IMS, IMS hereby agrees as follows:

SECTION 1. Grant of Security. IMS hereby grants to the Secured Party a security interest in and on all of IMS's right, title and interest in and to all of the following, whether now owned or hereafter acquired or existing (the "Collateral"):

(a) All equipment in all of its forms, wherever located, including, without limitation, all machinery and other goods, furniture, furnishings, fixtures, office supplies and all other similar types of tangible personal property and all parts thereof and all accessions thereto, together with all parts, fittings, special tools, alterations, substitutions, replacements and accessions thereto (any and all such equipment, parts and accessions being the "Equipment");

(b) All inventory in all of its forms, wherever located, including, but not limited to, (i) all raw materials and work in process, finished goods, and materials used or consumed in manufacture or production, (ii) goods in which IMS has an interest in mass or a joint or other interest or right of any kind (including, without limitation, goods in which IMS has an interest or right as consignee), and (iii) goods which are returned to or repossessed by IMS, and all accessions thereto and products thereof and all documents and documents of title relating to

or covering any of the foregoing or any other assets ("Documents") (any and all such inventory, accessions, products and Documents being the "Inventory");

(c) All accounts, accounts receivable, contract rights, chattel paper, instruments, acceptances, drafts, and other obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, together with all ledger sheets, files, records and documents relating to any of the foregoing, including all computer records, programs, storage media and computer software useful or required in connection therewith (the "Receivables") (it being understood that the term "Receivables" shall not include, and the security interest granted by this Agreement shall not include, the right to future payments owed under various license or service contracts, which rights have been sold on a non-recourse basis prior to the date hereof or which may be sold on a non-recourse basis consistent with prior practice hereafter (the "Excluded Receivables"), and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such Receivables, and any and all such leases, security agreements and other contracts (the "Related Contracts");

(d) All rights under all contracts or agreements to which IMS is a party (other than contracts or agreements which by their terms expressly prohibit the granting of a lien thereon);

(e) All trademarks, trade names, trade styles, service marks, prints and labels on which said trademarks, trade names, trade styles and service marks have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, or any other country or any political subdivision thereof, together with the goodwill associated therewith, and all reissues, amendments, extensions or renewals thereof and all licenses thereof (the "Trademarks");

(f) All copyrights, copyrighted works or any item which embodies such copyrighted work of the United States or any other country, all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Copyright Office or in any similar office or agency of the United States, any State thereof or any other country or any political

subdivision thereof, and all derivative works, extensions or renewals thereof (the "Copyrights");

(g) All letters patent of the United States or any other country, and all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, and all reissues, continuations, divisionals, continuations-in-part or extensions thereof and all licenses thereof (the "Patents");

(h) All general intangibles, including but not limited to good will and tax refunds (the "General Intangibles"); and

(i) All proceeds of any and all of the foregoing Collateral (including, without limitation, proceeds which constitute property of the types described in clauses (a) through (h) of this Section 1) and, to the extent not otherwise included, all payments under insurance (whether or not the Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing items.

SECTION 2. Security for the Loan. The Collateral secures the prompt and complete payment when due of the Loan.

SECTION 3. IMS Remains Liable. Anything herein to the contrary notwithstanding, (a) IMS shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Security Agreement had not been executed, (b) the exercise by the Secured Party of any of the rights hereunder shall not release IMS from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) the Secured Party shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Security Agreement, nor shall the Secured Party be obligated to perform any of the obligations or duties of IMS thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

SECTION 4. Representations and Warranties. IMS represents and warrants to the Secured Party as follows:

(a) All of the Equipment and Inventory are located at the places specified in Schedule I hereto. The chief place of business and chief executive office of IMS and the office where IMS keeps its records concerning Receivables are located at the

address specified on Schedule I hereto. All originals of all chattel paper which evidence Receivables have been delivered to the Secured Party. None of the Receivables is evidenced by a promissory note or other instrument.

(b) IMS owns the Collateral free and clear of any lien, except for (1) the security interest created by this Security Agreement and (2) liens listed on Schedule II hereto. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except (1) for financing statements filed pursuant to the liens listed on Schedule II hereto and (2) such as may have been filed in favor of the Secured Party relating to this Security Agreement.

(c) Other than as set forth on Schedule II, this Security Agreement creates a valid first priority lien in the Collateral, securing the payment of the Loan. All actions necessary or desirable to perfect and protect such security interest have been duly taken.

(d) No authorization, approval or other action by, and no notice to or filing with, any governmental authority is required either (1) for the grant by IMS of the security interest granted hereby or for the execution, delivery or performance of this Security Agreement by IMS or (2) for the perfection of or the exercise by the Secured Party of its rights and remedies hereunder.

(e) The Taxpayer Identification Number of IMS is 84-0970775.

SECTION 5. Further Assurances. (a) IMS agrees that from time to time, at the expense of IMS, IMS will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, IMS will: (1) if any Receivable shall be evidenced by a promissory note or other instrument or chattel paper (other than any such instrument received in connection with collections permitted to be undertaken by IMS in accordance with Section 8) deliver such to the Secured Party duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Secured Party; and (2) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Secured Party may request, in order to perfect and preserve the security interest granted or purported to be granted hereby.

(b) IMS hereby authorizes the Secured Party to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of IMS where permitted by law. A carbon, photographic or other reproduction of this Security Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) IMS will furnish to the Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may request, all in reasonable detail.

(d) IMS will defend the Collateral against all claims and demands of all persons (other than the Secured Party) claiming an interest therein. IMS will pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Collateral, except to the extent where there is a Good Faith Contest to the validity thereof. In connection with any such Good Faith Contest IMS will, at the request of the Secured Party, promptly provide a bond, cash deposit or other security reasonably satisfactory to protect the security interest of the Secured Party should such Good Faith Contest be unsuccessful.

SECTION 6. As to Equipment, Inventory and Trademarks. IMS shall:

(a) Keep the Equipment and Inventory (other than Inventory sold in the ordinary course of business) at the places therefor specified in Schedule I hereto or, upon 30 days' prior written notice to the Secured Party, at such other places in jurisdictions where all action required by Section 5 shall have been taken with respect to the Equipment and Inventory;

(b) Cause the Equipment necessary for the conduct of its business to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and shall forthwith, or in the case of any loss or damage to any of the Equipment as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements, and other improvements in connection therewith which are necessary or desirable to such end;

(c) Permit the Secured Party or any agent of the Secured Party to have access to the Inventory and Equipment for purposes of inspection during normal business hours and upon reasonable notice;

(d) Promptly notify the Secured Party in writing of any material loss or damage to the Inventory or Equipment;

(e) Not (other than in the ordinary course of business) sell, assign, lease, mortgage, transfer or otherwise dispose of any interest in the Inventory or Equipment;

(f) Not use or permit the Inventory or Equipment to be used for any unlawful purpose or in violation of any Law or (other than in the ordinary course of business) for hire;

(g) Not permit the Equipment to become a part of or to be affixed to any real property of any Person; and

(h) Take all reasonable steps to maintain and enforce the Trademarks, Patents and Copyrights material to the conduct of its business, including but not limited to (1) payment of all fees, (2) prosecuting infringers if failure to do so would materially and adversely affect the business of IMS and (3) diligently pursuing any application or registration material to the business of IMS.

SECTION 7. Insurance. (a) IMS shall, at its own expense, maintain
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insurance with respect to the Equipment and Inventory in such amounts, against such risks, in such form and with such insurers, as shall be reasonably sufficient to protect IMS against material financial loss resulting from damage to or loss thereof. Each policy for: (1) liability insurance shall provide for all losses to be paid on behalf of the Secured Party and IMS as their respective interests may appear; and (2) property damage insurance shall provide for all losses to be paid directly to the Secured Party.

(b) In case of any loss involving damage to Equipment or Inventory, IMS shall make or cause to be made the necessary repairs to or replacements of such Equipment or Inventory, and any proceeds of insurance maintained by IMS pursuant to this Section 7 shall be paid to IMS as reimbursement for the costs of such repairs or replacements.

SECTION 8. As to Receivables. (a) IMS shall keep its chief place of
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business and chief executive office and the office where it keeps its records concerning the Receivables, at the location therefor specified in Schedule I hereto or, upon 30 days' prior written notice to the Secured Party, at such other locations in a jurisdiction where all action required by Section 5 shall have been taken with respect to Receivables. IMS will hold and preserve such records and will permit representatives of the Secured Party to inspect and make abstracts from such records.

(b) Except as otherwise provided in this subsection (b), IMS shall continue to collect, at its own expense, all

amounts due or to become due to IMS under the Receivables. In connection with such collections, IMS may take (and, at the Secured Party's discretion, shall take) such action as IMS or the Secured Party may deem necessary or advisable to enforce collection of the Receivables; provided, however, that the Secured Party shall have the right at any time, upon the occurrence and during the continuance of a Default (as defined in the Note) upon written notice to IMS of its intention to do so, to notify the account debtors or obligors under any Receivables of the assignment of such Receivables to the Secured Party and to direct such account debtors or obligors to make payment of all amounts due or to become due to IMS thereunder directly to the Secured Party and, upon such notification and at the expense of IMS, to enforce collection of any such Receivables, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as IMS might have done. After receipt by IMS of the notice from the Secured Party referred to in the proviso to the preceding sentence and as long as there is a Default (as defined in the Note), (1) all amounts and proceeds (including instruments) received by IMS in respect of the Receivables shall be received in trust for the benefit of the Secured Party hereunder, shall be segregated from other funds of IMS and shall be forthwith paid over to the Secured Party in the same form as so received (with any necessary endorsement) to be held as proceeds of the Collateral, or be applied as provided by Section 14(b), as determined by the Secured Party, and (2) IMS shall not adjust, settle or compromise the amount or payment of any Receivable, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon, other than any discount allowed for prompt payment.

SECTION 9. Transfer and Other Liens. IMS shall not:

(a) Except for Inventory and used Equipment in the ordinary course of business and Excluded Receivables, consistent with prior practice, sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral.

(b) Except with respect to the security interest created by this Security Agreement and liens listed on Schedule II hereto, create or suffer to exist any lien upon or with respect to any of the Collateral to secure indebtedness of any person.

SECTION 10. The Secured Party Appointed Attorney-in-Fact. IMS hereby irrevocably appoints the Secured Party IMS's attorney-in-fact, with full authority in the place and stead of IMS and in the name of IMS, the Secured Party or otherwise, to, after the occurrence and during the continuance of Default (as defined in the Note), take any action and to execute any instrument which the Secured Party may deem necessary or

advisable to accomplish the purposes of this Agreement, including, without limitation:

(a) to obtain and adjust insurance required to be paid to the Secured Party pursuant to Section 7;

(b) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) to receive, endorse, assign, and collect any and all checks, notes, drafts and other negotiable and non-negotiable instruments, documents and chattel paper, in connection with clause (a) or (b) above, and IMS waives notice of presentment, protest and non-payment of any instrument, document or chattel paper so endorsed or assigned;

(d) to file any claims or take any action or institute any proceedings which the Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Secured Party with respect to any of the Collateral; and

(e) to sell, transfer, assign or otherwise deal in or with the Collateral or the proceeds or avails thereof, as full and effectually as if the Secured Party were the absolute owner thereof.

IMS hereby ratifies and approves all acts, other than those which result from the Secured Party's gross negligence or willful misconduct, of the Secured Party, as its attorney in-fact, pursuant to this Section 10, and the Secured Party, as its attorney in-fact, will not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law other than those which result from the Secured Party's gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable so long as this Security Agreement remains in effect.

IMS also authorizes the Secured Party, at any time and from time to time, to communicate in its own name with any party to any contract, agreement or instrument included in the Collateral with regard to the assignment of such contract, agreement or instrument and other matters relating thereto.

SECTION 11. The Secured Party May Perform. If IMS fails to perform any agreement contained herein, the Secured Party may itself perform, or cause performance of, such agreement, and the expenses of the Secured Party incurred in

connection therewith shall be payable by IMS under Section 14(b).

SECTION 12. The Secured Party's Duties. The powers conferred on the Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, the Secured Party shall not have any duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral.

SECTION 13. Remedies. If any Default (as defined in the Note) shall have occurred and be continuing:

(a) the Secured Party may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") (whether or not the Code applies to the affected Collateral) and also may (i) require IMS to, and IMS hereby agrees that it will at its expense and upon the request of the Secured Party forthwith, assemble all or part of the Collateral as directed by the Secured Party and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties and (ii) to enter the premises where any of the Collateral is located and take and carry away the same, by any of its representatives, with or without legal process, to the Secured Party's place of storage, and (iii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Secured Party's offices or elsewhere, for cash, on credit or for future delivery and upon such other terms as the Secured Party may deem commercially reasonable. IMS agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to IMS of the time and place of any public or private sale is to be made shall constitute reasonable notification. The Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place it was so adjourned.

(b) All cash proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Secured Party, be held by the Secured Party as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Secured Party pursuant to Section 14) in whole or in part by the Secured Party against,

all or any part of the Loan in such order as the Secured Party shall elect. Any surplus of such cash or cash proceeds held by the Secured Party and remaining after payment in full of the Loan to the Secured Party shall be paid over to IMS. If the proceeds of the sale of the Collateral are insufficient to pay all the Loan, IMS agrees to pay upon demand any deficiency to the Secured Party.

SECTION 14. Indemnity and Expenses. (a) IMS agrees to indemnify the Secured Party from and against any and all claims, losses and liabilities growing out of or resulting from this Security Agreement (including, without limitation, enforcement of this Security Agreement), except claims, losses or liabilities resulting from the Secured Party's gross negligence or willful misconduct.

(b) IMS will upon demand pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and out of pocket disbursements of its counsel and of any experts and agents, which the Secured Party may incur in connection with (1) filing or recording fees incurred in connection with this Security Agreement, (2) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (3) the exercise or enforcement of any of the rights of the Secured Party hereunder, or (4) the failure by IMS to perform or observe any of the provisions hereof. The Secured Party shall not be liable to IMS for damages as a result of delays, temporary withdrawals of the Equipment from service or other causes other than those caused by the Secured Party's gross negligence or willful misconduct.

SECTION 15. Amendments; Etc. No amendment or waiver of any provision of this Security Agreement nor consent to any departure by IMS herefrom shall in any event be effective unless the same shall be in writing and signed by the Secured Party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 16. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to IMS, mailed or delivered by messenger or sent by facsimile, addressed to it at the address of IMS set forth below; if to the Secured Party, mailed or delivered by messenger or sent by facsimile to it, addressed to it at the address of the Secured Party set forth below; or as to any other party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section.

If to the Secured Party: Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Telephone (317) 276-2000
Telecopy (317) 276-9152
Attention: General Counsel

If to IMS: Integrated Medical Systems, Inc.
15000 West 6th Avenue,
Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when received in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 17. Continuing Security Interest; Transfer of the Note. This Agreement shall create a continuing security interest in the Collateral and shall (1) remain in full force and effect until payment in full of the Loan, (2) be binding upon IMS, its successors and assigns, and (3) inure to the benefit of the Secured Party and their successors, transferees and assigns. Without limiting the generality of the foregoing clause (3), the Secured Party may assign or otherwise transfer all or a portion of its rights and obligations under this Security Agreement and the Note to any other person and such other person shall thereupon become vested with all the benefits in respect thereof granted to the Secured Party herein or otherwise. Upon the payment in full of the Loan, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to IMS. Upon any such termination, the Secured Party will, at IMS's expense, execute and deliver to IMS such documents as IMS shall reasonably request to evidence such termination.

SECTION 18. Governing Law; Terms. This Security Agreement shall be governed by and construed in accordance with the laws of the State of New York, except to the extent that the validity or perfection of the security interest hereunder, or remedies hereunder, in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of New York. Unless otherwise defined herein or in the Note, terms used in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 19. Miscellaneous. This Security Agreement is in addition to and not in limitation of any other rights and remedies the Secured Party may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by IMS or by Law or otherwise. If any provision of this Security Agreement is contrary to applicable Law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. If and to the extent that applicable Law confers any rights in addition to any of the provisions of this Security Agreement, the affected provision shall be considered amended to conform thereto. The Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to or waiver of any such right or remedy which the Secured Party would have had on any future occasion nor shall the Secured Party be liable for exercising or failing to exercise any such right or remedy.

IN WITNESS WHEREOF, IMS has caused this Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I. Brown
---

Name: Charles I. Brown
Title: Executive Vice President and
Chief Financial Officer

SCHEDULE I
to Security Agreement

Place of Business and Locations of Collateral

| | |
|---|---|
| Chief Place of Business and Chief Executive Office: | 15000 West Sixth Avenue<br>Suite 400<br>Golden Colorado 80401 |
| Locations of Equipment: | (same as above) |
| Locations of Inventory: | (same as above) |
| Location of Records Evidencing Receivables: | (same as above) |

SCHEDULE II
to the Security Agreement

1. First National Bank of Wyoming, Laramie, Wyoming, holds a first priority security interest in all of IMS' Equipment, "Accounts, Instruments, Documents, Chattel Paper or Other Rights to Payment," and furniture and fixtures now owned or later acquired, to secure the repayment of a revolving $1,000,000 loan to IMS (Loan Number 15555, dated May 19, 1995). This loan was also personally guaranteed by all directors of IMS other than those affiliated with Eli Lilly and Company.

2. Certain office equipment or furniture of IMS is leased or subject to liens held by various vendors or financing entities.

3. Certain real estate leases pursuant to which IMS occupies office space prohibit use of the leasehold as collateral for indebtedness.

4. Prime Leasing Corporation holds a first priority security interest in IMS' receivable under the Network License Agreement with Boca Raton Hospital, Boca Raton, Florida to secure a loan made September 24, 1993 to IMS' in the original principal amount of $250,000. The principal balance of the loan at June 1, 1995 was $120,012.93. Monthly payments of approximately $8,008.24 on the loan obligation are made by IMS.

5. In the regular course of its business, IMS periodically sells future receivables owed to IMS under various license or service contracts on a non-recourse basis to financing entities. At June 7, 1995, sale of receivables for three contracts with a face value of $1,447,340 were being negotiated.

6. Eli Lilly and Company has a security interest in the Collateral pursuant to a Security Agreement dated as of June 12, 1995 securing the Company's obligations under a $3,000,000 Promisory Note dated June 12, 1995.

Exhibit 10.13

PLEDGE AGREEMENT dated as of July 27, 1995 ("Pledge Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation (the "Pledgor") to Eli Lilly and Company, an Indiana corporation (together with its successors and assigns, "Pledgee").

PRELIMINARY STATEMENTS

1. Reference is made to the Subordinated Note (the "Note"), dated the date hereof, pursuant which the Pledgee is lending and the Pledgor is borrowing $1.0 million, subject to the terms and conditions contained therein (the "Loan").

2. It is a condition precedent to the obligation of the Pledgee to provide the Loan to the Pledgor that the Pledgor shall have granted the security interest contemplated by this Pledge Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Pledgee to provide the Loan to the Pledgor, the Pledgor hereby agrees as follows:

SECTION 1. Pledge. The Pledgor hereby pledges and grants a security interest to the Pledgee in all of the following (the "Pledged Collateral"):

(i) all of the stock described in Schedule I (the "Pledged Shares") and the certificates representing the Pledged Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares; and

(ii) all additional shares of stock of any and all issuers of any of the Pledged Shares from time to time acquired by the Pledgor in any manner, and the certificates representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares; and

(iii) all proceeds of any and all of the foregoing.

SECTION 2. Security for Obligations. The Pledged Collateral secures the prompt and complete payment when due

of all obligations of Pledgor under the Note (the "Obligations").

SECTION 3. Delivery of Pledged Collateral. All certificates or instruments representing or evidencing the Pledged Collateral have been delivered to and are held by the Pledgee pursuant to the Pledge Agreement dated as of June 12, 1995 made by Pledgor to Pledgee (the "Original Pledge Agreement"), in suitable form for transfer by delivery, or accompanied by duly executed instruments of transfer or assignment in blank. As of the date hereof, such certificates and instruments shall be deemed held by Pledgee hereunder as well as under the Original Pledge Agreement. The Pledgee shall have the right, at any time in its discretion and without notice to the Pledgor, to transfer to or to register in the name of the Pledgee or any of its nominees any or all of the Pledged Collateral, subject only to the revocable rights specified in Section 6(a). In addition, the Pledgee shall have the right at any time to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations.

SECTION 4. Representations and Warranties. The Pledgor represents and warrants to the Pledgee as follows:

(i) The Pledged Shares have been duly authorized and validly issued and are fully paid and non-assessable.

(ii) The Pledgor is the legal and beneficial owner of the Pledged Collateral free and clear of any Lien, option or other charge or encumbrance, except for the security interest created by this Pledge Agreement and the security interest created by the Original Pledge Agreement.

(iii) The pledge of the Pledged Shares pursuant to this Pledge Agreement creates a valid and perfected first priority security interest, subject only to the Original Pledge Agreement, in the Pledged Collateral securing the payment of Pledgor's obligation under the Note.

(iv) No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority is required either (i) for the pledge by the Pledgor of the Pledged Collateral pursuant to this Pledge Agreement or for the execution, delivery or performance of the Pledge Agreement by the Pledgor, or (ii) for the exercise by the Pledgee of the voting or other rights provided for in this Pledge Agreement or the remedies in respect of the Pledged Collateral pursuant to this Pledge Agreement (except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally).

(v) The Pledged Shares constitute all of the issued and outstanding shares of stock of each issuer thereof as set forth on Schedule I.

SECTION 5. Further Assurances. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Pledgee may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Pledgee to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral.

SECTION 6. Voting Rights; Dividends; Etc. (a) So long as no Default (as defined in the Note) shall have occurred and be continuing:

(i) The Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Pledged Collateral or any part thereof for any purpose not inconsistent with the terms of this Pledge Agreement or the Note; provided, however, that the Pledgor shall not exercise or refrain from exercising any such right if, in the Pledgee's reasonable judgment, such action would modify or in any way adversely change the Pledgor's or the Pledgee's rights with respect to the Pledged Collateral or any part thereof.

(ii) The Pledgor shall be entitled to receive and retain any and all dividends paid in respect of the Pledged Collateral, provided, however, that any and all

(A) dividends paid or payable, other than in cash, in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral,

(B) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a liquidation or dissolution, and

(C) cash paid, payable or otherwise distributed in respect of principal of, or in redemption of, or in exchange for, any Pledged Collateral,

shall be, and shall be forthwith delivered to the Pledgee to hold as, Pledged Collateral and shall, if

received by the Pledgor, be received in trust for the benefit of the Pledgee, be segregated from the other property or funds of the Pledgor, and be forthwith delivered to the Pledgee as Pledged Collateral in the same form as so received (with any necessary indorsement).

(iii) The Pledgee hereby authorizes the Pledgor to exercise all voting and other rights which it is entitled to exercise pursuant to paragraph (i) above and to receive the dividends which it is authorized to receive and retain pursuant to paragraph (ii) above.

(b) Upon the occurrence and during the continuance of a Default:

(i) Upon the request of the Pledgee, all rights of the Pledgor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 6(a)(i) and to receive the dividends which it would otherwise be authorized to receive and retain pursuant to Section 6(a)(ii) shall cease, and all such rights shall thereupon become vested in the Pledgee, and the Pledgee shall thereupon have the sole right to exercise such voting and other consensual rights and to receive and hold as Pledged Collateral such dividends.

(ii) All dividends which are received by the Pledgor contrary to the provisions of paragraph (i) of this Section 6(b) shall be received in trust for the benefit of the Pledgee, shall be segregated from other funds of the Pledgor and shall be forthwith paid over to the Pledgee as Pledged Collateral in the same form as so received (with any necessary indorsement).

SECTION 7. Transfers and Other Liens; Additional Shares. (a) The Pledgor agrees that it will neither (i) sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, nor (ii) create or permit to exist any Lien, security interest, or other charge or encumbrance upon or with respect to any of the Pledged Collateral, except for the security interest under this Pledge Agreement.

(b) The Pledgor agrees that it will (i) cause each issuer of the Pledged Shares not to issue any stock or other securities in addition to or in substitution for the Pledged Shares, except to its existing shareholders so that after giving effect to such issuance all such shareholders, including the Pledgor, still own the same percentage of the outstanding stock of such issuer, and (ii) pledge hereunder, immediately upon its acquisition (directly or indirectly)

thereof, any and all additional shares of stock or other securities of each issuer of the Pledged Shares.

SECTION 8. Pledgee Appointed Attorney-in-Fact. The Pledgor hereby appoints the Pledgee, the Pledgor's attorney-in-fact, with full authority in the place and stead of the Pledgor and in the name of the Pledgor or otherwise, to take any action and to execute any instrument which the Pledgee may deem necessary or advisable to accomplish the purposes of this Pledge Agreement, including, without limitation, to receive, endorse and collect all instruments made payable to the Pledgor representing any dividend or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same, provided, however, the Pledgee agrees it will only exercise such rights upon the occurrence and during the continuance of a Default.

SECTION 9. Pledgee May Perform. If the Pledgor fails to perform any agreement contained herein, the Pledgee may itself perform or cause performance of, such agreement, and the expenses of the Pledgee incurred in connection therewith shall be payable by the Pledgor under Section 12.

SECTION 10. The Pledgee's Duties and Reasonable Care. The powers conferred on the Pledgee hereunder are solely to protect its interests in the Pledged Collateral and shall not impose any duty upon it to exercise any such powers. The Pledgee shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equal to that which the Pledgee accords its own property, it being understood that the Pledgee shall not have any responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Pledgee has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

SECTION 11. Remedies. If any Default shall have occurred and be continuing:

(a) The Pledgee may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") in effect in the State of New York at that time, and the Pledgee may also, without notice, except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at

public or private sale, at any exchange, broker's board or at any of the Pledgee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pledgee may deem commercially reasonable. The Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Pledgee shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Pledgee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by the Pledgee as Pledged Collateral and all cash proceeds received by the Pledgee in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Pledgee, be held by the Pledgee as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Pledgee pursuant to Section 12) in whole or in part by the Pledgee against, all or any part of the Obligations in such order as the Pledgee shall elect. Any surplus of such cash or cash proceeds held by the Pledgee and remaining after payment in full of all Obligations shall be paid over to the Pledgor or to whosoever may be lawfully entitled to receive such surplus. If the proceeds of the sale of the Collateral are insufficient to pay all the Obligations the Pledgor agrees to pay upon demand any deficiency to the Pledgee.

SECTION 12. Indemnity and Expenses. (a) The Pledgor hereby indemnifies the Pledgee from and against any and all claims, losses, damages and liabilities growing out of or resulting from this Pledge Agreement (including, without limitation, enforcement of this Pledge Agreement), except claims, losses, damages or liabilities resulting from the Pledgee's gross negligence and willful misconduct.

(b) The Pledgor will upon demand pay to the Pledgee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the Pledgee may incur in connection with (i) any amendment to this Pledge Agreement; (ii) the administration of this Pledge Agreement; (iii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral; (iv) the exercise or enforcement of any of the rights of the Pledgee hereunder; or (v) the failure

by the Pledgor to perform or observe any of the provisions hereof.

SECTION 13. Amendments, Etc. No amendment or waiver of any provision of this Pledge Agreement, nor consent to any departure by the Pledgor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Pledgee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 14. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to the Pledgor, mailed or delivered by messenger or sent by facsimile, addressed to it at in the Note; if to the Pledgee, mailed or delivered by messenger or sent by facsimile to it, addressed to it at Eli Lilly and Company, Lilly Corporate Center, Indianapolis, Indiana 46285, Telephone (317) 276-2000, Telecopy (317) 276-9152, Attention: General Counsel. All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when deposited in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 15. Continuing Security Interest; Transfer of the Note. This Pledge Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until payment in full of all Obligations, (ii) be binding upon the Pledgor, its successors and assigns, and (iii) inure to the benefit of the Pledgee and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Pledgee may assign or otherwise transfer all or a portion of its rights or obligations under the Note to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to the Pledgee herein or otherwise. Upon the payment in full of the Obligations, the Pledgor shall be entitled to the return, upon its request and at its expense, of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

SECTION 16. Governing Law; Terms. This Pledge Agreement shall be governed by and construed in accordance with the laws of the State of New York. Unless otherwise defined herein, terms defined in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 17. Miscellaneous. This Pledge Agreement is in addition to and not in limitation of any other rights and remedies the Pledgee may have by virtue of any other

instrument or agreement heretofore, contemporaneously herewith or hereafter executed by the Pledgor or any other person or by law or otherwise. If any provision of this Pledge Agreement is contrary to applicable law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. The Pledgee shall not, by any act, delay, omission or otherwise, be deemed to have waived any of their rights or remedies hereunder.

[Intentionally Left Blank]

IN WITNESS WHEREOF, the Pledgor has caused this Pledge Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I. Brown
---
CHARLES I. BROWN, EXECUTIVE VICE PRESIDENT AND CHIEF FINANCIAL OFFICER

SCHEDULE I

Exhibit 10.14

PROMISSORY NOTE

$1,000,000.00 August 28, 1995

FOR VALUE RECEIVED, Integrated Medical Systems, Inc., a Colorado corporation ("Maker"), does hereby promise to pay to the order of Eli Lilly and Company, an Indiana corporation ("Payee"), on July 1, 1996, or such earlier date as payment may become due pursuant to the terms hereof (the "Maturity Date"), the sum of One Million Dollars ($1,000,000), with interest computed from the date hereof on the unpaid principal sum from time to time outstanding at a rate of ten percent (10%) per annum except that if any portion of the principal or interest payable hereunder shall not be paid on the Maturity Date, the interest rate from and after the Maturity Date shall be 12%. Payee, as holder of this Note, and any subsequent holder of this Note, is sometimes hereinafter referred to as "Holder." Principal and interest shall be payable in money of the United States of America that at the time is legal tender for the payment of public and private debts.

This Note is executed and delivered together with a certain Security Agreement, dated as of August 28, 1995, between Maker and Payee (the "Security Agreement"), and a certain Pledge Agreement, dated as of August 28, 1995, between Maker and Payee (the "Pledge Agreement"), which secure the obligations of Maker under this Note and additional promissory notes that may be issued by Maker to Payee. Maker has previously issued promissory notes in the principal amount of $3,000,000 and $1,000,000, dated June 12 and July 27, 1995, respectively, to Payee, each secured by a Pledge Agreement and a Securities Agreement dated as of the date of the loan. In the event of a Default (as hereinafter defined) under this Note, Holder shall be entitled to enforce its rights and shall have recourse against the Maker in accordance with the terms of this Note and applicable law and Holder shall be entitled to enforce its rights against the Collateral (as defined in the Security Agreement) and the Pledged Collateral (as defined in the Pledge Agreement) and shall have recourse against Maker as described in the Security Agreement and the Pledge Agreement.

The indebtedness evidenced by this Note shall be subordinate and junior in right of payment, to the extent set forth in clauses (i) to (iv) of this paragraph, to all principal and interest on all indebtedness of Maker for borrowed money outstanding on the date hereof and Listed on

Schedule 1 hereto. Such indebtedness of Maker to which this Note is subordinate and junior is referred to as "Senior Debt."

(i) Upon maturity of any Senior Debt by lapse of time, acceleration or otherwise, then all principal of, premium, if any, and interest on, all such matured Senior Debt shall first be paid in full before any payment on account of principal or interest is made upon this Note.

(ii) In the event of any insolvency, bankruptcy, liquidation, reorganization or other similar proceeding, or any receivership proceedings in connection therewith, relative to Maker or its creditors or its property, and in the event of any proceedings for voluntary liquidation, dissolution or other winding up of Maker, whether or not involving insolvency or bankruptcy proceedings, then all principal and interest due on Senior Debt shall first be paid in full, or such payment shall have been provided for, before any payment on account of principal or interest is made upon this Note. In any of the proceedings referred to in the first sentence of this clause (ii), any payment or distribution of any kind or character, whether in cash, property, stock or obligations, which may be payable or deliverable in respect of this Note shall be paid or delivered directly to the holders of Senior Debt (or to a banking institution selected by the court or person making the payment or delivery or designated by any holder of Senior Debt) for application in payment thereof, unless and until all principal and interest on all Senior Debt shall have been paid in full, or such payment shall have been provided for; provided, however, that:

(a) in the event that payment or delivery of such cash, property, stock or obligations to the Holder is authorized by an order or decree giving effect, and stating in such order or decree that effect is given, to the subordination of this Note to Senior Debt, and made by a court of competent jurisdiction in a reorganization proceeding under any applicable bankruptcy or reorganization law, no payment or delivery of such cash, property, stock or obligations payable or deliverable with respect to this Note shall be made to the holders of Senior Debt; and

(b) no such delivery shall be made to holders of Senior Debt of stock or obligations which are issued pursuant to reorganization proceedings or dissolution or liquidation

proceedings, or upon any merger, consolidation, sale, lease, transfer or other disposal by Maker, as reorganized, or by the corporation succeeding to Maker or acquiring its property and assets, if such stock or obligations are subordinate and junior at least to the extent provided in this paragraph to the payment of all Senior Debt then outstanding and to the payment of any stock or obligations which are issued in exchange or substitution for any Senior Debt then outstanding.

(iii) Maker shall not make any payment of principal or interest on this Note during the continuance of any default in the payment of principal of or interest on any Senior Debt.

(iv) The provisions of this paragraph are for the purpose of defining the relative rights of the holders of Senior Debt, on the one hand, and Holder, on the other hand, and as between Maker and the Holder, nothing herein shall impair the obligation of Maker, which is unconditional and absolute, to pay to the Holder the principal of and any interest on this Note, in accordance with its terms, nor shall anything herein prevent the Holder from exercising all remedies otherwise permitted by applicable law upon default hereunder, subject to the rights, under this paragraph, of holders of Senior Debt in respect of cash, property, stock, or other securities received upon the exercise of such remedies.

This Note may be prepaid, at any time or from time to time, in whole or in part, without penalty, at the option of Maker.

Upon the happening of any Default of Maker, the entire unpaid balance of the amount owed by Maker under this Note, together with interest accrued thereon, shall become immediately due and payable. Each of the following shall constitute a "Default" of Maker:

(i) failure of Maker to make any payment of principal or interest when due hereunder or under any other promissory note issued by Maker to Payee;

(ii) default by Maker in the performance or observance of any covenant or agreement, or breach by Maker of any representation or warranty, contained (x) herein or in any other promissory note issued by Maker to Payee, in the Security Agreement or in the Pledge Agreement or in any prior Security Agreement or prior Pledge Agreement made by Maker in favor of Payee, or (y) in the Agreement and

Plan of Merger, dated as of August 2, 1995, among Maker, Payee and a subsidiary of Payee; provided that in the case of any default or breach under clause (y), if such default or breach is reasonably capable of cure by Maker, then such default or breach shall not be a Default hereunder unless such default or breach has not been cured by 12:00 noon, New York City time, on the tenth business day after written notice of such default or breach is provided by Holder to Maker in the manner specified below;

(iii) any default by Maker in respect of any obligation to pay principal under, or any acceleration of any right to payment under, any Senior Debt.

(iv) Maker purporting to assign any of its obligations under this Note to any person or entity without the prior written consent of Holder;

(v) Maker (a) admits in writing its inability generally to pay its debts as they become due; (b) files a petition commencing a voluntary case concerning it under any Chapter of Title 11 of the United States Code entitled "Bankruptcy" ("Title 11"); (c) petitions or applies to any tribunal for the appointment of any receiver, liquidator or trustee ox or for it or any substantial part of its property or assets; or (d) commences any proceeding relating to it under any other bankruptcy, reorganization arrangement, readjustment or debt, receivership, dissolution, liquidation or similar law or statute of any jurisdiction (domestic or foreign), whether now or hereafter in effect, or any other procedure for the relief of financially distressed debtors;

(vi) commencement against Maker of an involuntary case under Title 11 and an order for relief under Title 11 is entered or the petition is controverted but is not dismissed within 60 days after the commencement of the case; or

(vii) commencement against Maker of any proceeding under any other applicable federal or state bankruptcy, insolvency or other similar law seeking the appointment of a receiver, liquidator, assignee, trustee, sequestrator, agent or custodian (or other similar official) of it or any substantial part of its property, and relief against it is ordered in such proceeding or such proceeding remains undismissed for a period of 60 days or more.

In the event an attorney at law or other agent is retained for collection of this Note after any Default of Maker, in addition to principal and interest, Holder shall be entitled to collect all reasonable costs of collection, including but not limited to, reasonable attorneys' fees and costs, incurred in connection with any of Holder's collection efforts, whether or not suit on this Note is filed, and all such costs and expenses shall be payable by Maker on demand and also shall be secured by all other collateral at any time held by Holder as security for Maker's obligations to Holder.

No failure on the part of Holder to exercise any right or remedy hereunder with respect to Make-, whether before or after the happening of a Default, shall constitute waiver of any future Default or any other Default. No failure to accelerate the debt of Maker evidenced hereby by reason of a Default or indulgence granted from time to time shall be construed to be a waiver of the right to insist upon prompt payment thereafter, or shall be deemed to be a novation of this Note or a reinstatement of the debt evidenced hereby or a waiver of such right of acceleration or any other right, or be construed so as to preclude the exercise of any right Holder may have, whether by the laws of the state governing this Note, by agreement or otherwise; and Maker hereby expressly waives the benefit of any statute or rule of law or equity that would produce a result contrary to or in conflict with the foregoing. This Note may not be modified orally, but only by an agreement in writing signed by the party against whom such agreement is sought to be enforced.

Any notice provided to Maker hereunder shall be sent (and shall be deemed given on the date sent) by facsimile (and confirmed by mailing by first class mail) as follows:

Integrated Medical Systems, Inc.
15000 West 6th Avenue, Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

or to such other facsimile number and address as Maker shall provide in writing to Holder for purposes of notices hereunder.

This Note is binding upon Maker's successors and permitted assigns, shall inure to the benefit of Holder, its successors and assigns and shall be governed by and construed in accordance with laws of the State of New York.

IN WITNESS WHEREOF, Maker has executed this Note on the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

/s/ Clarles I. Brown
---
Name: Charles I. Brown
Title: Executive Vice President and
Chief Financial Officer

Schedule 1
to
Promissory Note

Senior Debt

| Creditor | Amount |
|---|---|
| First National Bank of Wyoming | $1,000,000 |
| Prime Leasing Corporation | 120,013 |
| CHCN Partners | 30,112 |
| NEC/XEROX (Long Term Debt) | 135,404 |

Exhibit 10.15

SECURITY AGREEMENT dated as of August 28, 1995 ("Security Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation ("IMS"), to Eli Lilly and Company, together with its successors and assigns (the "Secured Party").

PRELIMINARY STATEMENTS

1. Reference is made to paragraph 11 of the Term Sheet, dated June 12, 1995, and to Section 7.15 of the Agreement and Plan of Merger, dated as of August 2,1995, among IMS, the Secured Party and a subsidiary of the Secured Party, pursuant to which the Secured Party has made loans, and hereafter may make additional loans, to IMS.

Loans of $3,000,000 and $1,000,000 were made on June 12 and July 27, 1995, respectively, each evidenced by a Promissory Note, due July 1, 1996, secured by a Security Agreement and Pledge Agreement dated as of the date of the loan. Such prior loans are herein called the "Prior Loans" and such Security Agreements and such Pledge Agreements are herein called the Prior Security Agreements and the Prior Pledge Agreements, respectively.

The parties desire to make additional loans (the "New Loans"), each to be evidenced by a Promissory Note, dated the date of the loan, and due July 1, 1996 (a "New Note"), and secured by this Security Agreement and the Pledge Agreement of even date herewith.

2. It is a condition precedent to the obligation of the Secured Party to provide New Loans to IMS that IMS shall have granted the security interest contemplated by this Security Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Secured Party to provide New Loans to IMS, IMS hereby agrees as follows:

SECTION 1. Grant of Security. IMS hereby grants to the Secured Party a security interest in and on all of IMS's right, title and interest in and to all of the following, whether now owned or hereafter acquired or existing (the "Collateral"):

(a) All equipment in all of its forms, wherever located, including, without limitation, all machinery and other goods, furniture, furnishings, fixtures, office supplies and all other similar types of tangible personal

property and all parts thereof and all accessions thereto, together with all parts, fittings, special tools, alterations, substitutions, replacements and accessions thereto (any and all such equipment, parts and accessions being the "Equipment");

(b) All inventory in all of its forms, wherever located, including, but not limited to, (i) all raw materials and work in process, finished goods, and materials used or consumed in manufacture or production, (ii) goods in which IMS has an interest in mass or a joint or other interest or right of any kind (including, without limitation, goods in which IMS has an interest or right as consignee), and (iii) goods which are returned to or repossessed by IMS, and all accessions thereto and products thereof and all documents and documents of title relating to or covering any of the foregoing or any other assets ("Documents") (any and all such inventory, accessions, products and Documents being the "Inventory");

(c) All accounts, accounts receivable, contract rights, chattel paper, instruments, acceptances, drafts, and other obligations of any kind, whether or not arising out of or in connection with the sale or lease of goods or the rendering of services, together with all ledger sheets, files, records and documents relating to any of the foregoing, including all computer records, programs, storage media and computer software useful or required in connection therewith (the "Receivables") (it being understood that the term "Receivables" shall not include, and the security interest granted by this Agreement shall not include, the right to future payments owed under various license or service contracts, which rights have been sold on a non-recourse basis prior to the date hereof or which may be sold on a non-recourse basis consistent with prior practice hereafter (the "Excluded Receivables"), and all rights now or hereafter existing in and to all security agreements, leases, and other contracts securing or otherwise relating to any such Receivables, and any and all such leases, security agreements and other contracts (the "Related Contracts");

(d) All rights under all contracts or agreements to which IMS is a party (other than contracts or agreements which by their terms expressly prohibit the granting of a lien thereon);

(e) All trademarks, trade names, trade styles, service marks, prints and labels on which said trademarks, trade names, trade styles and service marks have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted, all right, title and interest therein and thereto, and all registrations and recordings thereof,

including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, or any other country or any political subdivision thereof, together with the goodwill associated therewith, and all reissues, amendments, extensions or renewals thereof and all licenses thereof (the "Trademarks");

(f) All copyrights, copyrighted works or any item which embodies such copyrighted work of the United States or any other country, all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Copyright Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, and all derivative works, extensions or renewals thereof (the "Copyrights");

(g) All letters patent of the United States or any other country, and all applications therefor, all right, title and interest therein and thereto, and all registrations and recordings thereof, including, without limitation, applications, registrations and recordings in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country or any political subdivision thereof, and all reissues, continuations, divisionals, continuations-in-part or extensions thereof and all licenses thereof (the "Patents");

(h) All general intangibles, including but not limited to good will and tax refunds (the "General Intangibles"); and

(i) All proceeds of any and all of the foregoing Collateral (including, without limitation, proceeds which constitute property of the types described in clauses (a) through (h) of this Section 1) and, to the extent not otherwise included, all payments under insurance (whether or not the Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing items.

SECTION 2. Security for the Loan. The Collateral secures the prompt and complete payment when due of the New Loans.

SECTION 3. IMS Remains Liable. Anything herein to the contrary notwithstanding, (a) IMS shall remain liable under the contracts and agreements included in the Collateral to the extent set forth therein to perform all of its duties and obligations thereunder to the same extent as if this Security Agreement had not been executed, (b) the exercise by the Secured

Party of any of the rights hereunder shall not release IMS from any of its duties or obligations under the contracts and agreements included in the Collateral, and (c) the Secured Party shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Security Agreement, nor shall the Secured Party be obligated to perform any of the obligations or duties of IMS thereunder or to take any action to collect or enforce any claim for payment assigned hereunder.

SECTION 4. Representations and Warranties. IMS represents and warrants to the Secured Party as follows:

(a) All of the Equipment and Inventory are located at the places specified in Schedule I hereto. The chief place of business and chief executive office of IMS and the office where IMS keeps its records concerning Receivables are located at the address specified on Schedule I hereto. All originals of all chattel paper which evidence Receivables have been delivered to the Secured Party. None of the Receivables is evidenced by a promissory note or other instrument.

(b) IMS owns the Collateral free and clear of any lien, except for (1) the security interest created by this Security Agreement or the Prior Security Agreements and (2) liens listed on Schedule II hereto. No effective financing statement or other instrument similar in effect covering all or any part of the Collateral is on file in any recording office, except (1) for financing statements filed pursuant to the liens listed on Schedule II hereto and (2) such as may have been filed in favor of the Secured Party relating to this Security Agreement or the Prior Security Agreements.

(c) Other than as set forth on Schedule II, this Security Agreement creates a valid first priority lien in the Collateral, securing the payment of the Loan. All actions necessary or desirable to perfect and protect such security interest have been duly taken.

(d) No authorization, approval or other action by, and no notice to or filing with, any governmental authority is required either (1) for the grant by IMS of the security interest granted hereby or for the execution, delivery or performance of this Security Agreement by IMS or (2) for the perfection of or the exercise by the Secured Party of its rights and remedies hereunder.

(e) The Taxpayer Identification Number of IMS is 84-0970775.

SECTION 5. Further Assurances. (a) IMS agrees that from time to time, at the expense of IMS, IMS will promptly execute and deliver all further instruments and documents, and

take all further action, that may be necessary or desirable, or that the Secured Party may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral. Without limiting the generality of the foregoing, IMS will: (1) if any Receivable shall be evidenced by a promissory note or other instrument or chattel paper (other than any such instrument received in connection with collections permitted to be undertaken by IMS in accordance with Section 8) deliver such to the Secured Party duly endorsed and accompanied by duly executed instruments of transfer or assignment, all in form and substance satisfactory to the Secured Party; and (2) execute and file such financing or continuation statements, or amendments thereto, and such other instruments or notices, as may be necessary or desirable, or as the Secured Party may request, in order to perfect and preserve the security interest granted or purported to be granted hereby.

(b) IMS hereby authorizes the Secured Party to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the Collateral without the signature of IMS where permitted by law. A carbon, photographic or other reproduction of this Security Agreement or any financing statement covering the Collateral or any part thereof shall be sufficient as a financing statement where permitted by law.

(c) IMS will furnish to the Secured Party from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Secured Party may request, all in reasonable detail.

(d) IMS will defend the Collateral against all claims and demands of all persons (other than the Secured Party) claiming an interest therein. IMS will pay promptly when due all property and other taxes, assessments and governmental charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Collateral, except to the extent where there is a Good Faith Contest to the validity thereof. In connection with any such Good Faith Contest IMS will, at the request of the Secured Party, promptly provide a bond, cash deposit or other security reasonably satisfactory to protect the security interest of the Secured Party should such Good Faith Contest be unsuccessful.

SECTION 6. As to Equipment, Inventory and Trademarks. IMS shall:

(a) Keep the Equipment and Inventory (other than Inventory sold in the ordinary course of business) at the places therefor specified in Schedule I hereto or, upon 30 days' prior

written notice to the Secured Party, at such other places in jurisdictions where all action required by Section 5 shall have been taken with respect to the Equipment and Inventory;

(b) Cause the Equipment necessary for the conduct of its business to be maintained and preserved in the same condition, repair and working order as when new, ordinary wear and tear excepted, and shall forthwith, or in the case of any loss or damage to any of the Equipment as quickly as practicable after the occurrence thereof, make or cause to be made all repairs, replacements, and other improvements in connection therewith which are necessary or desirable to such end;

(c) Permit the Secured Party or any agent of the Secured Party to have access to the Inventory and Equipment for purposes of inspection during normal business hours and upon reasonable notice;

(d) Promptly notify the Secured Party in writing of any material loss or damage to the Inventory or Equipment;

(e) Not (other than in the ordinary course of business) sell, assign, lease, mortgage, transfer or otherwise dispose of any interest in the Inventory or Equipment;

(f) Not use or permit the Inventory or Equipment to be used for any unlawful purpose or in violation of any Law or (other than in the ordinary course of business) for hire;

(g) Not permit the Equipment to become a part of or to be affixed to any real property of any Person; and

(h) Take all reasonable steps to maintain and enforce the Trademarks, Patents and Copyrights material to the conduct of its business, including but not limited to (1) payment of all fees, (2) prosecuting infringers if failure to do so would materially and adversely affect the business of IMS and (3) diligently pursuing any application or registration material to the business of IMS.

SECTION 7. Insurance. (a) IMS shall, at its own expense, maintain
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insurance with respect to the Equipment and Inventory in such amounts, against such risks, in such form and with such insurers, as shall be reasonably sufficient to protect IMS against material financial loss resulting from damage to or loss thereof. Each policy for: (1) liability insurance shall provide for all losses to be paid on behalf of the Secured Party and IMS as their respective interests may appear; and (2) property damage insurance shall provide for all losses to be paid directly to the Secured Party.

(b) In case of any loss involving damage to Equipment or Inventory, IMS shall make or cause to be made the necessary

repairs to or replacements of such Equipment or Inventory, and any proceeds of insurance maintained by IMS pursuant to this Section 7 shall be paid to IMS as reimbursement for the costs of such repairs or replacements.

SECTION 8. As to Receivables. (a) IMS shall keep its chief place of business and chief executive office and the office where it keeps its records concerning the Receivables, at the location therefor specified in Schedule I hereto or, upon 30 days' prior written notice to the Secured Party, at such other locations in a jurisdiction where all action required by Section 5 shall have been taken with respect to Receivables. IMS will hold and preserve such records and will permit representatives of the Secured Party to inspect and make abstracts from such records.

(b) Except as otherwise provided in this subsection (b), IMS shall continue to collect, at its own expense, all amounts due or to become due to IMS under the Receivables. In connection with such collections, IMS may take (and, at the Secured Party's discretion, shall take) such action as IMS or the Secured Party may deem necessary or advisable to enforce collection of the Receivables;

provided, however, that the Secured Party shall have the right at any time, upon the occurrence and during the continuance of a Default (as defined in any New Note) upon written notice to IMS of its intention to do so, to notify the account debtors or obligors under any Receivables of the assignment of such Receivables to the Secured Party and to direct such account debtors or obligors to make payment of all amounts due or to become due to IMS thereunder directly to the Secured Party and, upon such notification and at the expense of IMS, to enforce collection of any such Receivables, and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as IMS might have done. After receipt by IMS of the notice from the Secured Party referred to in the proviso to the preceding sentence and as long as there is a Default (as defined in any New Note), (1) all amounts and proceeds (including instruments) received by IMS in respect of the Receivables shall be received in trust for the benefit of the Secured Party hereunder, shall be segregated from other funds of IMS and shall be forthwith paid over to the Secured Party in the same form as so received (with any necessary endorsement) to be held as proceeds of the Collateral, or be applied as provided by Section 14(b), as determined by the Secured Party, and (2) IMS shall not adjust, settle or compromise the amount or payment of any Receivable, or release wholly or partly any account debtor or obligor thereof, or allow any credit or discount thereon, other than any discount allowed for prompt payment.

SECTION 9. Transfer and Other Liens. IMS shall not:

(a) Except for Inventory and used Equipment in the ordinary course of business and Excluded Receivables, consistent with prior practice, sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral.

(b) Except with respect to the security interest created by this Security Agreement or the Prior Security Agreements, and liens listed on Schedule II hereto, create or suffer to exist any lien upon or with respect to any of the Collateral to secure indebtedness of any person.

SECTION 10. The Secured Party Appointed Attorney-in-Fact. IMS hereby irrevocably appoints the Secured Party IMS's attorney-in-fact, with full authority in the place and stead of IMS and in the name of IMS, the Secured Party or otherwise, to, after the occurrence and during the continuance of Default (as defined in any New Note), take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation:

(a) to obtain and adjust insurance required to be paid to the Secured Party pursuant to Section 7;

(b) to ask, demand, collect, sue for, recover, compromise, receive and give acquittance and receipts for moneys due and to become due under or in respect of any of the Collateral;

(c) to receive, endorse, assign, and collect any and all checks, notes, drafts and other negotiable and non-negotiable instruments, documents and chattel paper, in connection with clause (a) or (b) above, and IMS waives notice of presentment, protest and non-payment of any instrument, document or chattel paper so endorsed or assigned;

(d) to file any claims or take any action or institute any proceedings which the Secured Party may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce the rights of the Secured Party with respect to any of the Collateral; and

(e) to sell, transfer, assign or otherwise deal in or with the Collateral or the proceeds or avails thereof, as full and effectually as if the Secured Party were the absolute owner thereof.

IMS hereby ratifies and approves all acts, other than those which result from the Secured Party's gross negligence or willful misconduct, of the Secured Party, as its attorney in-fact, pursuant to this Section 10, and the Secured Party, as its attorney in-fact, will not be liable for any acts of commission or omission, nor for any error of judgment or mistake of fact or law other than those which result from the Secured Party's gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable so long as this Security Agreement remains in effect.

IMS also authorizes the Secured Party, at any time and from time to time, to communicate in its own name with any party to any contract, agreement or instrument included in the Collateral with regard to the assignment of such contract, agreement or instrument and other matters relating thereto.

SECTION 11. The Secured Party May Perform. If IMS fails to perform any agreement contained herein, the Secured Party may itself perform, or cause performance of, such agreement, and the expenses of the Secured Party incurred in connection therewith shall be payable by IMS under Section 14(b).

SECTION 12. The Secured Party's Duties. The powers conferred on the Secured Party hereunder are solely to protect its interest in the Collateral and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its actual possession and the accounting for moneys actually received by it hereunder, the Secured Party shall not have any duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to any Collateral.

SECTION 13. Remedies. If any Default (as defined in any New Note) shall have occurred and be continuing:

(a) the Secured Party may exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") (whether or not the Code applies to the affected Collateral) and also may (i) require IMS to, and IMS hereby agrees that it will at its expense and upon the request of the Secured Party forthwith, assemble all or part of the Collateral as directed by the Secured Party and make it available to the Secured Party at a place to be designated by the Secured Party which is reasonably convenient to both parties and (ii) to enter the premises where any of the Collateral is located and take and carry away the same, by any of its representatives, with or without legal process, to the Secured Party's place of storage, and (iii) without notice except as specified below, sell the Collateral or any part thereof in one

or more parcels at public or private sale, at any of the Secured Party's offices or elsewhere, for cash, on credit or for future delivery and upon such other terms as the Secured Party may deem commercially reasonable. IMS agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to IMS of the time and place of any public or private sale is to be made shall constitute reasonable notification. The Secured Party shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place it was so adjourned.

(b) All cash proceeds received by the Secured Party in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Secured Party, be held by the Secured Party as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Secured Party pursuant to Section 14) in whole or in part by the Secured Party against, all or any part of the New Loans in such order as the Secured Party shall elect. Any surplus of such cash or cash proceeds held by the Secured Party and remaining after payment in full of the New Loans to the Secured Party shall be paid over to IMS. If the proceeds of the sale of the Collateral are insufficient to pay all the New Loans, IMS agrees to pay upon demand any deficiency to the Secured Party.

SECTION 14. Indemnity and Expenses. (a) IMS agrees to indemnify the Secured Party from and against any and all claims, losses and liabilities growing out of or resulting from this Security Agreement (including, without limitation, enforcement of this Security Agreement), except claims, losses or liabilities resulting from the Secured Party's gross negligence or willful misconduct.

(b) IMS will upon demand pay to the Secured Party the amount of any and all reasonable expenses, including the reasonable fees and out of pocket disbursements of its counsel and of any experts and agents, which the Secured Party may incur in connection with (1) filing or recording fees incurred in connection with this Security Agreement, (2) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, any of the Collateral, (3) the exercise or enforcement of any of the rights of the Secured Party hereunder, or (4) the failure by IMS to perform or observe any of the provisions hereof. The Secured Party shall not be liable to IMS for damages as a result of delays, temporary withdrawals of the Equipment from service or other causes other than those caused by the Secured Party's gross negligence or willful misconduct.

SECTION 15. Amendments; Etc. No amendment or waiver of any provision of this Security Agreement nor consent to any departure by IMS herefrom shall in any event be effective unless the same shall be in writing and signed by the Secured Party, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 16. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to IMS, mailed or delivered by messenger or sent by facsimile, addressed to it at the address of IMS set forth below; if to the Secured Party, mailed or delivered by messenger or sent by facsimile to it, addressed to it at the address of the Secured Party set forth below; or as to any other party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section.

If to the Secured Party: Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
Telephone (317) 276-2000
Telecopy (317) 276-9152
Attention: General Counsel

If to IMS: Integrated Medical Systems, Inc.
15000 West 6th Avenue,
Suite 400
Golden, Colorado 80401
Fax No.: (303) 271-7998

All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when received in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 17. Continuing Security Interest; Transfer of the Note. This Agreement shall create a continuing security interest in the Collateral and shall (1) remain in full force and effect until payment in full of the New Loans, (2) be binding upon IMS, its successors and assigns, and (3) inure to the benefit of the Secured Party and their successors, transferees and assigns. Without limiting the generality of the foregoing clause (3), the Secured Party may assign or otherwise transfer all or a portion of its rights and obligations under this Security Agreement and the New Notes to any other person and such other person shall thereupon become vested with all the benefits in respect thereof granted to the Secured Party herein or otherwise. Upon the payment in full of the New Loans, the security interest granted hereby shall terminate and all rights to the Collateral shall revert to IMS. Upon any such termination, the Secured Party will, at IMS's expense, execute and deliver to IMS such documents as IMS shall reasonably request to evidence such termination.

SECTION 18. Governing Law; Terms. This Security Agreement shall be governed by and construed in accordance with the laws of the State of New York, except to the extent that the validity or perfection of the security interest hereunder, or remedies hereunder, in respect of any particular Collateral are governed by the laws of a jurisdiction other than the State of New York. Unless otherwise defined herein or in the New Notes, terms used in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 19. Miscellaneous. This Security Agreement is in addition to and not in limitation of any other rights and

remedies the Secured Party may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by IMS or by law or otherwise, including, without limitation, the Prior Pledge Agreements and the Prior Security Agreements, all of which are not superseded hereby and shall continue in full force and effect. If any provision of this Security Agreement is contrary to applicable law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. If and to the extent that applicable law confers any rights in addition to any of the provisions of this Security Agreement, the affected provision shall be considered amended to conform thereto. The Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder. A waiver by the Secured Party of any right or remedy hereunder on any one occasion shall not be construed as a bar to or waiver of any such right or remedy which the Secured Party would have had on any future occasion nor shall the Secured Party be liable for exercising or failing to exercise any such right or remedy.

IN WITNESS WHEREOF, IMS has caused this Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I. Brown
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Name: Charles I. Brown
Title: Executive Vice President and Chief Financial Officer

SCHEDULE I
to Security Agreement

Place of Business and Locations of Collateral

| | |
|---|---|
| Chief Place of Business and Chief Executive Office: | 15000 West Sixth Avenue<br>Suite 400<br>Golden Colorado 80401 |
| Locations of Equipment: | (same as above) |
| Locations of Inventory: | (same as above) |
| Location of Records Evidencing Receivables: | (same as above) |

SCHEDULE II
to the Security Agreement

1. First National Bank of Wyoming, Laramie, Wyoming, holds a first priority security interest in all of IMS' Equipment, "Accounts, Instruments, Documents, Chattel Paper or Other Rights to Payment," and furniture and fixtures now owned or later acquired, to secure the repayment of a revolving $1,000,000 loan to IMS (Loan Number 15555, dated May 19, 1995). This loan was also personally guaranteed by all directors of IMS other than those affiliated with Eli Lilly and Company.

2. Certain office equipment or furniture of IMS is leased or subject to liens held by various vendors or financing entities.

3. Certain real estate leases pursuant to which IMS occupies office space prohibit use of the leasehold as collateral for indebtedness.

4. Prime Leasing Corporation holds a first priority security interest in IMS' receivable under the Network License Agreement with Boca Raton Hospital, Boca Raton, Florida to secure a loan made September 24, 1993 to IMS' in the original principal amount of $250,000. The principal balance of the loan at June 1, 1995 was $120,012.93. Monthly payments of approximately $8,008.24 on the loan obligation are made by IMS.

5. In the regular course of its business, IMS periodically sells future receivables owed to IMS under various license or service contracts on a non-recourse basis to financing entities. At June 7, 1995, sale of receivables for three contracts with a face value of $1,447,340 were being negotiated.

6. Eli Lilly and Company has a security interest in the Collateral pursuant to Security Agreements dated as of June 12, 1995 and July 27, 1995 securing the Company's obligations under a $3,000,000 Promissory Note dated June 12, 1995 and a $1,000,000 Promissory Note dated July 27, 1995.

EXHIBIT 10.16

PLEDGE AGREEMENT dated as of August 28, 1995 ("Pledge Agreement"), made by Integrated Medical Systems, Inc., a Colorado corporation (the "Pledgor") to Eli Lilly and Company, an Indiana corporation (together with its successors and assigns, "Pledgee").

PRELIMINARY STATEMENTS

1. Reference is made to paragraph 11 of the Term Sheet, dated June 12, 1995, and to Section 7.15 of the Agreement and Plan of Merger, dated as of August 2, 1995, among the Pledgor, the Pledgee and a subsidiary of the Pledgee (the "Merger Agreement"), pursuant to which the Pledgee has made loans, and hereafter may make additional loans, to the Pledgor.

Loans of $3,000,000 and $1,000,000 were made on June 12 and July 27, 1995, respectively, each evidenced by a Promissory Note, due July 1, 1996, and secured by a Security Agreement and Pledge Agreement dated as of the date of the loan. Such Security Agreements and such Pledge Agreements are herein called the Prior Security Agreements and the Prior Pledge Agreements, respectively.

The parties desire to make additional loans (the "New Loans"), each to be evidenced by a Promissory Note, dated the date of the loan, and due July 1, 1996 (a "New Note"), and secured by this Pledge Agreement and the Security Agreement of even date herewith.

2. It is a condition precedent to the obligation of the Pledgee to provide New Loans to the Pledgor that the Pledgor shall have granted the security interest contemplated by this Pledge Agreement.

NOW, THEREFORE, in consideration of the premises and in order to induce the Pledgee to provide New Loans to the Pledgor, the Pledgor hereby agrees as follows:

SECTION 1. Pledge. The Pledgor hereby pledges and grants a security interest to the Pledgee in all of the following (the "Pledged Collateral"):

(i) all of the stock described in Schedule I (the "Pledged Shares") and the certificates representing the Pledged Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares; and

(ii) all additional shares of stock of any and all issuers of any of the Pledged Shares from time to time acquired by the Pledgor in any manner, and the certificates representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares; and

(iii) all proceeds of any and all of the foregoing.

SECTION 2. Security for Obligations. The Pledged Collateral secures the prompt and complete payment when due of all obligations of Pledgor under the New Notes (the "Obligations").

SECTION 3. Delivery of Pledged Collateral. All certificates or instruments representing or evidencing the Pledged Collateral have been delivered to and are held by the Pledgee pursuant to the Prior Pledge Agreements, in suitable form for transfer by delivery, or accompanied by duly executed instruments of transfer or assignment in blank. As of the date hereof, such certificates and instruments shall be deemed held by Pledgee hereunder as well as under the Prior Pledge Agreements. The Pledgee shall have the right, at any time in its discretion and without notice to the Pledgor, to transfer to or to register in the name of the Pledgee or any of its nominees any or all of the Pledged Collateral, subject only to the revocable rights specified in Section 6(a). In addition, the Pledgee shall have the right at any time to exchange certificates or instruments representing or evidencing Pledged Collateral for certificates or instruments of smaller or larger denominations.

SECTION 4. Representations and Warranties. The Pledgor represents and warrants to the Pledgee as follows:

(i) The Pledged Shares have been duly authorized and validly issued and are fully paid and non-assessable.

(ii) The Pledgor is the legal and beneficial owner of the Pledged Collateral free and clear of any lien, option or other charge or encumbrance, except for the security interest created by this Pledge Agreement and the security interest created by the Prior Pledge Agreements.

(iii) The pledge of the Pledged Shares pursuant to this Pledge Agreement creates a valid and perfected first priority security interest, subject only to the Prior Pledge Agreements, in the Pledged Collateral securing the payment of Pledgor's obligation under the New Notes.

(iv) No authorization, approval or other action by, and no notice to or filing with, any Governmental Authority is required either (i) for the pledge by the Pledgor of the Pledged Collateral pursuant to this Pledge Agreement or for the execution, delivery or performance of the Pledge Agreement by the Pledgor, or (ii) for the exercise by the Pledgee of the voting or other rights provided for in this Pledge Agreement or the remedies in respect of the Pledged Collateral pursuant to this Pledge Agreement (except as may be required in connection with such disposition by laws affecting the offering and sale of securities generally).

(v) The Pledged Shares constitute all of the issued and outstanding shares of stock of each issuer thereof as set forth on Schedule I.

SECTION 5. Further Assurances. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, it will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Pledgee may reasonably request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Pledgee to exercise and enforce its rights and remedies hereunder with respect to any Pledged Collateral.

SECTION 6. Voting Rights; Dividends; Etc. (a) So long as no Default (as defined in the New Notes) shall have occurred and be continuing:

(i) The Pledgor shall be entitled to exercise any and all voting and other consensual rights pertaining to the Pledged Collateral or any part thereof for any purpose not inconsistent with the terms of this Pledge Agreement or the New Notes; provided, however, that the Pledgor shall not exercise or refrain from exercising any such right if, in the Pledgee's reasonable judgment, such action would modify or in any way adversely change the Pledgor's or the Pledgee's rights with respect to the Pledged Collateral or any part thereof.

(ii) The Pledgor shall be entitled to receive and retain any and all dividends paid in respect of the Pledged Collateral, provided, however, that any and all

(A) dividends paid or payable, other than in cash, in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral,

(B) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a liquidation or dissolution, and

(C) cash paid, payable or otherwise distributed in respect of principal of, or in redemption of, or in exchange for, any Pledged Collateral,

shall be, and shall be forthwith delivered to the Pledgee to hold as, Pledged Collateral and shall, if received by the Pledgor, be received in trust for the benefit of the Pledgee, be segregated from the other property or funds of the Pledgor, and be forthwith delivered to the Pledgee as Pledged Collateral in the same form as so received (with any necessary indorsement).

(iii) The Pledgee hereby authorizes the Pledgor to exercise all voting and other rights which it is entitled to exercise pursuant to paragraph (i) above and to receive the dividends which it is authorized to receive and retain pursuant to paragraph (ii) above.

(b) Upon the occurrence and during the continuance of a Default:

(i) Upon the request of the Pledgee, all rights of the Pledgor to exercise the voting and other consensual rights which it would otherwise be entitled to exercise pursuant to Section 6(a)(i) and to receive the dividends which it would otherwise be authorized to receive and retain pursuant to Section 6(a)(ii) shall cease, and all such rights shall thereupon become vested in the Pledgee, and the Pledgee shall thereupon have the sole right to exercise such voting and other consensual rights and to receive and hold as Pledged Collateral such dividends.

(ii) All dividends which are received by the Pledgor contrary to the provisions of paragraph (i) of this Section 6(b) shall be received in trust for the benefit of the Pledgee, shall be segregated from other funds of the Pledgor and shall be forthwith paid over to the Pledgee as Pledged Collateral in the same form as so received (with any necessary indorsement).

SECTION 7. Transfers and Other Liens; Additional Shares.

(a) The Pledgor agrees that it will neither (i) sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, nor (ii) create or permit to exist any lien, security interest, or other

charge or encumbrance upon or with respect to any of the Pledged Collateral, except for the security interest under this Pledge Agreement or the Prior Pledge Agreements.

(b) The Pledgor agrees that it will (i) cause each issuer of the Pledged Shares not to issue any stock or other securities in addition to or in substitution for the Pledged Shares, except to its existing shareholders so that after giving effect to such issuance all such shareholders, including the Pledgor, still own the same percentage of the outstanding stock of such issuer, and (ii) pledge hereunder, immediately upon its acquisition (directly or indirectly) thereof, any and all additional shares of stock or other securities of each issuer of the Pledged Shares.

SECTION 8. Pledgee Appointed Attorney-in-Fact. The Pledgor hereby appoints the Pledgee, the Pledgor's attorney-in-fact, with full authority in the place and stead of the Pledgor and in the name of the Pledgor or otherwise, to take any action and to execute any instrument which the Pledgee may deem necessary or advisable to accomplish the purposes of this Pledge Agreement, including, without limitation, to receive, endorse and collect all instruments made payable to the Pledgor representing any dividend or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same, provided, however, the Pledgee agrees it will only exercise such rights upon the occurrence and during the continuance of a Default.

SECTION 9. Pledgee May Perform. If the Pledgor fails to perform any agreement contained herein, the Pledgee may itself perform or cause performance of, such agreement, and the expenses of the Pledgee incurred in connection therewith shall be payable by the Pledgor under Section 12.

SECTION 10. The Pledgee's Duties and Reasonable Care. The powers conferred on the Pledgee hereunder are solely to protect its interests in the Pledged Collateral and shall not impose any duty upon it to exercise any such powers. The Pledgee shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equal to that which the Pledgee accords its own property, it being understood that the Pledgee shall not have any responsibility for (a) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Pledgee has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

SECTION 11. Remedies. If any Default shall have occurred and be continuing:

(a) The Pledgee may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or otherwise available to it, all the rights and remedies of a secured party on default under the Uniform Commercial Code (the "Code") in effect in the State of New York at that time, and the Pledgee may also, without notice, except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Pledgee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pledgee may deem commercially reasonable. The Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Pledgor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Pledgee shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Pledgee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by the Pledgee as Pledged Collateral and all cash proceeds received by the Pledgee in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Pledgee, be held by the Pledgee as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Pledgee pursuant to Section 12) in whole or in part by the Pledgee against, all or any part of the Obligations in such order as the Pledgee shall elect. Any surplus of such cash or cash proceeds held by the Pledgee and remaining after payment in full of all Obligations shall be paid over to the Pledgor or to whosoever may be lawfully entitled to receive such surplus. If the proceeds of the sale of the Collateral are insufficient to pay all the Obligations the Pledgor agrees to pay upon demand any deficiency to the Pledgee.

SECTION 12. Indemnity and Expenses. (a) The Pledgor hereby indemnifies the Pledgee from and against any and all claims, losses, damages and liabilities growing out of or resulting from this Pledge Agreement (including, without limitation, enforcement of this Pledge Agreement), except claims, losses, damages or liabilities resulting from the Pledgee's gross negligence and willful misconduct.

(b) The Pledgor will upon demand pay to the Pledgee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which the Pledgee may incur in connection with (i) any amendment to this Pledge Agreement; (ii) the administration of this Pledge Agreement; (iii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral; (iv) the exercise or enforcement of any of the rights of the Pledgee hereunder; or (v) the failure by the Pledgor to perform or observe any of the provisions hereof.

SECTION 13. Amendments, Etc. No amendment or waiver of any provision of this Pledge Agreement, nor consent to any departure by the Pledgor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Pledgee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

SECTION 14. Addresses for Notices. All notices and other communications provided for hereunder shall be in writing and, if to the Pledgor, mailed or delivered by messenger or sent by facsimile, addressed to it at in the Note; if to the Pledgee, mailed or delivered by messenger or sent by facsimile to it, addressed to it at Eli Lilly and Company, Lilly Corporate Center, Indianapolis, Indiana 46285, Telephone (317) 276-2000, Telecopy (317) 276-9152, Attention: General Counsel. All such notices and other communications shall, when mailed or delivered by messenger or sent by facsimile, respectively, be effective when deposited in the mails or delivered to the messenger or sent by facsimile, respectively, addressed as aforesaid.

SECTION 15. Continuing Security Interest; Transfer of the Note. This Pledge Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until payment in full of all Obligations, (ii) be binding upon the Pledgor, its successors and assigns, and (iii) inure to the benefit of the Pledgee and its successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii), the Pledgee may assign or otherwise transfer all or a portion of its rights or obligations under the New Notes to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to the Pledgee herein or otherwise. Upon the payment in full of the Obligations, the Pledgor shall be entitled to the return, upon its request and at its expense, of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

SECTION 16. Governing Law; Terms. This Pledge Agreement shall be governed by and construed in accordance with the laws of the State of New York. Unless otherwise defined herein, terms defined in Article 9 of the Uniform Commercial Code in the State of New York are used herein as therein defined.

SECTION 17. Miscellaneous. This Pledge Agreement is in addition to and not in limitation of any other rights and remedies the Pledgee may have by virtue of any other instrument or agreement heretofore, contemporaneously herewith or hereafter executed by the Pledgor or any other person or by law or otherwise, including, without limitation, the Prior Pledge Agreements and the Prior Security Agreements, all of which are not superseded hereby and shall continue in full force and effect. If any provision of this Pledge Agreement is contrary to applicable law, such provision shall be deemed ineffective without invalidating the remaining provisions hereof. The Pledgee shall not, by any act, delay, omission or otherwise, be deemed to have waived any of its rights or remedies hereunder.

[Intentionally Left Blank]

IN WITNESS WHEREOF, the Pledgor has caused this Pledge Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTEGRATED MEDICAL SYSTEMS, INC.

By /s/ Charles I. Brown
---
Charles I. Brown
Executive Vice President and
Chief Financial Officer

SCHEDULE I

EXHIBIT C

REGISTRATION AGREEMENT

This Agreement is made as of October __, 1986, by and among Integrated Medical Systems, Inc., a Colorado corporation (the "Company") and _____ ("Purchaser").

Purchaser and the Company are parties to a Series B Preferred Stock Purchase Agreement of even date ("Purchase Agreement") under which Purchaser has agreed to purchase _____ shares of the Company's Series B Preferred Stock (the "Series B Preferred Stock"). In order to induce Purchaser to purchase the Series B Preferred Stock, the Company has agreed to provide the registration rights set forth in this Agreement. The execution and delivery of this Agreement is a condition to the Closing under the Purchase Agreement.

The Company has or is preparing to enter into agreements substantially identical to this Agreement with the other purchasers of its Series B Preferred Stock named in the Schedule of Purchasers attached as Exhibit A to the Purchase Agreement.

The Parties hereto agree as follows:

1. Definitions. As used herein, the following terms shall have the following respective meanings:

1.1 "Act" shall mean the Securities Act of 1933, as amended, or any similar federal statute and the rules and regulations of the Commission thereunder, all as the same shall be in effect at the time.

1.2 "Commission" shall mean the Securities and Exchange Commission or any other federal agency at the time administering the Act.

1.3 "Registrable Securities" shall mean the shares of Common Stock issued or issuable upon the conversion of the Series B Preferred Stock (the "Conversion Shares") as well as the 250,000 shares of Common Stock sold to Squibb Corporation on July 30, 1985.

2. Demand Registration. If at any time after the Company's initial public offering or July 31, 1988, whichever occurs first, the Company shall be advised by the holders of a majority of the Conversion Shares that those holders wish to register Registrable Securities, the Company shall promptly giver written notice of such proposed registration to all holders of Registrable Securities. Thereupon, the Company shall, as

expeditiously as possible, use its best efforts to effect the registration on Form S-1 or on a form of general use then in effect under the Act of the shares of Registrable Securities that the Company has been requested to register (i) in such request and (ii) in any response to such notice given to the Company within 20 days after the Company's giving of such notice, in order to permit the sale or other disposition of such shares in accordance with the intended method of sale or other disposition given in the request and in any such response.

The right granted by this Paragraph 2 may be exercised on two occasions only and may not be exercised during the first six months after the effective date of any registration statement filed by the Company. If a registration statement filed by the Company under this Paragraph 2 fails to be declared effective by the Commission for any reason (with the exception of a decision by the holders to withdraw said registration statement), such requested registration shall not count for purposes of the limitations set forth above.

3. "Piggyback" Registrations. If at any time the Company proposes to register any of its securities under the Act (other than pursuant to a demand registration referred to in Paragraph 2 hereof) and the registration form to be used may be used for the registration of Registrable Securities (a "Piggyback Registration"), it shall each such time give written notice to all holders of Registrable Securities of its intention to do so and, upon the written request of the holders of any Registrable Securities to register such Registrable Securities, given within 20 days after the Company's giving of such notice (which request shall state the intended method of disposition of such Registrable Securities by the prospective seller or sellers), the Company shall use its best efforts to cause the Registrable Securities, as to which registration shall have been so requested, to be included in the shares of Common Stock to be covered by the registration statement proposed to be filed by the Company, all to the extent requisite to permit the sale or other disposition (in accordance with the written request of the holders, as aforesaid) by the prospective seller or sellers of such Registrable Securities so registered. Notwithstanding any other provision of this Paragraph 3, if the underwriter determines that marketing factors require a limitation of the number of shares to be underwritten, the underwriter may exclude some or all of the Registrable Securities from such registration and underwriting. Any such exclusion of Registrable Securities will be pro rata among the holders of Registrable Securities that have requested registration. In the event that any registration pursuant to this Paragraph 3 shall be, in whole or in part, a firm commitment underwritten offering of the Company's Securities, any request by such holders pursuant to this Paragraph 3 to register Registrable Securities must specify that such shares are to be included in the underwriting (i) on the same terms and conditions as the shares of Common Stock, if any,

otherwise being sold through underwriters under such registration, or (ii) on terms and conditions comparable to those normally applicable to offerings of common stock in reasonably similar circumstances in the event that no shares of Common Stock, other than Registrable Securities, are being sold through underwriters under such registration.

4. Expenses. All expenses incurred by the Company in complying with Section 2 hereof, including, without limitation, all registration and filing fees, printing expenses, fees and disbursements of counsel for the Company, and blue sky fees and expenses are hereinafter called Registration Expenses; and all underwriting discounts and selling commissions applicable to the sales are hereinafter called Selling Expenses. The Company shall pay all Registration Expenses in connection with one demand registration pursuant to Section 2. All Selling Expenses in connection with that demand registration and all Registration Expenses and Selling Expenses in connection with the second demand registration pursuant to Section 2, shall be borne by the Company and the selling stockholders pro rata in proportion to the Securities covered thereby being sold by them. Each selling stockholder shall bear the fees and costs of its own counsel.

5. Indemnification. In the event of a registration of any of the Registrable Securities under the Act pursuant to Paragraphs 2 or 3 hereof, the Company shall hold harmless the seller of such Registrable Securities and each underwriter of such Registrable Securities and each other person, if any, who controls such seller or underwriter within the meaning of Section 15 of the Act, against any losses, claims, damages or liabilities, joint or several, to which such seller or underwriter or controlling person may become subject under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions with respect thereto) arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading. In addition, the Company shall reimburse such seller and each such underwriter and each such controlling person for any legal or any other expenses reasonably incurred by them in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company shall not be liable in any case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, preliminary prospectus or prospectus, or amendment or supplement thereto, in reliance upon and in conformity with written information furnished to the Company through an instrument duly executed by such seller or underwriter specifically for use in the preparation thereof; and provided, further, that if any losses, claims, damages or liabilities arise out of or are based upon an untrue statement, alleged untrue statement, omission or alleged omission contained in any

preliminary prospectus that did not appear in the final prospectus, the Company shall not have any liability with respect thereto to (i) the seller or any person who controls such seller within the meaning of Section 15 of the Act, if the seller delivered a copy of the preliminary prospectus to the person alleging such losses, claims, damages or liabilities and failed to delivery a copy of the final prospectus, as amended or supplemented if it was amended or supplemented, to such person at or prior to the written confirmation of the sale to such person, or (ii) any underwriter or any person who controls such underwriter within the meaning of Section 15 of the Act, if such underwriter delivered a copy of the preliminary prospectus to the person alleging such losses, claims, damages or liabilities and failed to deliver a copy of the final prospectus, as amended or supplemented if it was amended or supplemented, to such person at or prior to the written confirmation of the sale to such person.

In the event of any registration of any of the Registrable Securities under the Act pursuant to Paragraphs 2 and 3 hereof, each seller of such Registrable Securities, severally and not jointly, shall indemnify and hold harmless the Company and each person, if any, who controls the Company within the meaning of Section 15 of the Act, each officer of the Company who signs the registration statement, each director of the Company and each underwriter and each person who controls any underwriter within the mean of Section 15 of the Act, against any and all such losses, claims, damages or liabilities referred to in the first paragraph of this Paragraph 5, if the statement, alleged statement, omission or alleged omission with respect to which such loss, claim, damage or liability is asserted was made in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of such seller specifically for use in connection with the preparation of such registration statement, preliminary prospectus, prospectus, amendment or supplement thereto; provided, however, that if any losses, claims, damages or liabilities arise out of or are based upon an untrue statement, alleged untrue statement, omission or alleged omission in any preliminary prospectus that did not appear in the final prospectus, such seller shall not have any such liability with respect thereto to (i) the Company, any person who controls the Company within the meaning of Section 15 of the Act, any officer of the Company who signed the registration statement or any director of the Company, if the Company delivered a copy of the preliminary prospectus to the person alleging such losses, claims, damages or liabilities and failed to deliver a copy of the final prospectus, as amended or supplemented if it was amended or supplemented, to such person at or prior to the written confirmation of the sale to such person, or (ii) any underwriter or any person controlling such underwriter within the meaning of Section 15 of the Act, if such underwriter delivered a copy of the preliminary prospectus to the person alleging such losses, claims, damages or liabilities and failed to deliver a copy of the final prospectus, as amended or

supplemented if it was amended or supplemented, to such person at or prior to the written confirmation of the sale to such person; provided, however, that the liability of each seller hereunder shall be limited to the proportion of any such losses, claims, damages or liabilities which is equal to the proportion that the public offering price of the shares sold by such seller under such registration statement bears to the total public offering price of all securities sold hereunder, but not to exceed the proceeds received by such seller from the sale of Registrable Securities covered by such registration statement.

6. Termination. All rights and obligations created by the Agreement shall terminate four years following the effective date of the Company's initial registered public offering.

7. Miscellaneous

(a) No Inconsistent Agreements. The Company will not hereafter enter into any agreement with respect to its securities which is inconsistent with the rights granted to the holders of Registrable Securities in this Agreement.

(b) Remedies. Any party having rights under any provision of this Agreement will be entitled to enforce such rights specifically, to recover damages caused by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law.

(c) Amendments and Waivers. Except as otherwise provided herein, the provisions of this Agreement may be amended and the Company may take any action herein prohibited, or omit to perform any act herein required to be performed by it, only if the Company has obtained the written consent of holders of at least 51% of the Conversion Shares.

(d) Successors and Assigns. All covenants and agreements in this Agreement by or on behalf of any of the parties hereto will bind and inure to the benefit of the respective successors and assigns of the parties hereto whether so expressed or not. In addition, whether or not any express assignment has been made, the provisions of this Agreement which are for the benefit of purchasers or holders of Registrable Securities are also for the benefit of, and enforceable by, any subsequent holder of Registrable Securities.

(e) Incorporation of Purchase Agreement Provisions. The paragraphs entitled "Severability," "Counterparts," "Titles and Subtitles," "Notices" and "Governing Law" of the Purchase Agreement are hereby incorporated in this Agreement by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

COMPANY:

INTEGRATED MEDICAL SYSTEMS, INC.

By _____

PURCHASER:

_____

EXHIBIT 21.1

# LIST OF SUBSIDIARIES

4.03 SUBSIDIARIES, AFFILIATED ENTITIES AND OTHER RELATIONSHIPS.

The Company has the following wholly-owned subsidiary corporations:

| SUBSIDIARY NAME | STATE OF INCORPORATION |
|---|---|
| (1) IMS-NET of Colorado, Inc. | Colorado |
| (2) IMS--NET of Arizona, Inc. | Arizona |
| (3) IMS--NET of Alabama, Inc. | Alabama |
| (4) IMS-NET of Illinois, Inc. | Illinois |
| (5) IMS-NET of Kansas City, Inc. | Colorado |
| (6) Integrated Medical Systems NET of Northern California, Inc. | California |
| (7) Integrated Medical Systems NET of Sacramento, Inc. | California |

The Company has an interest, direct or indirect, in the following corporations, limited liability companies, partnerships and joint ventures:

| NAME OF JOINT VENTURE (CORPORATE NAME, IF APPLICABLE) | PERCENT OF INTEREST |
|---|---|
| Medical Communication Network, Inc. | 49% |
| Illinois Medical Information Network, Inc. [Now Medacom Tri-State] | 68% |
| IMS-NET of Alabama Joint Venture | 51% |
| Arkansas Medical Information Network (IMS-NET of Arkansas, Inc.) | 51% |
| IMS-NET of Arizona Joint Venture, Ltd.(1) | 50% |
| IMS-NET of Central Florida, Inc. | 51% |
| Indiana Medical Communication Network LLC | 51% |
| Minnesota Medical Communication Network LLC | 90% |

(1) IMS-NET of Arizona, Inc. is general partner in the limited partnership.

EXHIBIT 23.1

## CONSENT OF INDEPENDENT PUBLIC ACCOUNTANTS

As independent public accountants, we hereby consent to the use of our report (and to all references to our Firm) included in or made a part of this registration statement.

Denver, Colorado,
September 7, 1995.

/s/ Arthur Andersen LLP

EXHIBIT 23.2

CONSENT OF INDEPENDENT AUDITORS

We consent to the reference to our firm under the caption "Experts" and "Selected Consolidated Financial Data of Lilly" in the Registration Statement (Form S-4) and related Prospectus of Eli Lilly and Company and Integrated Medical Systems, Inc. (IMS) for the registration of 10,792,695 shares of Series D Preferred Stock of IMS, 2,000,000 shares of Series B Preferred Stock of IMS, 655,103 warrants to purchase Series D Preferred Stock of IMS, 2,380,457 Options to Purchase Series D Preferred Stock of IMS, 292,979 Options to Purchase Common Stock of Eli Lilly and Company, 292,979 shares of Eli Lilly and Company Common Stock, and 10,792,695 Put Rights and to the incorporation by reference therein of our report dated February 8, 1995, with respect to the consolidated financial statements of Eli Lilly and Company incorporated by reference in its Annual Report (Form 10-K) for the year ended December 31, 1994, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

September 8, 1995

THIS SCHEDULE CONTAINS SUMMARY FINANCIAL INFORMATION EXTRACTED FROM INTEGRATED MEDICAL SYSTEMS, INC. CONSOLIDATED FINANCIAL STATEMENTS AS OF DECEMBER 31, 1994 AND FOR THE YEAR THEN ENDED AND THE UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS AS OF JUNE 30, 1995 AND THE SIX MONTHS THEN ENDED AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.

0000767089
INTEGRATED MEDICAL SYSTEMS, INC.

| YEAR | 6-MOS |
|---|---|
| DEC-31-1994 | DEC-31-1995 |
| JAN-01-1994 | JAN-01-1995 |
| DEC-31-1994 | JUN-30-1995 |
| 1,357,847 | 1,317,791 |
| 0 | 0 |
| 6,802,209 | 3,102,600 |
| 0 | 0 |
| 0 | 0 |
| 8,768,612 | 5,638,575 |
| 5,437,332 | 6,464,784 |
| 1,250,770 | 1,819,296 |
| 15,559,304 | 12,104,230 |
| 8,151,484 | 6,250,545 |
| 0 | 0 |
| 8,836,973 | 8,947,591 |
| 0 | 0 |
| 13,875,000 | 15,750,000 |
| (17,013,423) | (23,447,087) |
| 15,559,304 | 12,104,230 |
| 0 | 0 |
| 17,880,363 | 7,930,016 |
| 0 | 0 |
| 20,874,236 | 14,273,600 |
| 1,328,998 | 53,014 |
| 0 | 0 |
| 118,850 | 85,267 |
| (4,098,500) | (6,378,796) |
| 0 | 0 |
| (4,251,781) | (6,463,664) |
| 0 | 0 |
| 0 | 0 |
| 0 | 0 |
| (4,251,781) | (6,463,664) |
| (.70) | (.99) |
| (.70) | (.99) |